

# Texas Register

Volume 17, Number 17, March 6, 1992

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## Texas Register

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**Governor** - Appointments, executive orders, and proclamations

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

**Secretary of State** - opinions based on the election laws

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

**Proposed Sections** - sections proposed for adoption

**Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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

**Open Meetings** - notices of open meetings

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

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

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

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

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

## Texas Administrative Code

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

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

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

## Texas Register Art Project

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

## Texas Register Publications



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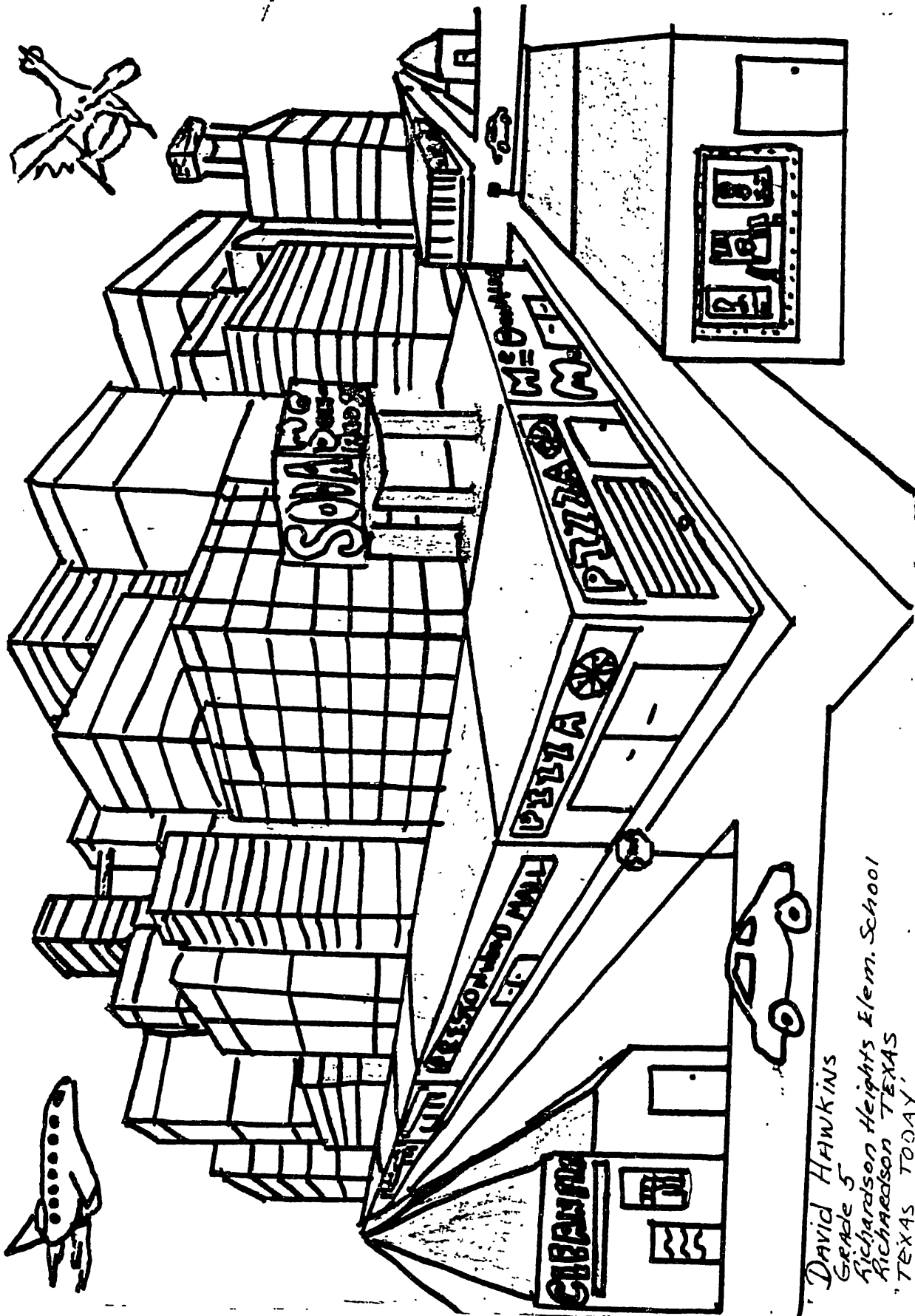


Texas Today  
"Mr. Grandfather"

Name: Jasmyne Clatt

Grade: 5

School: Richardson Heights Elementary, Richardson ISD

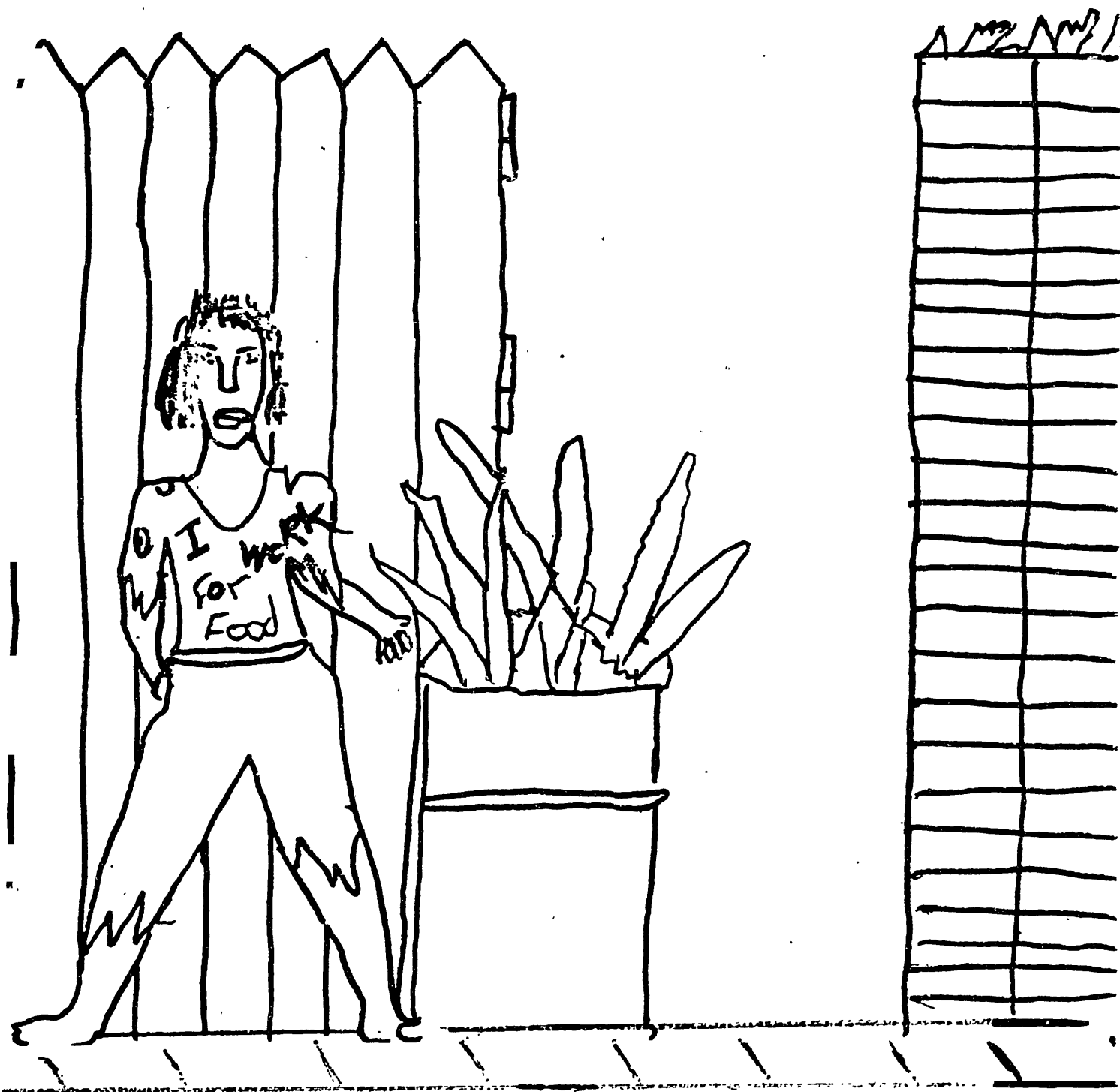


David Hawkins  
Grade 5  
Richardson Heights Elem. School  
Richardson TEXAS  
TEXAS TODAY

Name: David Hawkins

Grade: 5

School: Richardson Heights Elementary, Richardson ISD

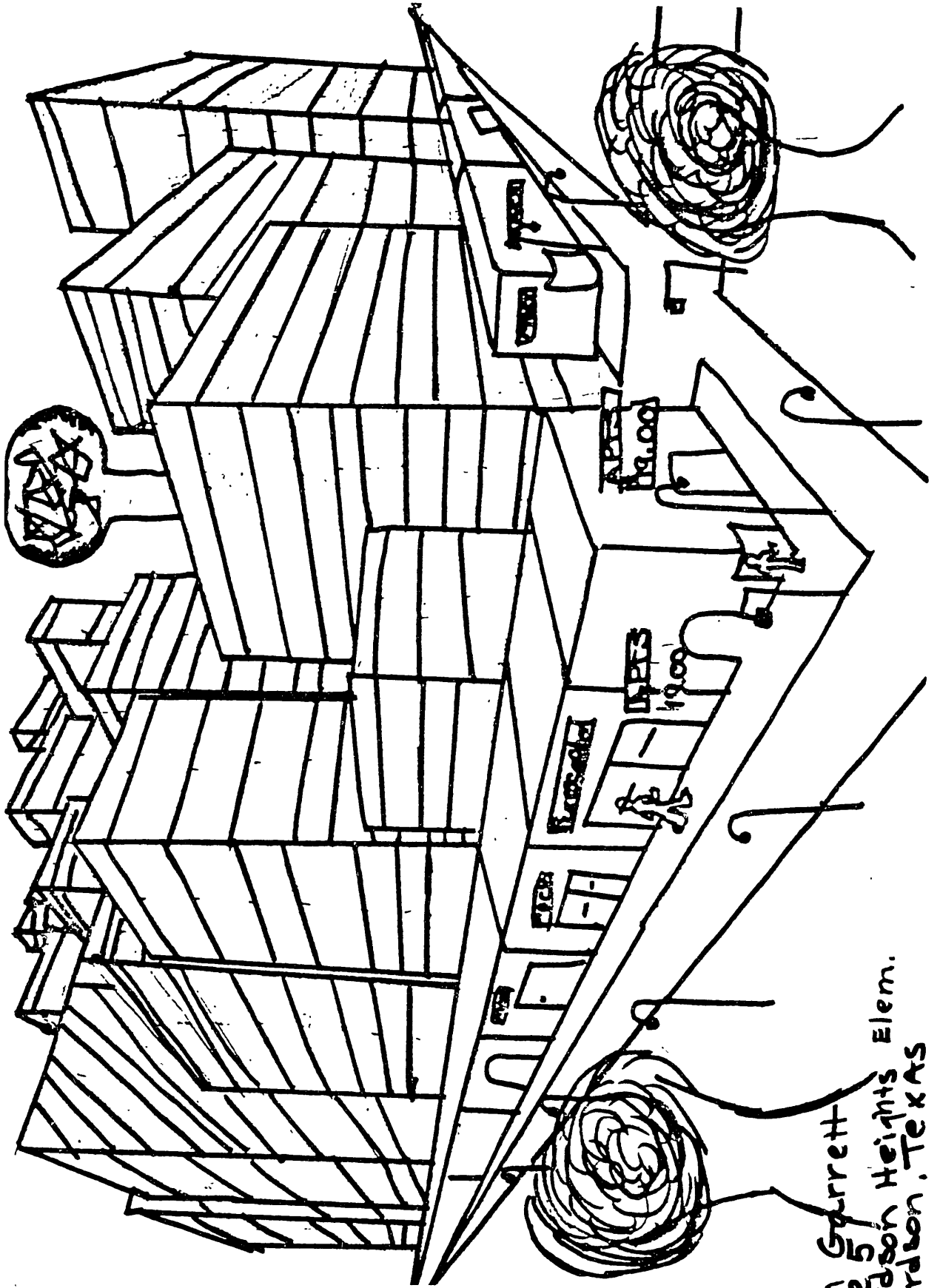


Nellie JAVIER  
Grade 5  
Richardson HEIGHTS Elem.  
Richardson TEXAS  
"TEXAS TO DAY"

Name: Nellie Javier

Grade: 5

School: Richardson Heights Elementary, Richardson ISD



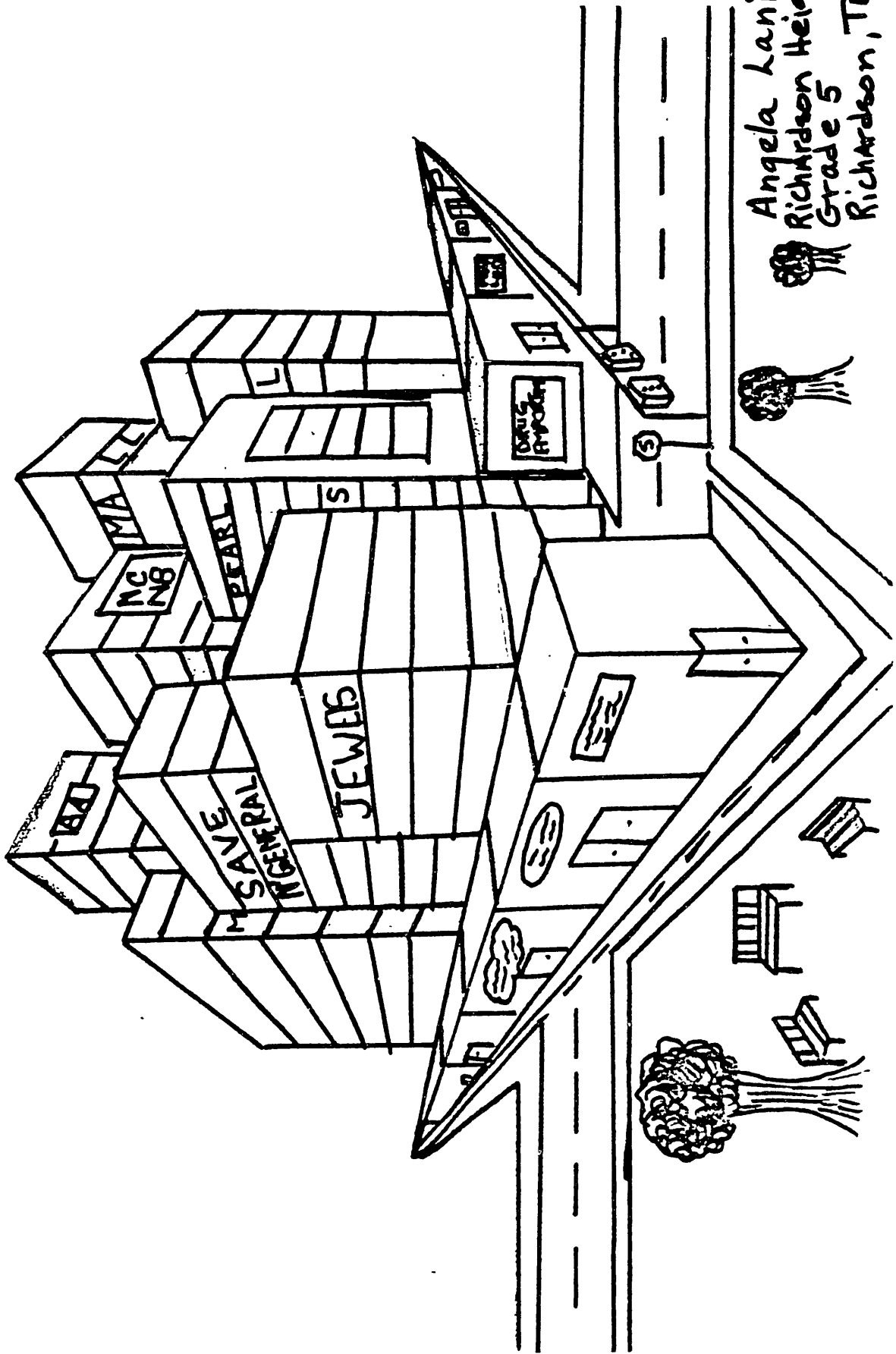
Name: Sarah Garrett

Grade: 5

School: Richardson Heights Elementary, Richardson ISD

Sarah Garrett  
Grade 5  
Richardson Heights Elem.  
Richardson, Texas





Angela Lanier  
Richardson Heights  
Grade 5  
Richardson, TEXA

Name: Angela Lanier

Grade: 5

School: Richardson Heights Elementary, Richardson ISD



Name: David Bovey  
Grade: 12  
School: Plano East Senior High, Plano 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 February 20, 1992

To be a member of the **Texas State Board of Physical Therapy Examiners** for a term to expire January 31, 1997: Cecelia Garcia Akers, 2014 Encino Vista, San Antonio, Texas 78259. Ms. Akers is being reappointed.

To be a member of the **Texas State Board of Physical Therapy Examiners** for a term to expire January 31, 1997: Barbara Brandon Shell, 8515 Fawn Terrace Drive, Houston, Texas 77071. Ms. Shell will be replacing Richard Tinsley of Sugar Land, whose term expired.

To be a member of the **Texas State Board of Podiatry** for a term to expire July 10, 1997: Ana Maria LaBorde, 212 Dowdy, San Antonio, Texas 78204. Ms. Laborde will be replacing Harry V. Burns of San Antonio, whose term expired.

To be a member of the **Texas State Board of Podiatry Examiners** for a term to expire July 10, 1997: Thomas S. Garrison, D.P.M., 15903 Eastcape, Webster, Texas 77598. Dr. Garrison will be replacing Dr. John G. Knecht of Galveston, whose term expired.

To be a member of the **Texas State Board of Podiatry Examiners** for a term to expire July 10, 1997: J. Michael Valenza, D.P.M., 6101 Cape Coral Drive, Austin, Texas 78746-7212. Dr. Valenza will be replacing Dr. Thomas F. Eckert of Tyler, whose term expired.

## Appointments Made February 21, 1992

To be a member of the **Battleship Texas Advisory Board** for a term to expire February 1, 1997: Pauline M. Delhaney, 2205 Pelham, Houston, Texas 77019. Ms. Delaney will be replacing Caroline Gregory of Houston, whose term expired.

To be a member of the **Battleship Texas Advisory Board** for a term to expire February 1, 1997: Aubrey M. Farb, 9043 Briar Forest, Houston, Texas 77024. Mr. Farb will be replacing Mike P. Cokinos of Beaumont, whose term expired.

To be a member of the **Texas Funeral Service Commission** for a term to expire January 31, 1997: Norberto Salinas, Sr., 2114 Colorado, Mission, Texas 78572. Commissioner Salinas will be replacing Donald H. Taft of Beaumont, whose term expired.

To be a member of the **Texas State Library and Archives Commission** for a term to expire September 28, 1997: James B. Stewart, P.O. Box 1758, Victoria, Texas 77902. Mr. Stewart will be replacing Auralia Nelson McCreless of San Antonio, whose term expired.

To be a member of the **Texas State Library and Archives Commission** for a term to expire September 28, 1997: Barbara Silberberg, 6544 Longfellow Drive, Dallas, Texas 75230. Ms. Silberberg will be replacing Jean Daniel of Liberty, whose term expired.

To be a member of the **Department of Information Resources Board of Directors** for a term to expire February 1, 1993: Dr. Donald L. Hardcastle, P. O. Box 97268, Waco, Texas 76798-7268. Dr. Hardcastle was recommended by Lt. Governor Bob Bullock and will be filling the unexpired term of Lynn M. Moak of Austin, who was not confirmed by the Senate.

To be a member of the **State Board of Registration For Professional Engineers** for a term to expire September 26, 1997: Derrell Everett Johnson, 2503 Hillside Court, Southlake, Texas 76092. Mr. Johnson will be replacing Joseph J. Beal of Austin, whose term expired.

To be a member of the **State Board of Registration For Professional Engineers**

for a term to expire September 26, 1997: Roxanne L. Pillar, 2301 Aster Avenue, Fort Worth, Texas 76111. Ms. Pillar will be replacing Ernest David Dorchester of Midland, whose term expired.

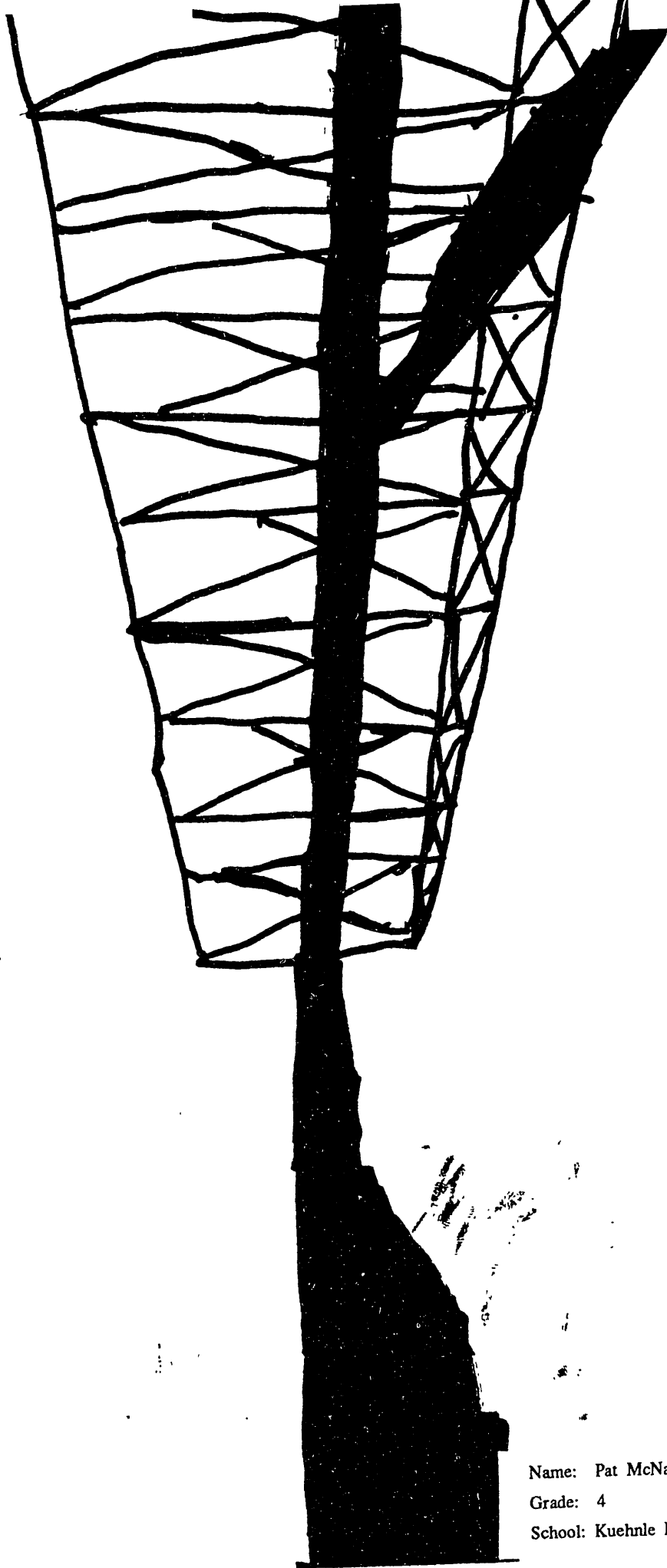
To be member's of the **Governor's Committee on People with Disabilities** for terms indicated below. For terms to expire February 1, 1994: Jerry D. Cooper, Chairman, 1401 Elm Street, Suite 1401, Dallas, Texas 75202, (reappointment); Joseph M. Jarke, 925 Capital of Texas Highway, South, Suite B100, Austin, Texas 78746, (replaces Betty S. Neal); Robert Michael Franz, 5560 Tennyson Parkway, Plano, Texas 75204, (replaces Gerald D. Turner); Peter M. Moore, 2302 Postoffice, Suite 704, Galveston, Texas 77550, (replaces Patsy Jean Baker); Ralph Dean Rouse, Jr., 1200 Main Tower Building, Room 1360, Dallas, Texas 75202, (replaces Claire L. Barlow-Roffino); Dominga A. Vela, P.O. Drawer 990, Edinburg, Texas 78540, (replaces Betty Wintroath). For terms to expire February 1, 1993: Rose Marie AIRD, 1102 South Congress Avenue, Austin, Texas 78764, (replaces Sandi Kahn-Hammond); James H. Cashion, III, 830 Taylor Street, Fort Worth, Texas 76102, (replaces Robert Frost); Janet Ragsdale, 5903 Carleen Drive, Austin, Texas 78731, (replaces Miles O'Loughlin); Carol Herring Weir, 726 Patricia, San Antonio, Texas 78216, (replaces Susan C. Martin); Redge B. Westbrook, 701 West 51st, Austin, Texas 78751, (replaces Richard R. Johnson). These appointments are being made pursuant to Senate Bill Number 381, 72nd Legislature. The Governor's Committee on Disabled Persons was renamed as The Governor's Committee on People with Disabilities.

Issued in Austin, Texas, on February 28, 1992.

TRD-9202926

Ann W. Richards  
Governor of Texas





Name: Pat McNally

Grade: 4

School: Kuehnle Elementary School, Klein ISD

## Executive Orders

### AWR 92-1

#### PROVIDING FOR THE PREPARATION OF A TEXAS BUSINESS PLAN BY THE COMPTROLLER OF PUBLIC ACCOUNTS

WHEREAS the State of Texas is currently recovering from several years of economic difficulties which have posed severe challenges to the people, businesses, and government of the State; and

WHEREAS the State, in response to these difficult years, has begun efforts to adopt a statewide strategic plan that will bring an end to crisis management as a way of life for government; and

WHEREAS the State has formalized its intention to adopt a statewide strategic plan through the passage into law of H.B. 2009, 72nd Legislature, Regular Session; and

WHEREAS there is a need to coordinate the planning efforts of the public and private sectors to insure that the statewide strategic plan is not only a guide for government, but also a guide for the actions of the private sector as well; and

WHEREAS this planning process needs to encompass a broad range of issues likely to face Texas in the coming decades; and

WHEREAS this process should involve extensive policy analysis; and

WHEREAS the Comptroller of Public Accounts has extensive resources and demonstrated ability in policy analysis that could be employed in this effort; and

WHEREAS this process should include efforts to involve and obtain the opinions of citizens in all areas of the State;

NOW, THEREFORE, I, Ann W. Richards, Governor of Texas, under the authority vested in me, do hereby direct that the Comptroller of Public Accounts initiate a program to develop a business plan to be incorporated into the statewide strategic plan. The Comptroller should coordinate all efforts with the Governor's office and the Legislative Budget Board in their efforts to draft the statewide strategic plan. The business plan should be presented to the Governor's Office of Budget and Planning and the Legislative Budget Board prior to the convening of the 73rd Legislature in January 1993.

The Comptroller may hold hearings at such times and places he deems necessary in order to obtain public input into the business plan.

Given under my hand this 25th day of February, 1992.

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

TRD-9202927      Ann W. Richards  
                         Governor of Texas

### AWR-92-2

#### IN SUPPORT OF THE OMNIBUS RECYCLING BILL, SB 1340, 72ND LEGISLATURE AND PERTAINING TO THE CONSERVATION OF NATURAL RESOURCES; THE REDUCTION OF ENERGY AND WATER CONSUMPTION AND WASTE GENERATION; AND THE PROMOTION OF RECYCLING WITHIN THE STATE OF TEXAS.

WHEREAS, the State of Texas faces ever increasing environmental problems such as excess generation of waste; the excessive consumption of energy and water, and use of natural resources; and continued degradation of the State's water and air resources; and

WHEREAS, increasing pressure upon Texas' solid waste disposal capacity requires the cooperation of all Texans to reduce our dependence on landfills and other disposal facilities; and

WHEREAS, the environmental problems could be alleviated by implementing programs that conserve our natural resources, encouraging energy and water efficiency for facilities and equipment, and promoting the reduction and recycling of water, materials, and energy; and

WHEREAS, state government must set an example for all Texans by implementing programs that promote the conservation of natural resources, and the recycling and reuse of resources; and

WHEREAS, the market for recycled and recyclable materials must be developed, and State agencies are a major purchaser of products;

NOW THEREFORE, pursuant to the authority vested in me, I, Ann W. Richards, Governor of the State of Texas, do hereby direct all state agencies to undertake all practicable efforts to maximize opportunities to reduce the amount of solid waste generated and water and energy consumed, to recycle materials generated by State agencies, to encourage the procurement of recycled products, and to encourage the procurement of energy and water efficient products. Agencies should cooperate with each other to implement these activities and are authorized to enter into Interagency Agreements as appropriate to further the purposes of this order.

#### PURPOSE AND OBJECTIVES

The purpose of this order is to support and expand upon state agency recycling efforts required in SB 1340, 72nd Legislature. The order is intended to strengthen the State's commitment to reducing the generation of waste, encourage the implementation of waste reducing programs, maximize the purchasing of recycled products, and reduce the amount of energy and water consumed.

#### I. Waste Audits

In order to reduce waste generation at the source and to encourage recycling, a Texas state agency should perform audits of all facilities and operations. Where applicable, these audits should include but not be limited to:

A. identification of all waste generated;

- B. identification of alternatives to disposal for each waste stream which includes reduction of waste before it is generated, substitution of materials, and recycling;
- C. recommendations for implementation of source reducing, reuse, and recycling options identified by the waste audits; and
- D. establish an implementation schedule for the reduction, reuse, and recycling options identified by the audits.

## II. Waste Reduction Programs.

In order to reduce waste generation at the source and to separate recyclable materials from the waste stream, state agencies should institute the following initiatives:

- A. when practical, copy and print written materials on both sides of a page;
- B. provide, to the maximum extent practicable, opportunities for the public and employees to recycle glass, plastic, and newsprint when viable local markets exist;
- C. implement programs so that plant materials generated in the process of lawn and grounds care and maintenance are not landfilled;
- D. use locally available compost, mulch and soil amendments produced from secondary materials;
- E. practice the recovery, separation, and recycling of batteries, used oil, tires, chemicals, scrap wood, construction materials, packaging materials, and scrap metal in state owned and operated facilities;
- F. examine purchase, use, and disposal of all chemicals (i.e. pesticides, laboratory reagents, cleaning materials, solvents, inks, fertilizers, etc.) to determine the continued need for use and/or disposal. When using chemicals, institute inventory control and handling procedures to minimize the amount needed and reduce worker exposure;
- G. evaluate the feasibility of providing opportunities for on-site waste separation in agency public use areas;
- H. state agencies should comply with the provisions of Article II of this Executive Order immediately.

## III. Energy Efficiency Programs

In order to reduce the consumption and waste of energy, state owned and operated facilities should institute the following initiatives:

- A. set an agency goal to reduce energy usage by at least 15 percent of fiscal year 1990 levels by August 31, 1995;
- B. establish energy-related operation and maintenance policies and procedures for all facilities;
- C. investigate the Texas LoanSTAR (Save Taxes and Resources) Program as a resource for identifying and financing needed energy retrofits;
- D. design all new facilities for optimal energy efficiency, through initiating agency participation in the Building Design Assistance Program provided at no cost by the Governor's Energy Office.

## IV. Water Conservation Programs

In order to reduce the consumption and waste of water, state owned and operated facilities should institute the following initiatives:

- A. establish efficient water use operation and maintenance policies and procedures for all facilities, including education and training programs for facilities managers and employees;
- B. begin landscaping existing grounds utilizing low water use concepts such as xeriscaping;
- C. design future facilities and properties with water conservation in mind;
- D. to the extent practicable, establish procedures to maintain monthly water use records for each water using facility and, if possible, according to each water using activity or type of water use (i.e. domestic use versus landscape use). Periodically review those records to identify possible problem areas such as leaks and other waste of water, and determine the feasibility of programs to reduce wasteful and inefficient use.

## V. Specific Agencies

- A. The Texas Water Commission shall provide information to all state agencies on conducting waste audits.
- B. The Texas Department of Health, the Water Commission, and the General Land Office shall provide information to all state agencies on developing plans for source reduction and recycling.
- C. The Texas Department of Health and the Agricultural Extension Service shall provide technical assistance to the public, state agencies, and other entities with regard to composting and yard waste diversion.
- D. To the extent feasible, the General Services Commission shall endeavor to put as many recycled items "on contract" in order to simplify procurement procedures for recycled products, and shall cooperate with all state agencies in achieving the objectives of this order. In addition, the General Services Commission should designate one or more employees who shall be responsible for placing recycled items on contract, identifying sources of recycled products and materials, assisting agencies in developing programs described in this order, serving as the Commission's primary liaison to agencies and vendors regarding recycling and recycled goods, and other related duties assigned by the Commission.
- E. The Governor's Energy Office shall provide information and assistance to the public and state agencies on developing plans to reduce the consumption of energy.
- F. The Texas Water Development Board shall provide information on developing plans and instituting programs to increase the efficiency of water use and reduce the waste of water, including possible training workshops and materials. The Board shall also consider conducting programs or studies to evaluate the cost effectiveness of retrofitting existing state-owned or controlled facilities with more efficient water-using fixtures, appliances, and equipment.

VI. Education

A. To the extent feasible, state agencies shall establish education and incentive programs to encourage maximum employee participation in achieving the objectives of this order.

VII. Compliance

A. Each state agency shall designate a recycling and resource consumption liaison(s) with the Governor's Office. On an annual basis, on or before January 1 of that year, the liaison(s) shall produce a concise summary report of the agency's identified conservation and recycling objectives and their success in complying with the provisions of this order.

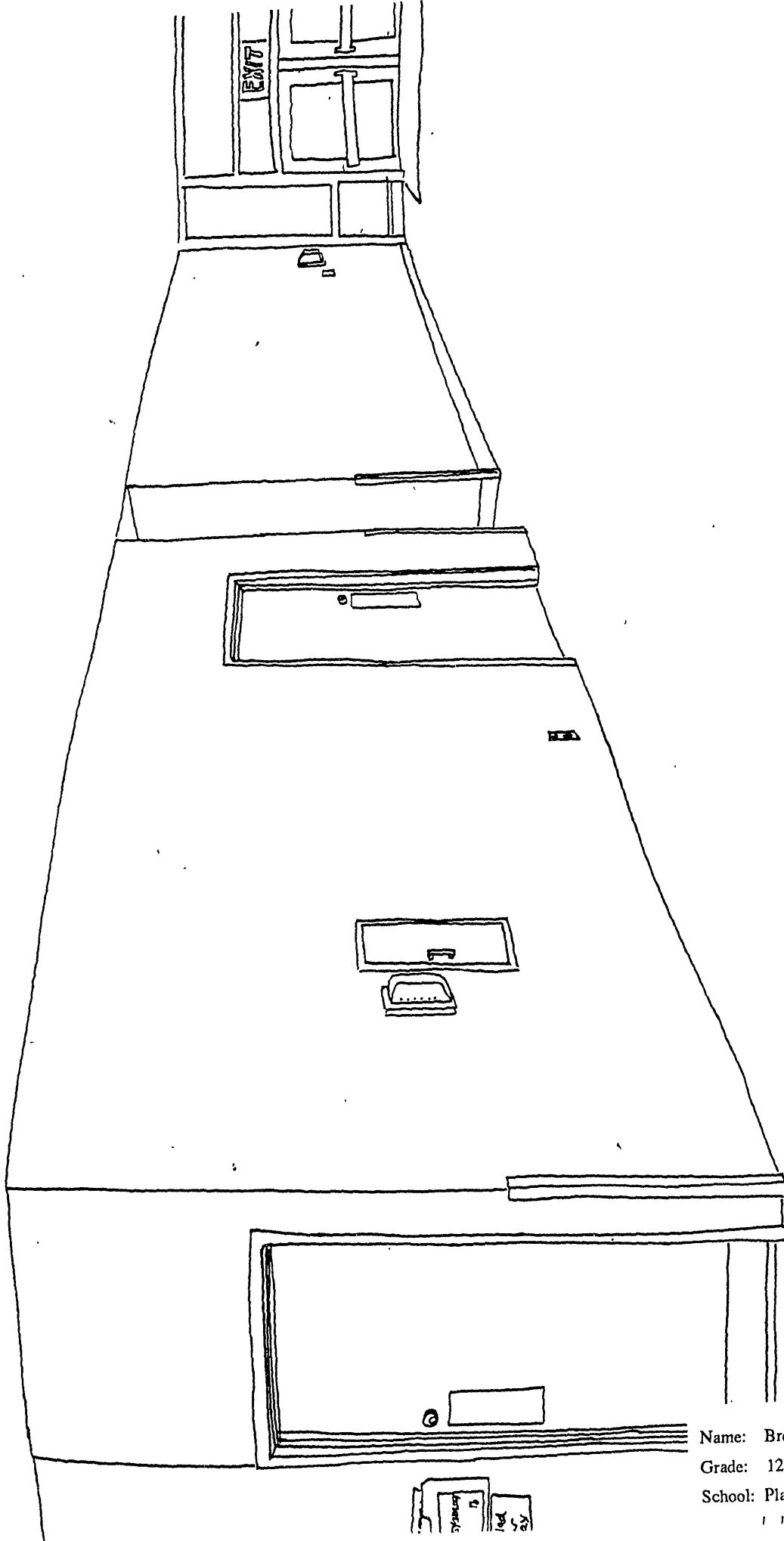
Given under my hand this the 26th day of February, 1992.

Issued in Austin, Texas, on February 26, 1992.

TRD-9202928

Ann W. Richards  
Governor of Texas





Name: Brent Rambo

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 1. ADMINISTRATION

### Part XIII. Texas Incentive and Productivity Commission

#### Chapter 275. Productivity Bonus Program

##### • 1 TAC §§275.7, §275.8

The Texas Incentive and Productivity Commission proposes an amendment to §275.7 and new §275.8, concerning the Productivity Bonus Program. The definition of a plan revision was amended and a definition of what does not constitute a revision was added in §275.7. Section 275.8 was added to address agency responsibility in providing information to the commission. The commission intends to appoint a committee to provide viewpoints and advice concerning §275.11(d)(1)-(8) relating to qualifications for employee bonuses.

M. Elaine Powell, 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. Powell 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 further define and outline the commission's expectations for the plan revision process and award application process. 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 M. Elaine Powell, Executive Director, Texas Incentive and Productivity Commission, P.O. Box 12482, Austin, Texas 78711.

The amendment and new section are proposed under Texas Civil Statutes, Article 6252-29a, §1, which provide the Texas Incentive and Productivity Commission with the authority to promulgate rules for the Productivity Bonus Program.

##### §275.7. Plan Revisions.

(a) An agency may make reasonable revisions [or adjustments] to its approved productivity plan during the implementation year. **Before proceeding with implementation, and agency requesting such a revision to its approved**

plan shall notify the commission in writing. Any such request received by the commission shall be deemed to have been approved 30 days after receipt unless the commission staff requests additional information or indicates that the request should be reviewed by commission.

(b) [This agency shall inform the commission in writing of any revisions or adjustments to its approved productivity plan at least quarterly]. **Changes in the amount projected to be saved or reductions in projected savings due to nonimplementation of an item in a plan shall not constitute a revision under this section, but shall be reported to commission as provided in §275.8 of this title (relating to Agency Responsibility to Provide Information) .**

**§275.8. Agency Responsibility To Provide Information.** An agency that implements a productivity plan shall provide any information requested by the commission that is necessary to compute the amount of savings or other benefits derived from the plan.

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 28, 1992.

TRD-9202993

M. Elaine Powell  
Executive Director  
Texas Incentive and  
Productivity  
Commission

Earliest possible date of adoption: April 6, 1992

For further information, please call: (512) 475-2393

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

The following new proposed rules submitted by Texas Department of Health will be serialized beginning in the March 10, 1992 issue of the *Texas Register*. The date of adoption for these rules is May 16, 1992.

#### Chapter 61. Chronic Diseases

##### Breast and Cervical Cancer Control Program

##### • 25 TAC §§61.31 - 61.42

§61.31. Purpose and Scope.

§61.32. Federal Authorization and Requirements.

§61.33. Eligible Applicants.

§61.34. Target Population.

§61.35. Selection Process.

§61.36. Program Requirements.

§61.37. Financial Eligibility and Screening Guidelines.

§61.38. Quality Assurance Standards.

§61.39. Follow-up.

§61.40. Maintenance of Current Services.

§61.41. Reimbursement of Costs.

§61.42. Client Charges.

#### Chapter 133. Hospital Licensing

##### Permits

##### • 25 TAC §133.32

The Texas Department of Health (department) proposes new §133.32, concerning hospital licensing fees. The new section will establish a schedule for hospital license fees at \$3.00 per bed, with a minimum fee of \$100 and a maximum fee of \$3,000. The fees will be set to assure that the department's costs of processing hospital license applications are supported by fee collections rather than

general revenue.

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 fiscal implications for state and local government as a result of enforcing or administering the section. The effect on state government will be an increase in revenue through fee collections in the approximate amount of \$35,000 for each year. There will be an effect on local governments which operate a hospital or whose citizens are served by a hospital district. The fiscal impact on local governments will depend on the number of beds in the hospital operated by the local government or the number of beds in a hospital which is a member of a hospital district. A hospital affected by the new section will be required to pay an additional license fee ranging from \$2.00 to \$1,000 for each year, depending upon the number of beds in the hospital. Hospitals with less than 34 beds will be unaffected by the new fee schedule; hospitals with 34-800 beds will pay an additional license fee of \$2.00 to \$400 for each year; hospitals with 801-999 beds will pay an additional license fee of \$403 to \$997 for each year; and hospitals with 1,000 beds and over will pay an additional license fee of \$1,000 for each year.

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 that the license fees will allow the department sufficient revenue to license, administer, and regulate hospitals for compliance with the minimum licensing standards. The additional revenue, generated through fees rather than general revenue, will enable the department to offset the increasing cost in processing hospital license applications. 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. There also will be no impact on local employment.

Comments on the proposal may be submitted to Maurice B. Shaw, Hospital Licensing Director, Chief, Bureau of Licensing and Certification, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 834-6650. Comments will be accepted for 30 days after publication in the *Texas Register*.

The new section is proposed under the Health and Safety Code, §241.025, which provides the Board of Health (board) with the authority to adopt rules relating to hospital license fees; and §12.001, which provides the board with authority to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

#### *§133.32. Hospital Licensing Fees.*

(a) Each hospital shall pay an annual license fee at the time of application for an initial license or a license renewal.

(b) The initial license fee shall be \$3.00 per bed in the hospital with a minimum fee of \$100 and a maximum fee of \$3,000.

(c) The license renewal fee shall be \$3.00 per bed in the hospital with a minimum fee of \$100 and a maximum fee of \$3,000.

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 27, 1992.

TRD-9202876

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

Proposed date of adoption: May 16, 1992

For further information, please call: (512) 834-6650

## TITLE 28. INSURANCE

### Part I. Texas Department of Insurance

#### Chapter 19. Agents Licensing

##### Subchapter P. Fees Charged by Local Recording Agents

###### • 28 TAC §§19.1501-19.1504

The State Board of Insurance of the Texas Department of Insurance proposes new §§19.1501-19.1504, concerning fees charged by local recording agents. The new sections are necessary to provide procedures regulating the activities of local recording agents when charging fees in compliance with the Texas Insurance Code, Article 21.14, §4(e). New §19.1501 sets forth general provisions concerning these new sections and the procedures provided for under these new sections. New §19.1502 defines the terms used in these new sections. New §19.1503 adopts and incorporates by reference the Disclosure Statement for Local Recording Agents' Fees to be used by local recording agents in invoicing clients for fees authorized under the Texas Insurance Code, Article 21.14, §4(e). The board has filed copies of this form with the Office of the Secretary of State, Texas Register Section. Persons desiring copies of the form can obtain copies from the Agents License Section, Mail Code 107-1A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104. New §19.1504 sets forth the procedures to be followed by local recording agents in charging fees under the Texas Insurance Code, Article 21.14, §4(e). These procedures include a requirement that the fees which can be charged are those listed in Article 21.14, §4(e) and similar transmission or reproduction costs; and a requirement which mandates the use of the Disclosure Statement for Local Recording Agents' Fees. The disclosure statement requires: the disclosure of the local recording agents' commission on the transaction; an explanation of the reason the fees were not anticipated in such commission; the written agreement of the client to the charges; the telephone number of

the Claims and Complaints Section of the Texas Department of Insurance with a statement that the client may call that number if the client did not agree in advance to the charges or if the client does not agree to the fairness of the charges; and a complete list of the services being billed and the costs of such services. The procedures require that the disclosure statement and files relating to the fees must be maintained by the local recording agent and made available to the Texas Department of Insurance upon request.

Jack Evins, deputy commissioner for licensing, 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 the local employment or local economy.

Mr. Evins 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 more effective regulation of the charging of these fees by local recording agents, more accountability to both the consumer and the public, and the prohibition of inappropriate charging of unauthorized fees which are disadvantageous to the interests of the consumer. He has determined that for the first year of the first five years the sections are in effect the following costs can be anticipated by entities impacted by these sections. The cost to agents for the necessary accounting and file maintenance is anticipated to be between \$20 to \$50, depending upon the number of transactions. The cost to the agents will be offset by the ability to collect the fees for the services. On the basis of cost per hour of labor, there will be no difference in cost compliance between small businesses and larger businesses.

Comments on the proposal may be submitted to Jack Evins, Deputy Commissioner for Licensing, Mail Code 105-5A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.

The new sections are proposed under the Texas Insurance Code, Articles 1.04 and 21.14, §4(e). The Texas Insurance Code, Article 1.04 provides for general rulemaking authority in the State Board of Insurance and §2 of Acts 1991, 72nd Legislature, Chapter 626 which enacted Article 21.14, §4(e) and which specifically provides that the board shall adopt such reasonable rules as may be required to establish procedures for charging of fees for services by local recording agents.

#### *§19.1501. General Provisions.*

(a) Statutory basis and purpose. This subchapter implements the provisions of Article 21.14, §4(e) which was enacted in 1991 as Chapter 826 at page 2857 of the Acts of the 72nd Legislature and which first became effective on June 16, 1991.

(b) Severability. Where any terms or sections of this subchapter are determined by a court of competent jurisdiction to be inconsistent with any statutes of this state or to be unconstitutional, the remain-

ing terms and provisions of this subchapter shall remain in effect.

**§19.1502. Definitions.** The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

**Board**—The State Board of Insurance.

**Client**—The client of the local recording agent.

**Commissioner**—The commissioner of insurance.

**Company**—Any insurance company, corporation, inter-insurance exchange, mutual, reciprocal, association, Lloyds, or other insurance carrier licensed to transact business in the State of Texas other than orders, societies, associations, or auxiliaries excepted from Texas Insurance Code, Article 21.14.

**ees—Fees** authorized by Texas Insurance Code, Article 21.14, §4(e) which may include the services rendered to a client but not anticipated in any commission paid to the agent by an insurance company. These services may include special delivery postal charges, printing and reproduction costs, electronic mail costs, telephone transmission costs, or similar costs that the local recording agent may incur on behalf of the client.

**Local recording agent**—A person engaged in soliciting and writing insurance, being authorized by a company, including fidelity and surety companies, to solicit business and to write, sign, execute, and deliver policies of insurance and to bind companies on insurance risks, and who maintains an office and a record of such business and the transactions which are involved, who collects premiums on such business and otherwise performs the customary duties of a local recording agent representing a company in its relation with the public; or a person engaged in soliciting and writing insurance, being authorized by a company, including fidelity and surety companies, to solicit business, and to forward applications for insurance to the home

office of the companies, where the company's general plan of operation in this state provides for the appointment and compensation of agents for insurance and for the execution of policies of insurance by the home office of the company, or by a supervisory office of such company, and who maintains an office and a record of such business and the transactions which are involved and collects premiums on such business and otherwise qualifies and performs the customary duties of a local recording agent representing the company in its relation with the public.

**Person**—A "person" is an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert.

**§19.1503. Adoption by Reference of Forms Relating to Fees Charged by Agents.** The Texas Department of Insurance adopts and incorporates herein by reference the Disclosure Statement for Local Recording Agents' Fees for use by local recording agents in invoicing clients for fees authorized under Texas Insurance Code, Article 21.14, §4(e). This form is published by the Texas Department of Insurance and may be obtained from the Agents License Section, Mail Code 105-5A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.

**§19.1504. Procedures for Charging Fees.**

(a) The expenses for which a local recording agent may charge a fee are those specifically enumerated in Article 21.14, §4(e), and listed in the definition of fees in this rule, and costs similar in nature to those enumerated expenses.

(b) The local recording agent must use the Disclosure Statement for Local Recording Agents' Fees in invoicing a client for these fees. The local recording agent must list the following information on the form:

(1) the commission paid to the local recording agent on the transaction;

(2) the reasons why the fees being invoiced were not anticipated in the commission;

(3) the written agreement of the client to the charges;

(4) the telephone number of the Claims and Complaints Section of the Texas Department of Insurance and a statement in bold face type advising the client that the client may call that number to make a complaint if the client did not agree to the charges in advance or if the client does not agree to the fairness of the charges; and

(5) a complete listing of the services provided for which the client is being invoiced and the costs for such services.

(c) The Disclosure Statement for Local Recording Agents' Fees must be maintained in a separate file for a period of four years and must be made available to the Texas Department of Insurance upon request.

(d) All files relating to the fees must be made available for inspection by the Texas Department of Insurance upon request to insure compliance with these rules and Texas Insurance Code, Article 21.14, §4(e).

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 March 2, 1992.

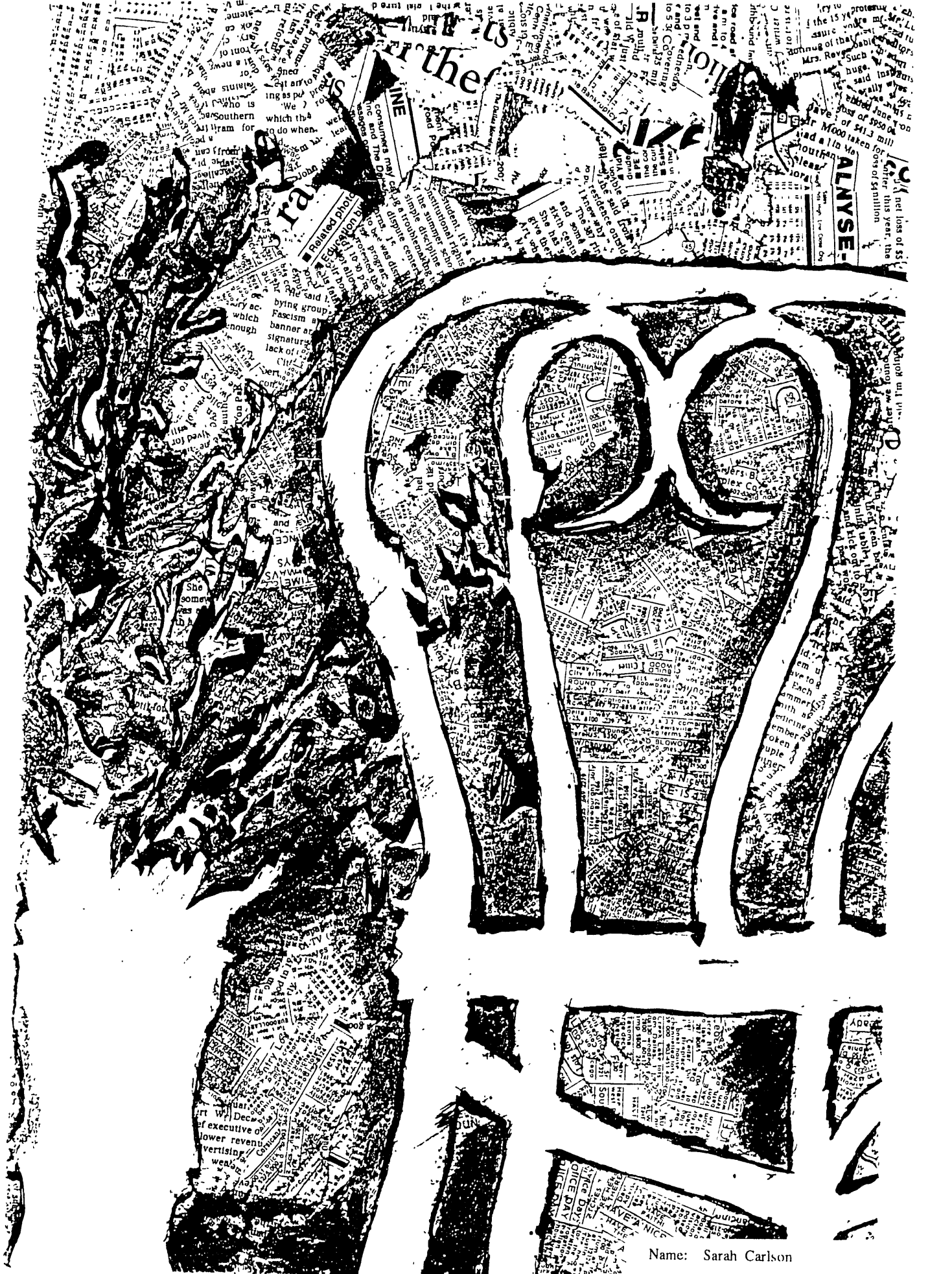
TRD-9203017

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

Earliest possible date of adoption: April 6, 1992

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

◆ ◆ ◆



Name: Sarah Carlson

Grade: 11

School: Plano East Senior High, Plano 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 22. EXAMINING BOARDS

### Part XIX. Polygraph Examiners Board

#### Chapter 397. General Rules of Practice and Procedure

- 22 TAC §397.40

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §397.40, submitted by the Polygraph Examiners Board has been automatically withdrawn, effective February 7, 1992. The amendment as proposed appeared in the August 6, 1991, issue of the *Texas Register* (16 TexReg 4263).

TRD-9202884

## Part XXII. Texas State Board of Public Accountancy

### Chapter 513. Registration

#### Registration of Sole Proprietor- ships

- 22 TAC §513.84

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §513.84, submitted by the Texas State Board of Public Accountancy

has been automatically withdrawn, effective January 31, 1992. The amendment as proposed appeared in the July 30, 1991, issue of the *Texas Register* (16 TexReg 4137).

TRD-9202883

## TITLE 28. INSURANCE

### Part I. Texas Department of Insurance

#### Chapter 11. Health Maintenance Organizations

#### Subchapter H. Schedule of Charges

- 28 TAC §§11.701-11.707

The Texas Department of Insurance has withdrawn proposed new and amended §§11.701-11.707, concerning the schedule of charges. The text of the proposed §§11.701-11.707 appeared in the February 11, 1992, issue of the *Texas Register* (17 TexReg 1207). The effective date of this withdrawal is March 2, 1992.

Issued in Austin, Texas, on March 2, 1992.

TRD-9203019

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

Effective date: March 2, 1992

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



Name: J.D. Sandusky IV

Grade: 10

School: Knox City High, Knox City O'Brien CISD

# 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 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 133. Hospital Licensing

##### Standards

###### • 25 TAC §133.21

The Texas Department of Health (department) adopts an amendment to §133.21, concerning standards, without changes to the proposed text as published in the December 17, 1991, issue of the *Texas Register* (16 TexReg 7307). There also are no changes to the hospital licensing standards (standards) which are adopted by reference in §133.21.

The amendment to Chapters 1 and 4 of the standards implement the Health and Safety Code, §241.026(c)-(e) (House Bill 2004, 72nd Legislature), relating to the licensing of certain hospitals. The amendment provides for the waiver or modification of certain provisions of the standards to a particular special hospital or particular general or special hospital serving a rural community if the waiver or modification will facilitate the creation or operation of the hospital and if the waiver or modification is in the best interests of the individuals served or to be served by the hospital. The amendment will allow hospitals to implement alternative standards which are in the best interests of the individuals served or to be served by the hospitals.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Health and Safety Code, §241.026, which authorizes the Texas Board of Health (board) to adopt rules relating to waivers from and modifications of the hospital licensing standards; and §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.

##### §133.21. Adoption by Reference.

(a) The Texas Department of Health adopts by reference the rules contained in the department publication effective September 1, 1985, entitled, "Hospital Licensing Standards", as amended through March 1992.

(b) (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 27, 1992.

TRD-9202877

Robert A. MacLean, MD  
Deputy Commissioner  
Texas Department of  
Health

Effective date: March 19, 1992

Proposal publication date: December 17, 1991

For further information, please call: (512) 834-6650

## Chapter 337. Water Hygiene

### Public Water Systems

The Texas Department of Health (department) adopts amendments to §§337.201, 337.202, 337.204-337.210, and 337.212; the repeal of §337.211; and new §337.211, concerning public water systems. The amendments to §§337.204-337.206, 337.208, and 337.209 are adopted with changes to the proposed text as published in the October 11, 1991, issue of the *Texas Register* (16 TexReg 5699). The amendments to §§337.201, 337.202, 337.207, 337.210, and 337.212, and new §337.211, and the repeal of §337.211 are adopted without changes and will not be republished.

The amendments update the sections to conform to federal regulations concerning surface water treatment and clarify the language for the benefit of utilities and regulators. The areas in the sections which have been updated and clarified are as follows: definitions; general provisions; water sources, treatment, distribution, and storage; minimum water system capacity requirements; minimum acceptable operating practices for public drinking water systems; state approval recognition; minimum required water main sizes; and the sample or suggested sanitary control easement document for a public water well.

Comments received and the department responses are as follows.

Concerning §337.201, commenters expressed a desire for more thorough definitions of many of the terms used in this document. In response, the department acknowledges that a uniform list of definitions would be helpful but notes that this list would most likely increase the size of the document beyond practical limitations. The department

maintains an active technical assistance program to address individual request for clarification of any part of their document

Concerning §337.202(g), commenters expressed concern about the removal of the 10% exclusion which allowed systems to make increases to storage or distribution capacities of less than 10% without making written notice to this department. The department's response is that the deletion is appropriate because the department had noted the difficulty by the regulated community in determining when they qualify for the 10% exclusion and disparity in the size of projects which meet the 10% exclusion depending on the size of the existing system. As such, the department, had decided to remove the 10% exclusion provision and return to its previous policy prior to 1988. The adopted subsection now requires notification of any proposed modification to system facilities but will not necessarily require that complete plans and specifications be submitted in all cases. Upon their notification to this department, the system will be advised if complete plans and specifications must be submitted.

Concerning §337.206(h)(2), the department received many comments concerning allowing water from heat exchangers. Most of the commenters opposed the request. The Board of Health, however, believes that the provision is appropriate and has retained it

Concerning §207(b)(1), commenters expressed concern about the addition of a 500-foot separation distance between water storage tanks and lands that are spray irrigated with sewage treatment plant effluent. The department's response is that this requirement was added due to the potential of contaminated aerosol from the spray irrigation process migrating into the stored water through the tank air vent. The commenters felt that existing systems should be exempt and that new systems need only attempt to meet this requirement. The department, however, feels that this requirement is consistent with good public health practices and has made no change.

Concerning §337.208(f), commenters expressed concern about the existing requirements for water wholesalers and the new requirements for purchased water system contracts. Most commenters felt that the capacity requirements for each of these areas were excessive. The department's response is that it had proposed no changes in the requirement for water wholesalers and these requirements are consistent with the capacity requirements for existing water production facilities. The addition of the new requirements in the subsection for purchased water

system contracts are consistent with current department policy and with the capacity requirements for systems that provide their own source of supply.

Concerning §337.209(d)(1), commenters requested an extension of the monthly operating report (MOR) due date from the 15th of the following month to the 20th or 25th. In response, the department disputes the commenter's claim that sufficient time is not granted by the existing time limit and, therefore, has retained the existing language. Also, in the case of systems that utilize surface water sources, the existing date is necessary so that the department can promptly notify systems of turbidity monitoring violations.

Concerning §337.209(f), commenters requested that the periodic chlorine residual monitoring requirement be relaxed further for small systems. The department's response is that its policy had previously required daily monitoring for all systems. The proposed language relaxed this requirement to allow those small systems which use groundwater or purchased water sources only and serve fewer than 100 connections or 250 persons to monitor only once every seven days. Currently, systems that meet this criteria are exempt from the requirement to submit MORs which require daily chlorine residual monitoring. Also, the department feels that periodic monitoring of chlorine residuals in the system is extremely important and is consistent with good public health practices. Therefore, the department has made no change.

In addition, the department has made several minor changes to the proposed sections as a result of comments and suggestions received from the public and department staff during the comment period.

General comments were received from: Southern Building Code Congress International, Inc.; Upper Guadalupe River Authority; City of Monahans; City of Normangee; Barksdale WSC; Bluebonnet WSC; Country Club WSC; North Texas Municipal Water District; Sky Harbour WSC; Texas Utility Service; and Philip McElroy. These commenters were neither for nor against the rules in their entirety, but had questions and recommendations.

Proposed §337.206(h)(2) received a considerable number of comments. Most of the commenters were against the proposed amendments to §337.206(h)(2) and they were: Texas Water Commission; U.S. Environmental Protection Agency; Dallas County Health Department; Dallas City Health Department; Galveston County Health District; Grand Prairie City Health Department; Harris County Health Department; San Marcos-Hays County Health Department; American Backflow Prevention Association; American Water Works Association-Texas Section; Canadian Water Utilities Association; Capitol Area Water Works Association; Coastal Bend Water Utilities Association; Coastal Bend Laboratory Analysts Association; Engineers Council of Houston; League of Women Voters; Mid Cities Water Utilities Association; Panhandle Regional Water Utilities Association; Permian Basin District Water Association; Rice Belt Water Utilities Association; Texas Association of Municipal Health Officials; Texas Municipal League; Texas Rural

Water Association; Texas Society of Professional Engineers; Texas Water Utilities Association; Texas Water Utilities Association-North Central Chapter; Texoma Land Water Utilities Association; Greater Texoma Utility Authority; Guadalupe-Blanco River Authority; Gulf Coast Water Authority; South Texas Water Authority; Cities of Addison; Allen; Amarillo; Andrews; Arlington; Austin; Beaumont; Benbrook; Boerne; Booker; Bronte; Brownsville; Brownwood; Brazoria; Burleson; Canadian; Carrollton; Cedar Hill; Chico; Clear Lake; Clute; Cockrell Hill; Coppell; Corinth; Corpus Christi; Daingerfield; Dallas; Darrouzett; Denton; Denton Municipal Utilities; Dublin; Edgely Village; Ennis; Farmers Branch; Fate; Fort Worth; Freeport; Galveston; Garland; Georgetown; Glenn Heights; Grand Prairie; Granger; Grapevine; Greenville; Halton City; Harlingen; Higgins; Highland Village; Houston; Hudson Oaks; Hurst; Hutchins; Irving; Keller; Kennedale; Kirbyville; Lakeside; Laredo; League City; Lewisville; Llano; Lubbock; McLean; Midland; Murphy; North Richland Hills; Odem; Pampa; Paris; Perryton; Plano; Ponder; Quintana; Richardson; Richland Hills; Richwood; Roanoke; San Antonio; Saginaw; San Angelo; Seguin; Smithville; Southlake; Spearman; Springtown; Taft; Temple; Tyler; Weatherford; Westover Hills; Westworth Village; Wheeler; Wichita Falls; Wilmer; Woodville; Venus; AM-TEX Corporation; Holiday Water Services, Inc.; Hot Wells Association; Hp Water Services Company; Muniservice Corporation; Southwest Water Services, Inc.; Texas Utility Management; Texoma Services; Water Technology; Black & Veatch Engineers; CH2M Hill Engineers; Jones & Carter, Engineers Inc.; Sunbelt Engineers; Argyle Water Supply Corporation (WSC); Bi-Co. WSC.; Brooksmith Special Utility District (SUD); Brown County Water Implementation District #1; Caddo Basin SUD; Central Bowie County WSC; Central Texas WSC; Cypresswood Utility District; Dallas County Park Cities Municipal Utility District (MUD); Dobbin-Planterville WSC; El Oso WSC; Flashing-Peggy WSC; Fort Bend MUD #2; Galveston County Water Conservation and Improvement District (WCID) #1; Glennwood WSC; Green Forest District; Harris County MUD #102; Harris County WCID #132; Highland WSC; Kingsland WSC; Kingsland MUD; Klein PUD; North Texas Municipal Water District (MWD); Oak Hill WSC; Pine Prairie WSC; San Patricio MWD.; Tarrant County MUD #1; Three Oaks WSC; Travis County WCID #17; Wickson Creek Special Utility District; Apache Shores Utility Corporation; Holiday Oaks Water System; Horseshoe Bend Water Works; Indian Hills Water Company; Kerrville South Water Co; Kruger Water Works; Lake Vista Utility Company; Randolph Properties; Resort Water Services, Inc.; individuals of the Texas Legislature; an individual M.D.; in addition, a number of other individuals commented against the proposed amendments to §337.206(h)(2).

Commenters in support of the proposed amendments to §337.206(j)(2) were: Demarco Energy Systems of America, Inc.; Earth Energy Associates-Denver, Colorado; Cen-Tex Health Associates; John Harris Services; Pride Electric Company; Monroeville Water Authority, Monroeville, Pennsylvania;

individuals of the Texas Legislature. A number of other individuals also commented in favor of the proposed amendment to §337.206(h)(2).

• 25 TAC §§337.201, 337.202, 337.204-337.212

The amendments and new section are adopted under Health and Safety Code (Code), §341.002, which provides the Board of Health with the authority to adopt rules covering public water systems, and to establish standards and procedures for the management and control of sanitation and for health protection measures; §12.001, which provides the board with the authority to adopt rules to implement every duty imposed by law on the board, the department, and the commissioner of health. The amendments and new section will affect the Code, Chapter 341.

§337.204. *Water Sources.*

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

(c) Ground water sources and development.

(1) Ground water sources shall be so located that there will be no danger of pollution from flooding or from insanitary surroundings, such as privies, sewage, sewage treatment plants, livestock and animal pens, solid waste disposal sites, or abandoned and improperly sealed wells.

(A) No well site which is within 50 feet of a tile or concrete sanitary sewer, sewerage appurtenance, septic tank, or storm sewer, or which is within 150 feet of a septic tank perforated drainfield, absorption bed, evapotranspiration bed, or underground fuel storage tank will be acceptable for use as a public drinking water supply well. Sanitary or storm sewers constructed of ductile iron or PVC pipe meeting AWWA standards, having a minimum working pressure of 150 psi or greater, and equipped with pressure type joints may be located at distances of less than 50 feet from a proposed well site but in no case shall the distance be less than 10 feet.

(B) (No change.)

(C) No water wells shall be located within 500 feet of animal feed lots, solid waste disposal sites, lands on which sewage plant or septic tank sludge is applied, or lands irrigated by sewage plant effluent.

(D) (No change.)

(E) Abandoned or inoperative wells within one quarter mile of a proposed source shall be reported to the department along with existing or possible



pollution hazards which may affect ground water quality. This information must be submitted prior to construction or as required by the department.

(F) (No change.)

(2) (No change.)

(3) Special attention must be given to the construction, disinfection, protection, and testing of a well to be used as a public water supply source.

(A) The department shall be furnished a copy of the well completion data, which includes the following items: the driller's log (geological log and material setting report); a cementing certificate; the results of a 36-hour pump test; the results of the department's bacteriological and chemical analyses; a copy of the Sanitary Control Easement; and an original or legible copy of a United States Geological Survey 7.5-minute topographic quadrangle showing an accurate well location.

(B) (No change.)

(C) The space between the casing and drill hole shall be sealed by using sufficient cement under pressure to provide for completely filling and sealing of the annular space between the casing and the drill hole. The well casing shall be cemented in this manner from the top of the shallowest formation to be developed to the earth's surface.

(D)-(P) (No change.)

(4) (No change.)

(d) Surface water sources and development.

(1) An evaluation shall be made of the proposed surface water impoundment or flowing supply in the area of diversion and its tributary streams to determine the degree of pollution from all sources within the watershed.

(A) (No change.)

(B) The disposal of all liquid or solid wastes from any source on the watershed must be in conformity with applicable regulations and state statutes. Additionally, pesticides or herbicides which are used within the watershed shall be applied in strict accordance with the product label restrictions.

(C)-(D) (No change.)

(2) Intakes shall be so located and constructed as to permit a wide varia-

tion in depths from which the raw water is taken as well as to permit withdrawal of water when reservoir levels are very low. Fixed level intakes are acceptable if water quality data is available to establish that the effect on water quality will be minimal.

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

(D) A restricted zone of 200 feet radius from the raw water intake works shall be established and all recreational activities and trespassing shall be prohibited in this area. Regulations governing this zone shall be in the city ordinances or the rules and regulations promulgated by a water district or similar regulatory agency. Provisions shall be made for the strict enforcement of such ordinances or regulations. The restricted zone shall be designated with signs recounting these restrictions. The signs shall be maintained in plain view of the public and shall be visible from all parts of the restricted area. In addition, special buoys may be required as deemed necessary by the department.

(E) (No change.)

(3) (No change.)

(e) Springs and other water sources.

(1) Water obtained from springs, infiltration galleries, wells in fissured areas, wells in carbonate rock formations, or wells that do not penetrate an impermeable strata and/or any other source subject to surface or near surface contamination of recent origin shall be evaluated for the provision of treatment facilities. Minimum treatment shall consist of coagulation with direct filtration and adequate disinfection. In all cases, the treatment process must achieve at least a three-log removal or inactivation of Giardia cysts and a four-log removal or inactivation of viruses before the water is supplied to any consumer.

(2) (No change.)

#### §337.205. Water Treatment.

(a) Ground waters.

(1) Disinfection facilities shall be provided for all ground water supplies for the purpose of microbiological control and distribution protection and shall be in conformity with applicable disinfection requirements in subsection (c) of this section.

(2) Treatment facilities shall be provided for ground water if the water does not meet the drinking water standards. The facilities provided shall be in conformance with established and proven methods.

(A) Filters provided for turbidity and microbiological quality control

shall be preceded by coagulant addition and shall conform to the requirements utilized for surface water treatment in accordance with subsection (b)(12) of this section. Filtration rates for iron and manganese removal, regardless of the media, shall be based on a maximum rate of five gallons per square foot per minute.

(B) (No change.)

(C) All processes involving exposure of the water to atmospheric contamination shall provide for subsequent disinfection of the water ahead of ground storage tanks. Likewise, all exposure of water to atmospheric contamination shall be accomplished in a manner such that insects, birds, and other foreign materials will be excluded from the water. Aerators and all other such openings shall be screened with 16-mesh or finer corrosion resistant screen.

(D) (No change.)

(b) Surface water.

(1) (No change.)

(2) All water secured from surface sources shall be given complete treatment at a plant which provides facilities for pretreatment disinfection, taste and odor control, continuous coagulation, sedimentation, filtration, covered clear well storage, and terminal disinfection of the water with chlorine or suitable chlorine compounds. In all cases, the treatment process must achieve at least a three-log removal or inactivation of Giardia cysts and a four-log removal or inactivation of viruses before the water is supplied to any consumer.

(3) Based on current acceptable design standards, the treatment capacity of a water plant shall always be in excess of the system's anticipated maximum daily demand.

(4) No cross-connection or interconnection shall be permitted to exist in a filtration plant between a conduit carrying filtered or post-chlorinated water and another conduit carrying raw water or water in any prior stage of treatment. Vacuum breakers must be provided on each hose bibb within the plant facility. No conduit or basin containing raw water or any water in a prior stage of treatment shall be located directly above, or be permitted to have a single common partition wall with, another conduit or basin containing finished water.

(5)-(6) (No change.)

(7) Treatment plants shall be provided with efficient devices for measuring and applying chemicals to the water under treatment.

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

(C) Dry chemical feeders shall be in a separate room and be provided with facilities for dust control.

(D)-(E) (No change.)

(F) Coagulants shall be applied to the water in the mixing basins or chambers so as to permit their complete mixing with the water. Coagulants shall be applied continuously during treatment plant operation.

(G) (No change.)

(H) Make-up water supply lines to chemical feeder solution mixing chambers shall be provided with an air gap or other acceptable backflow prevention device.

(8) Provision for chemical application points at the raw water source and beyond the mixing basin or chamber shall be provided for taste and odor control, stabilization, and disinfection for quality control.

(9) Chemicals shall be stored off the floor in a separate, dry, above ground level room and protected against flooding or wetting from floors and walls.

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

(10) (No change.)

(11) Basins for straight-flow sedimentation of coagulated waters shall provide a total detention time of at least six hours for clarification plants and 4.5 hours for softening plants. The settling chamber of a solids contact clarification unit shall provide a total detention time of at least two hours. Where shorter detention times are desired, engineering data, pilot plant test data, full scale installation data, and other information as required by the department shall be submitted to the department to justify the alternate process.

(15) An adequately equipped laboratory must be available locally where

(A) Facilities for sludge removal shall be provided by mechanical means or by the provision of hopper-bottomed basins with valves capable of complete draining of the units. Clarifiers shall be provided with facilities for determining the depth of sludge in the unit.

(B) (No change.)

(C) Sedimentation basins may be square, rectangular, round, or other shapes approved by the department. The length of rectangular settling basins shall preferably be at least twice their width with a side water depth of 10 feet to 12 feet in nonssoftening water treatment. Square and round sedimentation basins may also be used for clarification and softening plants; however, the detention time must comply with the requirements of this paragraph.

(D) Sedimentation basins shall be provided with facilities for draining the basin in a period not to exceed six hours. In the event that the plant site topography is such that gravity draining cannot be realized, a permanently installed electric powered pump station shall be provided to dewater the basin.

(12) Filters shall be gravity or pressure type.

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

(C) Pressure sand filters shall be subject to the loading provisions in subparagraph (A) of this paragraph for gravity sand filters. When used, the pressure filters shall be installed such that duplicate capacity is available to furnish the design capacity with one filter out of service.

(i) The use of pressure filters shall be limited to installations with

less than 0.50 million gallons per day capacity.

(ii) Visual inspection of the filter media and internal filter surfaces shall be conducted on an annual basis to ensure that the filter media is in good condition and the coating materials continue to provide adequate protection to internal surfaces.

(D)-(E) (No change.)

(F) The rate of flow of backwash water shall not be less than 20 inches vertical rise per minute (12.5 gpm/sq. ft.) and usually not more than 30 inches vertical rise per minute (18.7 gpm/sq. ft.). This shall expand the filtering bed 30 to 50%. The free board in inches shall exceed the wash rate in inches of vertical rise per minute.

(i)-(ii) (No change.)

(G) When used, surface filter wash systems shall be installed with an atmospheric vacuum breaker or a reduced pressure principle backflow preventer in the supply line. If an atmospheric vacuum breaker is used it shall be installed in a section of the supply line through which all the water passes and which is located above the overflow level of the filter.

(H)-(K) (No change.)

(13) (No change.)

(14) The identification of influent, effluent, waste backwash, and chemical feed lines shall be accomplished by use of labels or various colors of paint. Where labels are used, they shall be placed along the pipe at no greater than five foot intervals. Where colors are used they shall follow the color code prescribed following. Color coding must be by solid color or banding. If bands are used, they shall be placed along the pipe at no greater than five foot intervals. The color code is as follows:

Maximum Number of Connections

- 10
- 25
- 50
- 100
- 150
- 250
- >250

daily bacteriological and chemical tests can be made on water supplied by all plants serving 25,000 persons or more. For plants serving less than 25,000 population, the fa-

Minimum Line Size (in inches)

- 2
- 2.5
- 3
- 4
- 5
- 6
- 8 and larger

cilities for making bacteriological tests may be omitted and the required bacteriological samples submitted to one of the department's approved laboratories. All surface

water treatment plants shall be provided with equipment for making at least the following determinations: pH, Chlorine Residual, Alkalinity, Turbidity, "Jar" tests, and other tests deemed necessary to monitor specific water quality problems or to evaluate specific water treatment processes. All surface water treatment plants shall provide sampling taps for raw, settled, and filtered water.

(c) Disinfection.

(1) (No change.)

(2) All ground water must be disinfected prior to distribution. The point of application must be ahead of the water storage tank(s) if storage is provided prior to distribution. Permission to use alternate disinfectant application points must be obtained in writing from the department.

(3) All water stored in treated water storage tanks for pumping directly to the distribution system must contain a disinfectant residual. Disinfection facilities must be provided for all such locations where an adequate disinfectant residual is not maintained from prior treatment.

(4) (No change.)

(5) A self-contained breathing apparatus or full face supplied air respirator that meets Occupational Safety and Health Administration (OSHA) standards for construction and operation, and a small bottle of fresh ammonia solution (or approved equal) for testing for chlorine leakage shall be provided and accessible outside the chlorinator room when chlorine gas is used.

(6) (No change.)

(7) Adequate ventilation which includes both high level and floor level screened vents shall be provided for all enclosures in which gas chlorine is being stored or fed. Enclosures containing more than one open 150-pound cylinder of chlorine shall also provide forced air ventilation which includes screened and louvered floor

level and high level vents, a fan which is located at and draws air in through the top vent and discharges through the floor vent, and a fan switch located outside the enclosure.

(8) Hypochlorination solution containers and pumps must be housed and locked to protect them from adverse weather conditions and vandalism. The solution container top must be completely covered to prevent the entrance of dust, insects, and other contaminants.

(9) Safety equipment and training programs for all chemicals used in water treatment shall meet applicable standards established by OSHA or the Texas Hazard Communications Act, Health and Safety Code, Chapter 502.

(d) Special treatment processes. The adjustment of fluoride ion content, special treatment for iron and manganese reduction, special methods for taste and odor control, demineralization, and other proposals covering other than usual treatment will be considered as special projects. All treatment shall be accomplished prior to the storage tanks. Permission to utilize alternate treatment points must be obtained in writing from the department.

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

(g) Effective January 1, 1993, all chemicals and any additional or replacement process media used in treatment of water supplied by public water systems must conform to American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 60 for direct additives and ANSI/NSF Standard 61 for indirect additives. Conformance with these standards must be obtained by certification of the product by an organization accredited by ANSI.

§337.206. *Water Distribution.*

(a) Design and standards. All potable water distribution systems including

pump stations, mains, and both ground and elevated storage tanks, shall be designed, installed, and constructed in accordance with current American Water Works Association (AWWA) standards with reference to materials to be used and construction procedures to be followed. In the absence of AWWA standards, departmental review may be based upon the standards of the American Society for Testing and Materials (ASTM), commercial, and other recognized standards utilized by design engineers.

(1) Effective January 1, 1993, all newly installed pipes and related products must conform to American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 61 and must be certified by an organization accredited by ANSI.

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

(4) Water transmission and distribution lines must be installed in accordance with the manufacturer's instructions. However, the top of the water line must be located below the frost line and in no case shall the top of the water line be less than 12 inches below ground surface.

(5) The hydrostatic leakage rate shall not exceed the amount as determined by the formulas established or recommended by the AWWA.

(b) (No change.)

(c) Minimum water line sizes. These are minimum requirements for domestic flows only and do not consider fire flows. These requirements should be exceeded when the design engineer deems it necessary. It should be noted that the required sizes are based strictly on the number of customers to be served and not on the distances between connections or differences in elevation or the type of pipe. No new water line under two inches in diameter will be allowed to be installed in a public water system distribution system after January 1, 1992.

**TABLE I**

**Separation of Water & Sewer Lines**

CONDITION	LOCATION	MATERIAL		SEPARATION (MIN)		COMMENTS
		WATER	SEWER	VERT	HORIZ	
<b><u>NEW WATER &amp; NEW SEWER SYSTEM</u></b>						
Sewer Force Main and Gravity Sanitary Sewer Parallel to Water Main	Water Above Sewer	Std	CI CI PVC 150 PSI	2'	4'	Separate trenches
Gravity Sanitary Sewer Crossing Water Main	Water Above Sewer or Sewer Above Water	Std	CI DI PVC 150 PSI	6'	NA	Center one joint of sewer pipe on water main.
Gravity Sewer Crossing Water Main	Water Above Sewer	Std	ABS, Clay Conc Composite	2'	NA	Cement stabilize sand backfill initial backfill zone of sewer for 9 ft. each side of crossing. Center one joint of sewer pipe on water main.
<b><u>NEW WATER &amp; EXISTING SANITARY SEWER</u></b>						
New Water Parallel Existing Sewer	Water Above Sewer	Std	Clay, Conc, ABS CI DI PVC	2'	4'	If sewer shows no sign of leakage, then leave sewer alone. If sewer shows signs of leakage, then repair or replace.
New Water Crossing Existing Sewer	Water Above Sewer	Std	ABS, Clay Conc, Composite	2'	NA	If sewer shows no sign of leakage, then leave sewer alone. If sewer shows signs of leakage, then repair or replace.
New Water Crossing Existing Sewer	Sewer Above Water	Std	ABS, Clay Conc, Composite	2'	NA	Replace existing sewer with One joint CI, DI, PVC-150 PSI, centering over waterline.
New Water Parallel to Existing Sewer	Sewer Above Water	Std	ABS, Clay, Conc, Composite	2'	4'	Replace existing sewer with CI, DI, PVC-150 PSI or cement stabilized sand backfill in initial backfill zone of sewer where parallel closer than 9 ft., or encase the water in 150 PSI Pipe two nominal sizes larger.
<b><u>EXISTING WATER &amp; NEW SANITARY SEWER</u></b>						
New Sewer parallel Existing Water	Water Above Sewer or Sewer Above Water	Std	CI DI PVC 150 PSI	2'	4'	Separate trenches
New Sewer crossing Existing Water	Water Above Sewer or Sewer Above Water	Std	CI DI PVC 150 PSI	6'	NA	Center one joint of Sewer pipe in waterline.
New Sewer crossing Existing Water	Water above sewer	Std	ABS, Clay Conc composite	2'	NA	Cement stabilize sand backfill initial zone of sewer for 9 ft. each side of crossing. Center one joint of sewer pipe on water main.

(d) **Minimum pressure requirement.** The system must be designed to maintain a minimum pressure of 35 psi at all points within the distribution network at flow rates of at least 1.5 gallons per minute per connection. When the system is intended to provide fire fighting capability, it must also be designed to maintain a minimum pressure of 20 psi under combined fire and drinking water flow conditions.

(1) Where the topography of the area to be served is such that air locks in the lines may occur, air release devices shall be installed in such a manner as to preclude the possibility of submergence or possible entrance of contamination.

(2) Where distribution system conditions are such that it is necessary to provide service to a multi-story building, more than one pressure plane or where distribution system conditions and demands are such that low pressures develop, the method of providing increased pressure shall be by means of booster pumps taking suction from storage tanks. If an exception to this requirement is desired, the designing engineer must furnish for the department's review all planning material for booster pumps taking suction from other than a storage tank. The planning material must contain a full description of the supply to

the point of suction, maximum demands on this part of the system, location of pressure recorders, safety controls and other pertinent information. Where booster pumps are installed to take suction directly from the distribution system, a minimum residual pressure of 20 pounds per square inch (psi) must be maintained on the suction line at all times. Such installations must be equipped with automatic pressure cut-off devices so that the pumping units become inoperative at a suction pressure of less than 20 psi. In addition, a continuous pressure recording device may be required at a predetermined suspected critical pressure point on the suction line in order to record the hydraulic conditions in the line at all times. If such a record indicates critical minimum pressures (less than 20 psi), adequate storage facilities must be installed with the booster pumps taking suction from the storage facility. Fire pumps used to maintain pressure on automatic sprinkler systems only for fire protection purposes are not considered as in-line booster pumps.

(3) Each community public water system shall provide accurate metering devices at each service connection for the accumulation of water usage data. Systems where no direct charge is made for the water shall be excused from this requirement.

(4) The system shall be provided with sufficient valves and blowoffs so that necessary repairs can be made without undue interruption of service over any considerable area and for the purpose of flushing the system when required. The engineering report shall establish criteria for this design.

(5) The system shall be designed by the engineer so as to afford effective circulation of water with a minimum of dead ends. All dead-end mains shall be provided with acceptable flush valves and discharge piping. All dead-end lines less than two inches in diameter will not require flush valves if they terminate as a customer service. Where dead ends are necessary as a stage in the growth of the system, they shall be located and arranged with a view to ultimately connecting them so as to provide circulation.

(e) **Location of water lines.**

(1) When water lines and sanitary sewers are installed, they shall be installed no closer to each other than nine feet in all directions and parallel lines must be installed in separate trenches. Where the nine foot separation distance cannot be achieved, the guidelines in this subsection shall apply. The guidelines also are listed in tabular form in the following table.

Table A

Type of Establishment	Gallons/Person
Restaurants-----	18
Schools without cafeterias, gymnasiums or showers-----	18
Schools with cafeterias, but no gymnasiums or showers-----	24
Schools with cafeterias, gymnasiums and showers-----	30
Youth camps without flush toilets, showers or dining halls-----	6
Youth camps with flush toilets but no showers or dining halls-----	24
Youth camps with flush toilets, showers and dining halls-----	42
Office buildings-----	18
Hospitals (based on number of beds)-----	720
Institutions other than hospitals-----	240
Factories (exclusive of industrial processes)-----	24
Parks -----	6
Swimming pools -----	12
Country clubs -----	120
Airports (per passenger)-----	6
Self-service laundries -----	60
Service stations/stores -----	12

It should be noted that usage of this table is for the purpose of determining minimum capacities only and that the overriding criteria will be the ability of the system to maintain a minimum pressure of 35 psi under normal operating conditions. Minimum distribution pressure shall not be less than 20 psi at any time.

(A) Where a sanitary sewer parallels a water line, the sewer shall be constructed of cast iron, ductile iron, or PVC meeting ASTM specifications with a pressure rating for both the pipe and joints of 150 psi. The vertical separation shall be a minimum of two feet between outside diameters and the horizontal separation shall be a minimum of four feet between outside diameters. The sewer shall be located below the water line.

(B) Where a sanitary sewer crosses a water line and the sewer is constructed of cast iron, ductile iron, or PVC with a minimum pressure rating of 150 psi, an absolute minimum distance of six inches between outside diameters shall be main-

tained. In addition, the sewer shall be located below the water line where possible and one length of the sewer pipe must be centered on the water line.

(C) Where a sewer crosses under a water line and the sewer is constructed of ABS truss pipe, similar semi-rigid plastic composite pipe, clay pipe, or concrete pipe with gasketed joints, a minimum two-foot separation distance shall be maintained. The initial backfill shall be cement stabilized sand (two or more bags of cement per cubic yard of sand) for all sections of sewer within nine feet of the water line. This initial backfill shall be from one quarter diameter below the centerline of the pipe to one pipe diameter (but not less than 12 inches) above the top of the pipe.

(D) Where a sewer crosses over a water line all portions of the sewer within nine feet of the water line shall be constructed of cast iron, ductile iron, or PVC pipe with a pressure rating of at least 150 psi using appropriate adapters. In lieu of this procedure, the new conveyance may be encased in a joint of 150 psi pressure class pipe at least 18 feet long and two nominal sizes larger than the new conveyance. The space around the carrier pipe shall be supported at five feet intervals with spacers or be filled to the spring line with washed sand. The encasement pipe should be centered on the crossing and both ends sealed with cement grout or manufactured seal.

(E) The sewer need not be disturbed where a new water line is to be

installed parallel to an existing sewer that shows no evidence of leakage and the water line is installed above the sewer a minimum of two feet vertically and four feet horizontally. Should excavation for the water line produce evidence that the sewer is leaking, the sewer must be repaired or replaced as described in subparagraphs (A) or (D) of this paragraph.

(F) The sewer need not be disturbed where a new water line is to cross over (by two feet or more) existing sewer showing no evidence of leakage. Should excavation for the water line produce evidence that the sewer is leaking, then the sewer must be repaired or replaced as described in subparagraphs (C) or (D) of this paragraph.

(2) Unless sanitary sewer manholes and the connecting sewer can be made watertight and tested for no leakage, they must be installed so as to provide a minimum of nine-feet of horizontal clearance from an existing or proposed water line. Where the nine foot separation distance cannot be achieved, an encasement pipe as described in paragraph (1)(D) of this subsection may be used for the water line.

(3) Fire hydrants shall not be installed within nine feet vertically or horizontally of any sanitary sewer regardless of construction.

(4) No physical connection shall be made between a drinking water supply and a sewer. Any appurtenance shall be designed and constructed so as to prevent any possibility of sewage entering the drinking water system.

(5) No sewer carrying domestic or industrial wastes shall cross suction mains to pumping equipment. Water lines shall not be installed closer than 10 feet to septic tank drainfields. No raw water lines shall be installed within five feet of any tile or concrete sanitary sewer.

(f) Sanitary precautions and disinfection. Sanitary precautions, flushing, disinfection procedures, and bacteriological sampling as prescribed in AWWA standards for disinfecting water mains shall be followed in laying water lines.

(1) Pipe shall not be laid in water or placed where it can be flooded with water or sewage during its storage or installation.

(2) Special precautions must be taken when water lines are laid under any flowing stream or semipermanent body of water such as marsh, bay, or estuary. In these cases, the water main shall be installed in a separate watertight pipe encasement or valves shall be provided in the line on each side of the crossing with facilities to allow the underwater portion of the sys-

tem to be isolated and tested to determine that there are no leaks in the line under water.

(3) New mains shall be thoroughly disinfected in accordance with AWWA Standard C651 and then flushed and sampled before being placed in service. Samples shall be collected for bacteriological analysis to check the efficiency of the disinfection procedure which shall be repeated if contamination persists. A minimum of one sample for each 1,000 feet of completed water line will be required or at the next available sampling point beyond 1,000 feet as designated by the design engineer.

(g) Interconnections.

(1) Each proposal for a direct connection between public drinking water systems under separate administrative authority will be considered on an individual basis.

(A) Documents covering the responsibility for sanitary control shall accompany planning material submitted.

(B) Each water supply shall be of a safe, potable quality.

(2) Where an interconnection between systems is proposed to provide a second source of supply for one or both systems, the system being utilized as a second source of supply must be capable of supplying a minimum of 0.35 gallons per minute per connection for the total number of connections in the combined distribution systems.

(h) Backflow, siphonage.

(1) No water connection from any public drinking water supply system shall be made to any establishment where an actual or potential contamination or system hazard exist without an air gap separation between the drinking water supply and the source of potential contamination. The containment air gap is sometimes impractical and, instead, reliance must be placed on individual "internal" air gaps or mechanical backflow prevention devices. Under these conditions, additional protection shall be required at the meter in the form of a backflow prevention device (in accordance with AWWA Standards C510 and C511, and AWWA Manual M14) on those establishments handling substances deleterious or hazardous to the public health. The water purveyor need not require backflow protection at the water service entrance if an adequate cross-connection control program is in effect that includes an annual inspection and testing by a certified backflow prevention device tester. It will be the responsibility of the water purveyor to ensure that these requirements are met.

(2) No water connection from any public drinking water supply system shall be made to any condensing, cooling, or industrial process or any other system of nonpotable usage over which the public water supply system officials do not have sanitary control, unless the said connection is made in accordance with the requirement of paragraph (1) and of this subsection water from such systems cannot be returned to the potable supply, except that water from heat exchangers using potable water may be returned to the potable water supply by meeting the standards as provided by the 1990 Basic/National Standard Plumbing Code, Section P-1505.12.2 for use of heat exchangers with an essentially nontoxic transfer fluid. Such heat exchangers using an essentially nontoxic transfer fluid are permitted to be of single wall construction.

(A) Essentially nontoxic fluid is a fluid having a toxicity rating or class of 1, as listed in Clinical Toxicology of Commercial Products, 5th Edition.

(B) Heat exchangers using an essentially nontoxic transfer fluid with single-wall construction must provide backflow preventers on both the intake side and the return side of the heat exchanger which are activated by the lockout circuit in the event of pressure failure.

(C) The heat exchanger must be prominently and permanently labeled with instructions concerning proper installation.

(3) Overhead bulk water dispensing stations must be provided with an air gap between the filling outlet hose and the receiving tank to protect against back siphonage and cross-contamination.

(4) All backflow prevention devices shall be tested upon installation by a backflow prevention device tester as designated by the water purveyor. It is recommended that the designated tester be certified by the manufacturer or as specified in the water purveyor's regulations. It is strongly recommended that all backflow prevention devices be tested annually with their "test and maintenance" report forms retained for a minimum of three years.

(5) The use of a backflow prevention device at the service connection shall be considered as additional backflow protection and shall not negate the use of backflow protection on internal hazards as outlined and enforced by local plumbing codes.

(i) Water hauling. When drinking water is distributed by tank truck or trailer, in lieu of distribution piping, it must be accomplished in the following manner.

(1) Water shall be obtained from an approved source.

(2) The equipment used to haul the water must be approved by this department and must be constructed as follows.

(A) The tank truck or trailer shall be used for transporting drinking water only and shall be labeled "Drinking Water." Tanks which have been used previously for purposes other than transporting potable liquids shall not be used for hauling drinking water.

(B) The tank shall be watertight and of an approved material which is impervious and easily cleaned and disinfected. Any paint or coating and any plastic or fiberglass materials used as contact surfaces must be approved by the U.S. Environmental Protection Agency, the U.S. Food and Drug Administration, the U.S. Public Health Service, or the National Sanitation Foundation. Effective January 1, 1993, any newly installed surfaces must conform to ANSI/NSF Standard 61 and must be certified by an organization accredited by ANSI.

(C) The tank shall have a manhole and a manhole cover which overlaps the raised manhole opening by a minimum of two inches and terminates in a downward direction. The cover shall fit firmly on the manhole opening and shall be kept locked.

(D) The tank shall have a vent which is faced downward and located to minimize the drawing of contaminants into the stored water. The vent must be screened with 16-mesh or finer corrosion resistant material.

(E) Connections for filling and emptying the tank shall be properly protected to prevent the possible entrance of contamination. These openings must be provided with caps and keeper chains.

(F) A drain shall be provided which will completely empty the tank for cleaning or repairs.

(G) When a pump is used to transfer the water from the tank, the pump shall be permanently mounted with a permanent connection to the tank. The discharge side of the pump shall be properly protected between uses by a protective cap and keeper chain.

(H) Hoses used for the transfer of drinking water to and from the tank shall be used only for that purpose and

labeled for drinking water. The hoses shall conform to ANSI/NSF Standard 61 and must be certified by an entity recognized by the department. Hoses and related appurtenances must be cleaned and disinfected on a regular basis during prolonged use or before start-up during intermittent use. Hoses must be properly stored between uses and must be provided with caps and keeper chains or have the ends connected together.

(I) The tank shall be disinfected monthly and at any time that contamination is suspected.

(J) At least one sample per month from each tank shall be collected and submitted for bacteriological analysis to one of the department's approved laboratories for each month of operation.

(K) A minimum free chlorine residual of 0.5 mg/liter or, if chloramines are used as the primary disinfectant, a chloramine residual of 1.0 mg/liter (measured as total chlorine) shall be maintained in the water being hauled. Chlorine or chlorine containing compounds may be added on a "batch" basis to maintain the required residual.

(L) Operational records detailing the amount of water hauled, purchases, and source of water shall be maintained.

#### *§337.208. Minimum Water System Capacity Requirements.*

(a) General provisions. The following requirements are to be used in evaluating both the total capacities for public water systems and the capacities at individual pump stations and pressure planes. The capacities listed following are minimum requirements only. Additional supply, storage, service pumping, and pressure maintenance facilities will be required by the department if a normal operating pressure of 35 psi cannot be maintained throughout the system. Additional capacities will also be required if the system is unable to maintain a minimum pressure of 20 psi during fire fighting, line flushing, and other unusual conditions. In all sections governing quantity requirements, total storage capacity does not include pressure tank capacity.

(b) Community water systems.

(1) Ground water supply requirements are as follows.

(A) If fewer than 50 connections without ground storage, the system must have the following:

(i) a pressure tank capacity of 50 gallons per connection; and

(ii) a well capacity of 1.5 gallons per minute per connection.

(B) If fewer than 50 connections with ground storage, the system must have the following:

(i) a total storage capacity of 200 gallons per connection;

(ii) a pressure tank capacity of 20 gallons per connection;

(iii) a well capacity of 0.6 gallon per minute per connection; and

(iv) a service pump capacity of 2.0 gallons per minute per connection.

(C) For 50 to 250 connections, the system must have the following:

(i) a total storage capacity of 200 gallons per connection;

(ii) pressure maintenance facilities which have either elevated storage based on 100 gallons per connection or pressure tank capacity of 20 gallons per connection;

(iii) a well capacity of 0.6 gallon per minute per connection; and

(iv) a service pump capacity such that each pump station or pressure plane shall have two or more pumps having a total capacity of 2.0 gallons per minute per connection.

(D) For more than 250 connections, the system must have the following:

(i) total storage capacity of 200 gallons per connection;

(ii) pressure maintenance facilities with either elevated storage based on 100 gallons per connection or pressure tank capacity of 20 gallons per connection with a maximum of 30,000 gallons for systems with fewer than 2,500 connections. Elevated storage in the amount of 100 gallons per connection is required for systems with over 2,500 connections. Systems with over 50,000 connections which utilize multiple production plants may, with the department's approval, substitute additional ground storage capacity, service pumping capacity, and auxiliary power for elevated storage in excess of five million gallons. Pressure tank installations are not recommended for systems between 1,000 and 2,500 connections and serious consideration should be given to the provision of elevated storage;

(iii) well capacity such that two or more wells have a total capacity of 0.6 gallons per minute per connection. Where an interconnection is provided with



another acceptable water system capable of supplying at least 0.35 gallons per minute for each connection in the combined system under emergency conditions, an additional well will not be required as long as the 0.6 gallons per minute per connection requirement is met for each system on an individual basis. Each water system will still be required to meet the storage and pressure maintenance requirements on an individual basis unless the interconnection is permanently open. In this case, the systems will be considered as a single system;

(iv) service pump capacity such that each pump station or pressure plane has two or more pumps having a total capacity of 2.0 gallons per minute per connection or has a total capacity of at least 1,000 gallons per minute and be able to meet peak hourly demands with the largest pump out of service, whichever is less; and

(v) auxiliary power such that it is sufficient to deliver a minimum of 0.35 gallon per minute per connection to the distribution system in the event of the loss of normal power supply. Auxiliary power is required for all systems which do not meet the elevated storage requirement. Alternately, an emergency interconnection can be provided with another public water system that has auxiliary power and is able to supply at least 0.35 gallon per minute for each connection in the combined system.

(E) Mobile home parks with a density of eight or more units per acre and apartment complexes supplying fewer than 100 connections without ground storage must have the following:

(i) a pressure tank capacity of 50 gallons per connection with a maximum of 2,500 gallons required; and

(ii) a well capacity of 1.0 gallon per minute per connection.

(F) Mobile home parks and apartment complexes supplying 100 or more connections, or fewer than 100 connections and utilizing ground storage must have the following:

(i) a total storage of 200 gallons per connection;

(ii) a pressure tank capacity of 20 gallons per connection;

(iii) a well capacity of 0.6 gallon per minute per connection. Systems with 250 or more connections must have either two wells or an approved interconnection which is capable of supplying at least 0.35 gallons per minute for each connection in the combined system; and

(iv) a service pump capacity of 2.0 gallons per minute per connection. Systems with 250 or more connections

must have duplicate service pumps with a combined capacity of at least 2.0 gallons per minute per connection.

(2) Surface water supply requirements are as follows:

(A) a raw water pump capacity of 0.6 gallon per minute per connection with the largest pump out of service;

(B) a treatment plant capacity of 0.6 gallon per minute per connection under normal rated design flow;

(C) transfer pumps (where applicable) with a capacity of 0.6 gallon per minute per connection with the largest pump out of service;

(D) covered clearwell storage capacity at the treatment plant based on 50 gallons per connection or, for systems serving more than 250 connections, 5.0% of daily plant capacity;

(E) total storage capacity of 200 gallons per connection;

(F) service pump capacity with each pump station or pressure plane having two or more pumps having a total capacity of 2.0 gallons per minute per connection or have a total capacity of at least 1,000 gallons per minute and be able to meet peak hourly demands with the largest pump out of service, whichever is less;

(G) pressure maintenance facilities having either elevated storage based on 100 gallons per connection or pressure tank capacity of 20 gallons per connection with a maximum of 30,000 gallons for systems with fewer than 2,500 connections. Elevated storage in the amount of 100 gallons per connection is required for systems with over 2,500 connections. Systems with over 50,000 connections which utilize multiple production plants may, with the approval of the department, substitute additional ground storage capacity, service pumping capacity, and auxiliary power for elevated storage in excess of 5.0 million gallons. Pressure tank installations are not recommended for systems of between 1,000 and 2,500 connections and serious consideration should be given to the provision of elevated storage; and

(H) auxiliary power is required for systems which serve more than 250 connections and do not meet the elevated storage requirement. Auxiliary power must be such that it is sufficient to deliver a minimum of 0.35 gallons per minute per

connection to the distribution system in the event of the loss of normal power supply. Alternately, an emergency interconnection can be provided with another public water system that has auxiliary power and is able to supply at least 0.35 gallon per minute for each connection in the combined system.

(c) Noncommunity water systems serving transient accommodation units. The following water quantity requirements are applicable to noncommunity water systems serving accommodation units such as hotel rooms, motel rooms, travel trailer spaces, campsites, and similar accommodation.

(1) Ground water supply requirements are as follows.

(A) If fewer than 100 accommodation units without ground storage, the system must have the following:

(i) a pressure tank capacity of 10 gallons per unit with a minimum of 220 gallons; and

(ii) a well capacity of 1.0 gallon per minute per unit.

(B) For systems serving fewer than 100 accommodation units with ground storage or serving 100 or more accommodation units, the system must have the following:

(i) a ground storage capacity of 35 gallons per unit;

(ii) a pressure tank capacity of 10 gallons per unit;

(iii) a well capacity of 0.6 gallon per minute per unit; and

(iv) a service pump capacity such that two or more pumps have a total capacity of 1.0 gallon per minute per unit.

(2) All surface water supplies regardless of size must have the following:

(A) a ground storage capacity of 35 gallons per unit with a minimum of 1,000 gallons as clearwell capacity;

(B) a pressure tank capacity of 10 gallons per unit with a minimum requirement of 220 gallons;

(C) a raw water pump capacity of 0.6 gallon per minute per unit with the largest pump out of service;

(D) a transfer pump capacity (where applicable) of 0.6 gallon per minute per unit with the largest pump out of service;

(E) a treatment plant capacity of 0.6 gallon per minute per unit; and

(F) a service pump capacity such that two or more pumps have a total capacity of 1.0 gallon per minute per unit.

(d) Noncommunity water systems serving other than transient accommodation units.

(1) The following table is applicable to paragraphs (2) and (3) of this sub-

section and shall be used to determine the maximum daily demand for the various types of facilities listed:

<u>LETTERS</u>	<u>COLOR OF PIPE</u>
Potable Water	Light Blue
Compressed Air	Light Green
Instrument Air	Light Green with Dark Green Bands
Chlorine (gas, liquid, or vent)	Yellow
Chlorine (solution)	Yellow with Red Bands
Liquid Alum	Yellow with Orange Bands
Alum (solution)	Yellow with Green Bands
Ammonia	Yellow with Brown Bands
Settled Water	Green
Filter Effluent	Light Blue
Backwash	Light Blue
Drain	Dark Gray
Raw Water	Tan

(2) Ground water supply requirements are as follows.

(A) If fewer than 300 persons per day are served, the system must have the following:

(i) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the department's personnel; and

(ii) a well capacity which is capable of supplying the maximum daily demand of the system during the hours of operation.

(B) If 300 or more persons per day are served, the system must have the following:

(i) a ground storage capacity which is equal to 50% of the maximum daily demand;

(ii) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the department's personnel;

(iii) a well capacity which is capable of supplying the maximum daily demand; and

(iv) a service pump capacity of at least three times the maximum daily demand.

(3) Each surface water supply, regardless of size, shall meet the following requirements:

(A) a clearwell capacity which is equal to 50% of the maximum daily demand;

(B) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the department's personnel;

(C) a treatment plant capacity which is capable of supplying the system's maximum daily demand;

(D) a raw water pump capacity capable of supplying the maximum daily demand of the system with the largest pump out of service;

(E) a transfer pump capacity (where applicable) sufficient to provide maximum daily demand with the largest pump out of service; and

(F) two or more service pumps with a total capacity of three times the maximum daily demand.

(e) Water wholesalers. The following additional requirements apply to systems which supply wholesale treated water to other public water supplies.

(1) All wholesalers must provide sufficient production, treatment, and service pumping capacity to meet or exceed the combined maximum daily commitments specified in their various contractual obligations.

(2) For systems supplying both retail and wholesale connections, the department's requirements for the system's wholesale connections are in addition to the department's requirements for the system's retail connections.

(f) Purchased water systems. The following requirements apply only to systems which purchase treated water to meet all or part of their production, storage, service pump, or pressure maintenance capacity requirements.

(1) The contract shall authorize the purchase of sufficient quantities of water to meet the monthly or annual needs of the purchaser.

(2) The contract shall also establish the maximum rate at which water may be drafted on a daily and on an hourly basis. In the absence of specific maximum daily or maximum hourly rates in the contract, a uniform purchase rate for the contract period will be used.

(3) The maximum authorized daily purchase rate specified in the contract plus the actual production capacity of the system shall be at least 0.6 gallons per minute per connection.

(4) For systems which purchase water under direct pressure, the maximum hourly purchase authorized by the contract plus the actual service pump capacity of the system must be at least 2.0 gallons per minute per connection or provide at least 1,000 gallons per minute and be able to meet peak hourly demands with the largest pump out of service, whichever is less.

(5) All other minimum capacity requirements specified in this section shall apply.

*§337.209. Minimum Acceptable Operating Practices for Public Drinking Water Systems.*

(a) (No change.)

(b) Bacteriological. Submission of samples for bacteriological analysis shall be as required by §§337.1-337.21 of this title (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems). Special samples may be required by the department for monitoring purposes in addition to the routine samples required by §§337.1-337.21. These samples shall be submitted to the department or one of its approved laboratories. (A list of the approved laboratories can be obtained by contacting the department).

(c) (No change.)

(d) Monthly operation reports. A monthly report of water works operation must be compiled. The report shall show raw and treated water analyses, amounts of various chemicals, daily distribution system pumpages, dates of dead-end main flushes, cleanings of storage tanks, daily turbidity analyses for surface water sources, results of bacteriological and chemical tests performed, and other pertinent data. A copy must be kept on file for review and made available during inspections.

(1) A copy of the monthly report must be submitted to the Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3192 by the 15th day of the following month. The copy submitted to the department must contain all the information required by the Drinking Water Standards and the results of any special monitoring tests which have been required.

(2) Systems serving fewer than 100 connections which utilize ground water sources or purchase treated water only are not required to compile monthly reports.

(e) Operation by certified personnel. All systems which charge, either directly or indirectly, for drinking water and all systems utilizing surface water must be under the direct supervision of a certified water works operator. The operator shall ensure that the water system complies with the requirements of this section.

(1) No district, municipality, firm, corporation, or individual shall furnish to the public any drinking water for which any charge is made, unless the production, processing, treatment, and distribution is at all times under the direct daily supervision of a competent water works operator holding a valid certificate of competency issued under the direction of the department. A Grade "D" certificate is valid for systems with 250 or fewer connections. Systems serving in excess of 250 connections must employ an operator with a Grade "C" or higher certificate. Systems serving in excess of 1,000 connections must employ at least two Grade "C" certified operators.

(2) Each surface water treatment plant must have at least a Grade "C" surface water operator on duty when the plant is in operation or be provided with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the department's drinking water standards during periods in which the plant is unattended.

(f) Disinfectant residual and monitoring. Facilities shall be provided to maintain an adequate disinfectant residual throughout the distribution system and

equipment shall be available for monitoring the concentration of the disinfectant.

(1) Mechanical disinfection facilities capable of maintaining an acceptable disinfectant residual shall be provided for all public water supplies. At all times, the disinfection equipment shall be operated to maintain the following minimum disinfectant residuals in the far reaches of the distribution system:

(A) a free chlorine residual of 0.2mg/l; or

(B) a chloramine residual of 0.5mg/l (measured as total chlorine) for those systems that feed ammonia.

(2) The disinfectant residual in the distribution system must be tested periodically using a test kit which employs a diethyl-p-phenylenediamine (DPD) indicator. The record of these test results shall be maintained for a period of not less than three years.

(A) Systems which utilize ground water or purchased water sources only and which serve fewer than 100 connections or 250 persons daily must test the disinfectant residual at representative locations in the distribution system at least every seven days.

(B) Except those systems which utilize ground water or purchased water sources only and serve fewer than 100 connections or 250 persons daily, all public water systems must conduct daily disinfectant residual tests at representative locations throughout the distribution system.

(g) Disinfection of new or repaired facilities. Disinfection by or under the direction of water system personnel must be performed when repairs are made to existing facilities and before new facilities are placed into service. Disinfection must be performed in accordance with AWWA requirements and water samples must be submitted to an approved laboratory. The sample results must indicate that the facility is free of microbiological contamination before it is placed into service.

(h)-(i) (No change.)

(j) Cross-connection control. Water department personnel, plumbing inspectors, and others shall inspect individual water facilities prior to providing service and periodically thereafter to prevent possible cross-connections between the potable (safe) water system and any nonpotable (unsafe) water. Continuous efforts shall be made by water department personnel, plumbing inspectors, and others to locate possible cross-

connections between privately owned water systems and the public water system. As these undesirable cross-connections are located, they shall be eliminated so as to prevent possible contamination of the water supplied by the public water facilities.

(k)-(o) (No change.)

(p) Ground, elevated, and pressure storage tank maintenance. Ground, elevated, and pressure tanks must be inspected annually by water system personnel or a contracted inspection service. The results of these inspections must be recorded and maintained for a period of not less than five years.

(1) Ground and elevated storage tank inspections must determine that the vents are in place and properly screened, the roof hatches closed and locked, flap valves and gasketing provide adequate protection against insects, rodents, and other vermin, the interior and exterior coating systems are continuing to provide adequate protection to all metal surfaces, and that the tank remains in a watertight condition.

(2) Pressure storage tank inspection must determine that the pressure release device and pressure gauge are operational, the air-water ratio is being maintained at the proper level, the exterior coating systems are continuing to provide adequate protection to all metal surfaces, and that the tank remains in a watertight condition. Pressure tanks provided with an inspection port must have the interior surface inspected every five years.

(q) (No change.)

(r) Data on water system ownership and management. The department shall be provided with information regarding water system ownership and management.

(1) When a water system changes ownership, a written notice of the transaction must be provided to the department by the current owner or responsible official 30 days prior to the date of the transaction. The notice must include the name of both the current and prospective owner or responsible official, the proposed date of the transaction, the address and phone number of the new owner or responsible official, the system's Texas Department of Health identification number, and any other information necessary to properly identify the transaction.

(2) On an annual basis, each certified operator which supervises more than one water system shall provide the department with his/her certificate number, address and telephone number, and the name and identification number of each public water system which he or she supervises. Each operating company shall provide this information for itself and for each of its operators.

(s) **Boil water notice.** In the event of numerous or prolonged periods of low distribution pressures, water outages, repeated unacceptable bacteriological samples, or failure to maintain adequate chlorine residuals, a boil water notice or other protective measures may be required at the discretion of the department. Once a water system has been notified by the department to issue a boil water notice, the system must notify its customers within 72 hours using specific language and procedures approved by the department. Boil water notices must remain in effect until rescinded by the department. Once the order is lifted, the customers must be notified in a manner similar to the original notice. A copy of these notices must be provided to the department.

(t) **Water leakage.** All water storage facilities, distribution system lines, and related appurtenances must be maintained in a watertight condition.

(u) **Minimum pressures.** All public water systems shall be operated so as to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions. The system shall also be operated to maintain a minimum pressure of 20 psi during emergencies such as fire fighting.

(v) **System ownership.** All community water systems shall post a legible sign at each of its production, treatment, and storage facilities. The sign shall be located in plain view of the public and shall provide the name of the water supply and an emergency telephone number where a responsible official can be contacted.

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 28, 1992.

TRD-9202965

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

Effective date: March 20, 1992

Proposal publication date: October 11, 1991

For further information, please call: (512) 834-6662

## Public Water Systems

### • 25 TAC §337.211

The repeal is adopted under Health and Safety Code (Code), §341.002, which provides the Board of Health with the authority to adopt rules covering public water systems, and to establish standards and procedures for the management and control of sanitation and for health protection measures; §12.001, which provides the board with the authority to

adopt rules to implement every duty imposed by law on the board, the department, and the commissioner of health. The repeal will affect the Code, Chapter 341.

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 28, 1992.

TRD-9202966

Robert A. MacLean, M.D.  
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## TITLE 28. INSURANCE Part I. Texas Department of Insurance

### Chapter 5. Property and Casualty Insurance

#### Subchapter G. Workers' Com- pensation Insurance

##### • 28 TAC §5.6701

The State Board of Insurance of the Texas Department of Insurance adopts new section 28 TAC §5.6701 establishing standards, qualifications, and requirements regarding servicing companies necessary to service the Texas Workers' Compensation Facility (facility), without changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 96).

The State Board of Insurance of the Texas Department of Insurance adopts this section because the Texas Insurance Code, Article 5.76-2, §4.08 requires the agency to promulgate and adopt rules to implement §4.08. §4.08 requires the State Board of Insurance (board) to establish standards, qualifications, requirements, and all other particulars regarding servicing companies necessary to service the Texas Workers' Compensation Employers' Rejected Risk Fund of the Texas Workers' Compensation Insurance Facility. Section 4.08 also requires the board to establish practices, policies, and procedures for the selection of servicing companies on a competitive basis. This new section sets out such standards, qualifications, and requirements for the servicing companies as well as the practices, policies, and procedures for the selection of the servicing companies.

The section sets out provisions for the determination of the number of contracts to be awarded, the qualification to bid, bid solicitation, submittal of bids, contract award requests to reconsider, and allocation of policies to servicing contractors. The new section provides that the board shall determine an appropriate number of servicing company contracts for which bids are to be

solicited. The bid solicitation subsection of the section provides that the board shall advertise for bids in advance of the bid opening date so that bidders will have time to acquire and examine the invitation to bid and prepare a bid. The invitation to bid shall set out all requirements to be met for a bid to be considered responsive, the time and place at which bids will be opened, and the manner in which bids are to be submitted. The contract award subsection provides for the basis upon which the board shall award servicing contracts. Bids will be evaluated on multiple weighted criteria, which shall include, but are not necessarily limited to: demonstrated ability to perform the services required; past experience in performing the same or similar services; demonstrated financial responsibility; and history of compliance with applicable laws and regulations. The requests to reconsider subsection provides that any bidder not awarded a contract may submit a written request to the board for reconsideration. This subsection sets out the information required to be in the request for reconsideration. Oral presentations on a request for reconsideration, limited to one hour in length may be heard by the board but a bidder is not required to make an oral presentation. If a bidder chooses not to make an oral presentation, the board shall consider only the written materials submitted with the Request. The board shall make its decision by vote in open meeting and shall state the reasons for its decision. Once the board has made its decision, no further Requests for Reconsideration will be entertained by the board. No contract awarded by the board shall be effective prior to the deadline for submitting Requests for Reconsideration. The allocation of policies to servicing contractors subsection provides that risks will be assigned so that at any time, to the greatest extent possible, the number of risks and the premium volume will be consistent among all servicing contractors.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Insurance Code, Article 5.76-2 §4.08, which authorizes and, in fact, requires the State board of Insurance to establish standards, qualifications, requirements, and all other particulars regarding servicing companies necessary to service the Texas Workers' Compensation Employers' Rejected Risk Fund of the Texas Workers' Compensation Insurance Facility as well as to establish practices, policies, and procedures for the selection of servicing companies on a competitive basis.

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 March 2, 1992.

TRD-9203018 Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

Effective date March 23, 1992

Proposal publication date: April 6, 1992

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

## Chapter 15. Surplus Lines Insurance

### Subchapter A. General Regulation of Surplus Lines Insurance

#### • 28 TAC §15.3

The State Board of Insurance of the Texas Department of Insurance adopts an amendment to §15.3, without changes to the proposed text as published in the November 8, 1991, issue of the *Texas Register* (16 TexReg 6413).

Section 15.3 concerns the licensing of surplus lines agents. The amendment to this section is necessary to avoid duplication or conflict with the board's rules. The amendment removes the specific dollar amounts now contained in the section as a part of a larger proposal to consolidate fee provisions in §19.801, and §19.802 of Subchapter I of this title (relating to Licensing Fees); to provide staggered renewal dates to conform to uniform license renewal requirements; and to set new fees to defray administrative costs.

The amendment to Section 15.3(a)(2) will remove the specific dollar amount of the license fee and provide a reference to §19.802 of this title (relating to Amounts of Fees) where the fee will be set out. This will allow these rules to conform to §§19.801-19.803 which consolidates agents licensing fees. The amendment to §15.3(b) will provide for a staggered renewal date.

Commenting for this section was the Texas Association of Life Underwriters. There were no comments against this section.

The Texas Association of Life Underwriters stated that it is committed to the protection of the insurance-buying public and takes the position that adequate licensing requirements and fees play an important role in the enhancement of professional sales and services rendered by agents, and unanimously endorses the rules to increase agent licensing fees. The board agrees that licensing fees should be increased.

The amendment is adopted under the Texas Insurance Code, Article 1.04, which authorizes the State Board of Insurance to issue rules in accordance with the laws of this state, and Article 1.14-2, §3A, which provides that the State Board of Insurance may promulgate rules to enforce Article 1.14-2.

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 March 2, 1992.

TRD-9203015 Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

Effective date: March 23, 1992

Proposal publication date: November 8, 1991

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

## Chapter 19. Agents' Licensing

### Subchapter I. Licensing Fees

#### • 28 TAC §§19.202, 19.302, 19.601, 19.706, 19.1311

(Editor's note: The Texas Department of Insurance inadvertently proposed in the November 8, 1991, issue of the *Texas Register* the following sections under incorrect subchapters. These sections should have been proposed as follows:

### Subchapter C. Written Examination for Applicants for License to Write Insurance Upon Any One Life in Excess of 5,000 Under the Insurance Code, Article 21.07, §4A-§19.202

### Subchapter D. Written Examination for Applicants for Accident and Health Insurance Agents License Under the Insurance Code, Article 27.07-1, §16-§19.302

### Subchapter G. Licensing of Insurance Adjusters-§19.601

### Subchapter H. Variable Contract Agents-§19.706

### Subchapter N. Licensing and Regulation of Risk Managers-§19.1311

The State Board of Insurance of the Texas Department of Insurance adopts amendments to §§19.202, 19.302, 19.601, 19.706, and 19.1311, with no changes to the proposed text as published in the November 8, 1991, issue of the *Texas Register* (16 TexReg 6413).

The proposed amendments concerning licensing fees are necessary to avoid duplication or conflict within the board's rules. The proposed amendments remove the specific dollar amounts now contained in the sections. This is in order to coordinate these rules with rules being adopted in §19.801 and §19.802 of this subchapter in which the specific licensing fees will be set forth. These amendments, in conjunction with the licensing fees set forth in §19.801 and §19.802 of this subchapter, allow the setting of new fees to defray administrative costs

The removal of the specific dollar amounts from these sections will allow the setting of the specific dollar amounts in one rule dealing with all licensing fees. The licensing fees will be set forth in §19.802 of this subchapter

Commenting for the sections was the Texas Association of Life Underwriters. No comments were received against these sections.

The Texas Association of Life Underwriters stated that it is committed to the protection of the insurance-buying public and takes the position that adequate licensing requirements and fees play an important role in the enhancement of professional sales and services rendered by agents, and unanimously endorses the rules to increase agent licensing fees. The board agrees that licensing fees should be increased.

The amendments are adopted under the Texas Insurance Code, Article 1.04, which authorizes the State Board of Insurance to issue rules in accordance with the laws of this state, and under the following articles of the Texas Insurance Code, which authorize the board to determine the amount of fees for various types of licenses, namely: Article 3.75, §7 (variable contract agent); Article 21.07 (Group II insurance agent); Article 21.07-1 (Group I legal reserve life insurance agent); Article 21.07-4 (insurance adjuster); and Article 21.14-1 (risk manager).

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 March 2, 1992.

TRD-9203016 Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

Effective date: March 23, 1992

Proposal publication date: November 8, 1991

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

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part II. Texas Parks and Wildlife Department

#### Chapter 57. Fisheries

##### Potentially Harmful, Fish, Shellfish and Aquatic Plants

###### • 31 TAC §§57.111-57.121

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing on January 23, 1992, adopted without changes the repeal of §§57.111-57.121, concerning harmful or potentially harmful exotic fish, shellfish, and aquatic plants published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7446).

Proposed changes in rules concerning harmful or potentially harmful exotic fish, shellfish, and aquatic plants were extensive. To facilitate ease in understanding of new proposed rules, the existing rules were repealed. New rules (§§57.111-57.130) were adopted subsequent to repeal of §§57.111-57.121.

Repeal of these sections will greatly facilitate understanding of new rules concerning exotic species and will provide greater protection of the states aquatic resources.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Parks and Wildlife Code, Chapter 66, which authorizes the commission to adopt rules to regulate 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 27, 1992.

TRD-9202882 Paul M. Shinkawa  
Director, Legal Services  
Texas Parks and Wildlife  
Department

Effective date: March 19, 1992

Proposal publication date: December 20, 1991

For further information, please call: 1-800-792-1112, ext. 4860 or (512) 389-4860

## Part III. Texas Air Control Board

### Chapter 112. Control of Air Pollution from Sulfur Compounds

#### Control of Sulfur Dioxide

##### • 31 TAC §112.5

The Texas Air Control Board (TACB) adopts an amendment to §112.5, with changes to the proposed text as published in the August 30, 1991, issue of the *Texas Register* (16 TexReg 4730).

The adopted amendment to §112.5, concerning allowable emissions from solid fossil fueled boilers, makes an editorial correction to the title of the section, deletes outdated interim emission limits, and replaces the "new proven technology" terminology. This terminology will be replaced with a requirement for certain older power plants to meet emission limits by July 31, 1996 or for the owner/operator of the units to fund a study that would determine whether or not sulfur dioxide (SO<sub>2</sub>) emissions from the affected sites contribute significantly to adverse health or welfare effects in the Dallas-Fort Worth (DFW) area. If the contribution is determined to be significant, then controls would be required in the year 2000. If the contribution is determined to be insignificant, then no site emissions reduction would be required.

The amendment is adopted in response to a formal petition by the Sierra Club to enforce provisions of §112.5 which requires the application of new proven technology in the control of SO<sub>2</sub> emissions from coal-fired electric generation plants. The Sierra Club petition requested that the TACB take

action to enforce existing §112.5; however, the TACB staff was concerned that the "proven technology" terminology was outdated and unenforceable as written. Consequently, the staff developed an alternative proposal which was approved for hearing by the Regulation Development Committee on June 6, 1991 and was also acceptable to the Sierra Club. There are four power plant units, all owned by Texas Utilities Electric (TU), that would be affected by these amendments.

A public hearing was held in Austin on September 25, 1991. Testimony was received from 282 commenters during the comment period which closed October 4, 1991. Comments received from the Lone Star Chapter of the Sierra Club (Sierra), the American Lung Association (ALA), the League of Women Voters (LWV), the City of Rockdale, the Rockdale Chamber of Commerce, the county judge of Milam County, the City of Cameron, a state senator, 63 individuals, and seven Sierra Club petitions signed by 199 individuals in the DFW area all gave general support to the proposal. TU, the Public Utility Commission (PUC), the Aluminum Company of America (ALCOA), the county judge of Freestone County, a medical doctor, a state representative, the Titus County Health department, the City of Fairfield, the City of Mount Pleasant, and the Forsite Corporation (Forsite) opposed the proposal. Two commenters supported TU without actually commenting on the proposal itself. The following discussion categorizes the testimony into health and welfare issues, Federal Clean Air Act (FCAA) issues, cost issues, and miscellaneous issues.

**Health and Welfare Issues.** Sierra, ALA, and seven individuals suggested that SO<sub>2</sub> emissions from the TU Monticello and Big Brown facilities are contributing to white haze which causes a reduction in visibility resulting in an adverse impact on the aesthetic enjoyment of air resources and the quality of life, and are contributing to a respiratory aggravation to asthmatics. While recognizing that the TACB-sponsored Dallas Winter Visibility Study (DWVS) was not a long-term definitive study, Sierra pointed out that the findings indicated visibility impairment was due to sulfate particles. Sierra, LWV, and an individual stated that SO<sub>2</sub> emissions are converted to sulfate particles which are detrimental to health. Sierra, five individuals, and the 199 individuals that signed the Sierra Club petitions claim that the TU facilities generate massive quantities of SO<sub>2</sub> that should be reduced. Fifty individuals supported the limitation of these emissions to improve air quality. Sierra further stated that controls will be even more important after particulate control equipment is installed and the units return to full capacity. Sierra argued that future SO<sub>2</sub> emissions will be more than the current 160,000 tons per year. Sierra commented that all major utilities in Texas use low sulfur coal, scrubbers, or both, with the exception of these four facilities. TU and Forsite argued that the DWVS is flawed and inconclusive. TU, the county judge of Freestone County, a medical doctor, and the Titus County health officer claimed that TU has caused no adverse health effects.

At present, the staff finds insufficient verifiable scientific evidence to demonstrate a

quantitative link between the TU emissions and either the white haze or any aggravation of asthma experienced in the DFW area. The National Ambient Air Quality Standards have been set for SO<sub>2</sub> to protect the health of the general population to include exercising asthmatics. Since 1974, SO<sub>2</sub> has been monitored in the DFW area and SO<sub>2</sub> concentrations there are less than 10% of the level allowed under the health standard. Furthermore, SO<sub>2</sub> levels in the DFW area are lower than those in any other metropolitan area in the state. This indicates that the current SO<sub>2</sub> levels in the DFW area are not detrimental to public health. The full impact of sulfates and other compounds created in the atmosphere from SO<sub>2</sub> are not known at this time. Health standards for sulfates have not been established by the TACB or the U.S. Environmental Protection Agency (EPA).

The staff agrees that the DWVS was inconclusive because of resource limitations and limited scope. Nevertheless, the DWVS and other research does point to the possibility that sulfates from power plants may contribute to visibility problems. The DWVS indicated that the DFW visibility impairment is due in part to sulfate particles. The TU facilities are the largest identified sources of SO<sub>2</sub> emissions which could affect the DFW area. SO<sub>2</sub> is a known precursor of sulfates. The staff believes that a future study is needed to determine if there is a quantitative link between TU emissions and sulfates in the DFW area. If a link is confirmed, reduction in TU emissions could improve visibility as well as reduce the potential for health problems.

The proposed amendment has been changed to allow TU to have the option to control emissions by July 31, 1996 or to fund a study for the purpose of documenting whether an adverse health or welfare effect exists. The study should be completed by July 31, 1996, and if a significant contribution to the visibility problem in the DFW area from one or both of the subject TU sites is found, then the contributing sites will reduce SO<sub>2</sub> emissions to 1.2 pounds of SO<sub>2</sub> per million Btu (MMBtu) by the year 2000. If the study finds that SO<sub>2</sub> emissions from the TU sites are not significantly contributing to visibility problems in the DFW area, then no site emission reductions would be required.

If TU elects the study option, it would be required to submit a formal proposal of the study design for evaluation, modification and approval or rejection by the TACB. The study shall be directed by a steering committee comprised of experts chosen from several disciplines. The study shall have specific milestones and a commitment to provide conclusive results. In the last few years, there have been significant improvements in atmospheric sampling and analysis technology and atmospheric modeling. These advances, along with adequate funding, will be expected to yield a study that is conclusive. The study provides an opportunity to substantiate an adverse health or welfare effect prior to requiring emission reductions.

**FCAA Issues.** TU and ALCOA claim that a TACB requirement for scrubbing SO<sub>2</sub> emissions would be inconsistent with FCAA requirements to meet a 1.2 pounds per MMBtu average among all units owned by a company.

TU claims that FCAA requirements allow each utility to analyze its own system and make SO<sub>2</sub> reductions with methods that are most cost-effective and least disruptive to the company. TU claims that congress specifically considered this flexibility and obviously decided not to deny it to "grandfathered" units not subject to new source performance standards (NSPS). TU and a state representative argued that under the FCAA, reductions are not required in Texas before the year 2000 and that no program benefits or bonus allowances are allowed for making early reductions. They further argued that controls should not be required at this time since Texas has been federally designated under Title IV as a "Clean Air State."

Since the TACB received the Sierra petition, the FCAA Title IV Acid Rain program has provided an SO<sub>2</sub> reduction schedule, a classification of states and individual facilities, regulatory flexibility, and the opportunity for utilities to receive federal credit allowances for any reductions. The program has a goal of reducing acid rain pollutants by 10 million tons in the U. S. by the year 2000. These reductions are to be accomplished in two phases. The first phase would require controls to be installed at units with the highest rates of emissions compared rates of emissions compared to electricity generated. Nationwide, there are 261 of these units in 21 states identified for control by January 1, 1995. None of these units are located in Texas.

Phase two of the program targets all remaining units with emissions rates higher than what is now allowed for new units. The schedule for these units is January 1, 2000. There are four such units in Texas, all operated by TU.

The FCAA, however, does not rely on mandating control equipment or setting emissions limits to accomplish the 10-million ton reduction goal. Instead, a market-based allowance trading system is established. A ton of SO<sub>2</sub> represents an allowance, and a utility would hold rights to a certain number based on the amount of electricity generated by the company during the late 1980's. Actual SO<sub>2</sub> emissions would be audited annually and compared to the corporation's allowances. Deficiencies in allowances would result in penalties, while excesses could be sold or leased. Control options available to a company to reduce actual emissions to levels adequately covered by the company's allowances include: lower emitting fuels; installing control equipment; and/or shutting down older, higher emitting units.

Additionally, Texas qualifies as a clean state since the statewide average emission rate is substantially below the cut-off point for eligibility established by the FCAA. By virtue of this designation, Texas utilities are eligible for bonus allowances.

Under the federal program, TU is required to achieve an overall reduction in SO<sub>2</sub>

emissions to meet a 1.2 pounds of SO<sub>2</sub> per MMBtu systemwide average by "bubbling" all their facilities. Bubbling involves a procedure which enables a utility to average all its steam-electric station (SES) emissions together. In Texas, TU may not necessarily need to reduce the emissions from Monticello and Big Brown SES under the FCAA because of companywide averaging. TU could obtain the required companywide average by reductions at other plants, by adding new SES sites fired by natural gas, or by purchasing reduction credits from other companies. The staff has decided that bubbling between the TU sites would not be appropriate if an individual site is demonstrated to be significantly contributing to the DFW area visibility problems. SO<sub>2</sub> reductions achieved prior to 2000 would preclude TU from taking advantage of the federal credit allowances. Consequently, it appears to the staff to be less reasonable to require controls prior to 2000, unless TU significantly contributes to a visibility problem. A study to determine if TU makes a significant contribution to the DFW visibility problem would resolve this issue.

The control of SO<sub>2</sub> emissions for visibility or health purposes is not addressed by the FCAA. The FCAA Title IV program cited by the commenter is designed to achieve overall reductions throughout the U.S. to assist in alleviating the air pollution problem known as acid rain. The TACB rule change will assist in achieving that nationwide overall SO<sub>2</sub> reduction and will go significantly beyond the FCAA mandate if it is determined that TU makes a significant contribution to the DFW visibility problem. To achieve more consistency with Title IV of the FCAA while addressing the potential contribution the TU units may be making to the DFW visibility problem, the proposed requirement has been replaced by a requirement to meet 1.2 pounds per MMBtu at each site. This will allow TU to meet the lower emission standard with flexibility that is more consistent with the FCAA.

TU contends that the TCB standard of 3.0 pounds per MMBtu is much more restrictive than that of many other states. The TACB agrees that the current 3.0 pounds per MMBtu standard is more restrictive than those in many other states. The fact that emissions averaged over Texas as a whole are below 0.8 pound per MMBtu has resulted in Texas being designated a federal clean air state with respect to acid rain. The TACB will continue to go beyond the federal and other states' requirements wherever a demonstrated problem exists.

**Cost Issues.** Sierra, ALA, and seven individuals argued that improved visibility and reduced health problems will justify any increase in electricity costs that are passed on to the ratepayer. Sierra and an individual suggested that since these plants generate the state's lowest cost energy due to local mining of lignite, the incremental cost of controls would not put them at a disadvantage. Eleven individuals expressed a willingness to pay any increase in personal utility bills that might result from the cost of control. TU and PUC claimed that the required technology will result in unnecessary costs being passed on to the rate-payer.



The TACB is mandated by the Texas Clean Air Act (TCAA) to: "...safeguard the state's air resources from pollution by controlling or abating air pollution and emissions of air contaminants consistent with the protection of public health, general welfare, and physical property, including the aesthetic enjoyment of air resources by the public and the maintenance of adequate visibility." Further, the TCAA says "The board shall seek to accomplish the purposes...through the control of air contaminants by all practical and economically feasible methods." The costs involved in executing these mandates are ultimately passed on to the general public through increased costs of goods and services. The public and the legislature have decided that such costs are necessary for protection of the air, and public health and welfare, if the need exists.

TU contends that the TACB has not followed the CAA requirement to require controls that are both technologically feasible and economically reasonable. TU claims that there has been no analysis or demonstration to show that the costs and benefits are reasonable for a requirement to retrofit the "latest and most expensive technology" on old units with limited lives. Sierra commented that the operating life of these units can be extended 20 years and that costs can be amortized during that period.

The staff has carefully considered both issues of technological feasibility and economic reasonableness in the proposal to require controls for emission reduction. SO<sub>2</sub> scrubbing has been available and required on new units since the promulgation of NSPS, Subpart Da by the EPA in 1979. SO<sub>2</sub> removal is technologically feasible by scrubbing or several alternative technologies retrofitted to existing combustion units of SES. Nationwide, other existing SES units have been required to install SO<sub>2</sub> scrubbers. Economic reasonableness is based on the cost per ton or emissions reduced or on whether other units have been required to install the controls. Amortized equipment and operational costs were estimated in the proposal to be \$250 million per year and the estimated reductions of 75,000 to 100,000 tons per year of SO<sub>2</sub> would yield a cost of \$2,500 to \$3,500 per ton of SO<sub>2</sub> removed. The staff has determined that this cost per ton is reasonable when compared with other reasonably available control technology. Actually, this cost would be expected to be lower since a recalculation using a new EPA data base shows the cost of retrofit and the cost per ton removed will be significantly less.

**Miscellaneous Issues.** TU contended that the existing "new proven technology" requirement could be interpreted by the TACB to require the industry to retrofit using any new technology, at any time and on any unit, without consideration of cost, environmental benefit, or technical practicability. Also, the commenter argued that no similar provisions exist in any other TACB rule. Two individuals stated that this rule has been on the books for a decade and should be enforced.

The TACB legal staff has concluded that the rule is outdated and unenforceable as written. The adopted amendment will delete the "proven technology" clause and replace it

with enforceable rule language. The current wordings of subsections (a) and (b) which require "new proven technology" are being deleted.

An individual argued that NSPS regulations are inferior as control rules, are often obsolete when promulgated, and relate only to an average in pollution control. The commenter further argued that new control technology should be required on all retrofit facilities as soon as the technology is marketed. Other commenters also argued that massive control action is required immediately.

Both economic and political reality require governmental regulatory agencies like the TACB to employ all practical and economically feasible methods for protecting the air resources without either unreasonably burdening the American industry, crippling its competitive ability, or arbitrarily creating real economic hardships for part of the general public. The staff intends an equitable, practical, and evenhanded approach to pollution control while still resolving local and regional problems. The NSPS regulations, Subpart Da, currently require 90% removal of SO<sub>2</sub> (for all emissions in excess of 1.2 pounds per MMBtu) for large SES units constructed after 1979. Such control requirements require technologically sophisticated and very effective control equipment. A study of the NSPS regulations (Code of Federal Regulations 40, Parts 53 to 60) will show that air pollution control nationwide is, as previously stated, balanced by economic and political realities.

Finally, the wording in §112.5 has been changed for clarity and consistency. In the section title, the term "Steam Generators" is more appropriate than "Boilers" for use in this section. In subsection (a), the abbreviation "(MMBtu)" is added after the words "million Btu," and in subsections (b) and (c), the staff has changed "million Btu" for consistency.

The amendment is adopted under the TCAA, §382.017, Texas Health and Safety Code (Vernon 1990), which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

*§112.5. Allowable Emissions from Solid Fossil Fuel-Fired Steam Generators.*

(a) Except as provided in subsection (b) of this section, no person may cause, suffer, allow, or permit emissions of sulfur dioxide (SO<sub>2</sub>) from any solid fossil fuel-fired steam generator to exceed 3.0 pounds per million Btu (MMBtu) heat input.

(b) No person may cause, suffer, allow, or permit emissions of SO<sub>2</sub> from any solid fossil fuel-fired steam generator located in Milam County, which began operation prior to January 1, 1955, to exceed 4.0 pounds per MMBtu heat input.

(c) Units having a design heat input of greater than 1500 MMBtu per hour and, which on January 1, 1991, were not subject to new source performance stan-

dards, shall meet one of the following requirements.

(1) After July 31, 1996, no person may cause, suffer, allow, or permit emissions of SO<sub>2</sub> from any solid fossil fuel-fired steam generator to exceed 1.2 pounds per MMBtu heat input or an equivalent in total allowable annual site emissions,

(2) The owner/operator of the unit(s) shall fund and support a research study of atmospheric haze, also known as "white haze," in the Dallas-Fort Worth (DFW) area, to be completed by July 31, 1996. Within 90 days from the effective date of this rule, the owner/operator shall submit a formal proposal for this study designed to allow successful completion of this study by the date specified previously. The proposal shall include milestone dates, the study's general approach and objectives, and shall include minimum and maximum financial responsibilities on the part of the owner/operator. The Texas Air Control Board (TACB) executive director shall approve or reject the study within 120 days from date of the proposal submittal. The TACB shall base its approval or rejection on the technical merits and adequacy of approach to the research study. Should the proposal be rejected, an extension, not to exceed 60 days, for renegotiation may be granted at the discretion of the executive director. Should this extension expire without proposal approval, then subsection (c)(1) shall apply. Following such approval, the study shall be directed by a steering committee selected by TACB in consultation with the owner/operator of the unit(s) and shall be controlled, comprehensive, state-of-the-art, and quality-assured. The steering committee shall define the scope of the study and establish appropriate milestones to assure completion of the study by July 31, 1996. The study shall be designed to demonstrate conclusively whether or not a reduction of SO<sub>2</sub> emissions from the affected unit(s) to 1.2 pounds per MMBtu will significantly improve visibility in the DFW area. No later than October 31, 1996, TACB shall make a finding based on the study as follows, either:

(A) that reductions of SO<sub>2</sub> emissions from the affected unit(s), as defined in subsection (c) of this section, will significantly improve visibility in the DFW area. If such finding is made, then the affected unit(s) shall achieve compliance with a SO<sub>2</sub> emission limit of 1.2 pounds per MMBtu or an equivalent in total allowable annual site emissions by July 31, 2000; or

(B) that reductions of SO<sub>2</sub> emissions from the affected unit(s), as defined in subsection (c) of this



section, will not significantly improve visibility in the DFW area. If such a finding is made or if TACB can not make a finding on the basis of the study by October 31, 1996, then the affected unit(s) shall maintain compliance with subsection (a) of this section.

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 28, 1992.

TRD-9202970 Lane Hartscock  
Deputy Director, Air Quality  
Planning Program  
Texas Air Control Board

Effective date: March 20, 1992

Proposal publication date: August 30, 1991

For further information, please call: (512) 908-1451

## ◆ ◆ ◆ Part IX. Texas Water Commission

### Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

#### Subchapter G. Location Stan- dards for Hazardous Waste Storage, Processing, or Dis- posal

##### • 31 TAC §335.202

The Water Commission (TWC) adopts an amendment to §335.202, concerning industrial solid waste and municipal hazardous waste, without changes to the proposed text as published in the October 25, 1991, issue of the *Texas Register* (16 TexReg 6041).

The amendment is adopted in order to clarify the siting requirements imposed by new provisions of the Texas Solid Waste Disposal Act (TSWDA), Chapter 361, Texas Health and Safety Code (Vernon Supplement 1991), recently promulgated by the legislature in Senate Bill 1099, 72nd Legislature, 1991.

Section 335.202 is amended by the definition of residence. The amendments to this section are adopted without changes and will not be republished.

Written comments to the proposed amendment were submitted by the following: the law firm of Brown Maroney & Oaks Hartline; and the law firm of Hutcheson & Grundy.

One commenter stated that the setting of a specific distance figure appears to be reasonable for this rule, but in order to provide a perimeter of safety around all residences, the TWC should expand, rather than shorten, the 100-foot distance. This commenter cited numerous cases in support of the contention that the concept of curtilage should be relied upon in determining which parts of the real property and fixtures should be included in the area considered to be the residence. Cur-

tilage has been defined as a yard, courtyard, or other piece of ground included as part of a residence. This commenter urges that the cases cited by him have illustrated that distances of 200 feet or more have been recognized by various jurisdictions with respect to the property included within a residence. He therefore urged expansion of the distance involved in this rule from 100 feet to 200 feet.

In response to this comment, the TWC states that the distance included in the proposed rule is calculated to include a 100-foot perimeter of safety around the structure, and should be ample in view of the distance restrictions imposed by §335.205 of this title (relating to Prohibition of Permit Issuance).

Another commenter claims that in the TSWDA, §361.102(c), the statute refers to a residence as a "structure," thus indicating that the state legislature's intent was that the structure itself, without any additional area, be considered as the residence.

The Act, §361.102(c) states, in pertinent part, that distances shall be measured from a residence, church, school, day care center, surface water body used for a public drinking water supply, or park was in place at the time the distance was certified for the original permit.

The TWC believes that the term "such structure" was meant to apply to the existence or nonexistence of a residence, church, school, or day care center on the property located within 1/2 mile of a new commercial hazardous waste management facility or an areal expansion of an existing commercial hazardous waste management facility. The TWC's interpretation of this language does not restrict the measurement of this language does not restrict the measurement of the 1/2 mile distance to the "structure" of a residence, church, school, day care center, surface water body used for a public drinking water supply, or park. Instead, the term "structure" appears to limit this provision to the inclusion of those enumerated residences or community facilities which existed on the property within 1/2 mile of the proposed commercial hazardous waste management facility at the time the distance was certified for the original permit.

This commenter also claims that the TWC cannot use a distance greater than 75 feet in drafting this rule. The Act, §361.102(f) states that the measurement of distances required by §361.102(a), (b), (c), and (d) shall be taken from a perimeter around the proposed hazardous waste management unit. The perimeter shall be not more than 75 feet from the edge of the proposed hazardous waste management unit. This commenter argues that this 75-foot limitation should be imputed to the distance from a residence. The TWC disagrees. The 75-foot limitation in the Act, §361.102(f) applies expressly to the perimeter from the edge of the proposed hazardous waste management unit. This provision of the Act does not reference how the distance should be measured from a residence or other building, water, source, or park. The TWC, therefore, does not find this provision limiting with respect to the distance from a residence at which the 1/2 mile buffer zone should be measured.

In addition, the TWC staff was instructed by the commission to inquire of the City of Austin Planning and Zoning Division as to the calculation of distances under their zoning and subdivision regulations. TWC staff was informed that all distances are measured from the property line.

The amendment is adopted under the Texas Water Code, §5.104 and §26.011, which gives the commission the authority to adopt any rules necessary to carry out its powers, duties, and policies and to protect water quality in the state. The section is also adopted under the TSWDA, §361.017 and §361.024, which gives the commission the authority to regulate industrial solid wastes and hazardous municipal solid wastes and to adopt rules and promulgate rules consistent with the general intent and purposes of the 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 28, 1992.

TRD-9202939 Mary Ruth Holder  
Director, Legal Division  
Texas Water Commission

Effective date: March 20, 1992

Proposal publication date: October 25, 1991

For further information, please call: (512) 463-8069

## ◆ ◆ ◆ Subchapter J. Industrial Solid Waste and Hazardous Waste Fee System

The Texas Water Commission adopts amendments to §§335.321-335.324, the repeal of §§335.325-335.333, and new §§335.325-335.332, concerning the industrial solid waste and hazardous waste fee system. Amendments §§335.321-335.324 and new §§335.325, 335.328, and 335.329 are adopted with changes to the proposed text as published in the January 14, 1992, *Texas Register* (17 TexReg 299). New §§335.326, 335.327, 335.330-335.332, and the repeal of §§335.325-335.333 are adopted without changes and will not be republished.

The Health and Safety Code, Chapter 361, Subchapter D authorizes the commission to establish a hazardous waste fee system related to the generation and disposition of hazardous waste and the operation of hazardous waste facilities subject to permits. House Bill 1986, Acts of the 72nd Legislature, 1991, amended the Health and Safety Code, Chapter 361, Subchapter D, to restructure and expand the hazardous waste fee program. The commission adopted rules on an emergency basis effective August 28, 1991 (16 TexReg 4780) to implement the provisions of House Bill 1986 and restructure the existing hazardous waste fee program. These emergency rules were renewed for a 60-day period by notice filed December 18, 1991 with the *Texas Register*. These permanent rules will replace the emergency rules on their effective date.

Section 335.321, relating to purpose, is changed to clarify, in §335.321(d) (1), that 25% of the commercial fees from commercial hazardous waste facilities is to be distributed to local governments. Minor changes to §335.321(b) are to correct the punctuation and form of the section.

Section 335.322, relating to definitions, is changed to include additional definitions for the terms "processing" and "recycled" as these terms are defined for the broad purposes of this chapter. The definition of these terms will help clarify the assessment of hazardous waste generation and management fees under this subchapter.

Section 335.323, relating to generation fee assessment, is changed by adding language to subsection (c) which clarifies that a hazardous wastewater which is exempt from assessment due to neutralization or treatment may still be subject to assessment as a non-hazardous waste. A new subsection (e) is added to extend the exemption from generation fee assessment to those wastes which are recycled. The former subsection (e), containing the rate schedule for generation fees, is relettered as subsection (f). New §335.323(g) is added to incorporate into regulation the policy that a claim for exemption from or adjustment to a generation fee assessment must be presented in writing to the executive director prior to the due date of the assessment.

Section 335.324, relating to facility fee assessment, is changed by replacing references to September 1, 1985, in subsections (b) and (c), to September 1 of each year. This correction, in regards to affidavits of exemption from permitting requirements, will properly refer to the current fiscal year as the period for which the exemption from fee assessment would be applied. Section 335.324(i) is changed by deleting a reference to a minimum fee for hazardous waste storage and processing units of \$2,500. This provision is redundant since a minimum fee of \$2,500 for such units is already applied to all hazardous waste facilities under §335.324(d).

Section 335.325, relating to hazardous waste management fee assessment, is changed by adding language to subsection (a) which clarifies that the assessment of hazardous waste management fees is applied to the storage, processing, or disposal of hazardous waste for which a permit is required. This provision will preclude the assessment of management fees under those practices, such as certain treatment or reclamation processes, which are permitted by rule or exempt from permit requirements. Additional language is included in §335.325(e) to clarify which fee rate under §335.325(j) will apply to the management of hazardous waste in surface impoundments. The additional provision specifies that hazardous waste in surface impoundments, which is not exempt from the assessment of a hazardous waste management fee under §335.325(e), will be assessed the fee for waste processing under §335.325(j). Subsection (j) of this section is also changed by replacing the category of waste disposition labeled "treatment" in the fee rate schedule with the term "processing," since the term "processing" has been more

specifically defined for the purposes of this chapter. Consistent with changes to other provisions of this section relating to the assessment of fees for storage and recycling, the fee rates for storage are changed to refer to monthly, rather than quarterly, assessments and the fee rates for recycling are deleted. The rate schedule is further changed with the addition of the terms "ton" and "dwt" (for dry weight ton) where appropriate to clarify the units of measure to which the fee rates apply. The reference to recycled wastes is deleted from subsection (k) consistent with its deletion from the rate chart in subsection (j). Section 335.325(m) is changed by replacing the provision for assessment of fees for storage of hazardous waste with an alternate provision. The proposed rule would levy an assessment on waste stored more than 90 days and then require an additional assessment of one-half the original assessment for each subsequent 90-day period. The change adopted will retain the initial 90-day period, but will assess a reduced fee for each subsequent month the hazardous waste is still in storage. Also, a generator may take advantage of the allowable 30-day extension without incurring a liability for assessment. These changes will simplify recordkeeping for waste generators and storage facilities and make the monthly assessment periods for all methods of waste management consistent. Finally, §335.325(o) is changed by replacing the 1.0% limit on total organic carbon for certain wastewater streams which may qualify for reduced incineration fees with a limit of 5.0% total organic carbon. This change will broaden the definition of organic wastewater streams which will qualify for the reduced incineration fee and reduce financial incentives for diverting such streams from thermal treatment processes to land disposal in injection wells where the fee assessment will be based on a presumably lower dry-weight basis.

Section 335.328, relating to fees payment, is changed by adding new subsection (c) which provides that an owner or operator required to pay a monthly waste management fee may elect to pay a fee quarterly if the amount due in any month does not exceed \$50 or \$150 in any quarter. This provision will allow less frequent payments and reduce the administrative costs of handling and processing relatively small cash receipts. Subsection (b) is also changed by adding a qualification to the requirement for monthly payment consistent with the option available under new subsection (c).

Section 335.329, relating to records and reports, is changed by the addition of language to subsection (b)(5) which qualifies the requirement to submit a monthly waste management summary report to allow for quarterly submission consistent with the changes made to §335.328, relating to fees payment.

Comments on the proposed rules were received from a number of generators of industrial solid waste and operators of hazardous waste management facilities or their representatives. Written comments were received from DuPont, Merichem Company, Exxon Company, U.S.A. and the firm of Brown McCarroll & Oaks Hartline. Also, inquiries re-

ceived by the agency from operators subject to the emergency rules adopted August 28, 1991 identified provisions which required additional clarification. The most common response from hazardous waste generators was that the fee on recycling of waste did not appear to be consistent with the objective of promotion of waste recycling and reclamation as preferable alternatives to further treatment, incineration, or disposal. The agency feels that the assessment of a fee to recover the costs of regulating a waste management activity is an appropriate objective, but also agrees that recycling of hazardous waste should be supported, particularly on-site reclamation of waste streams. Section 335.323, relating to generation fee assessment, and §335.325, relating to hazardous waste management fee assessment, are adopted with changes which exempt recycled waste and hazardous waste recycling from generation fee assessment and waste management fee assessment, respectively. A number of respondents also requested consideration of a policy which would allow less frequent reporting and payment of waste management fees if the payment amounts were relatively small. The agency agrees that the administrative costs of processing some reports of waste activity and fee receipts may be excessive in comparison to the amount received. Sections 335.328, relating to fees payment and 335.329, relating to records and reports, are adopted with changes which will authorize quarterly, rather than monthly, payments of hazardous waste management fees when relatively small amounts of waste activity are to be reported.

Many hazardous waste storage facilities responded that the emergency rule regarding the assessment of fees for waste storage was unclear in its application and required complex recordkeeping to document which wastes were subject to an assessment. A commenter noted that the 30-day extension allowed under existing rules regarding the 90-day storage limit for permit-exempt facilities should be considered in setting fees on hazardous waste storage. The changes to the rate schedule for waste management fees reflect an attempt to simplify the waste storage assessment by applying a fee to storage more consistent with the monthly fee for other methods of waste management and the opportunity for a 30-day extension of the storage time limit. Operators of surface impoundments for storage or treatment of hazardous waste commented that the fee schedule in effect did not clearly define how wastes managed in such facilities should be assessed. In recognizing this deficiency, §335.325(e) is adopted with additional language which clarifies this assessment. One commenter stated that the definition of certain dilute organic wastewaters, which qualify for reduced assessments if incinerated, was too restrictive and did not adequately address many dilute wastewater streams for which underground injection or treatment and discharge to surface waters were the only economically viable waste management alternatives under the existing fee structure. The agency is in agreement that a broader definition, which provides an incentive for other waste management and disposal options, is appropriate and §335.325(o) is adopted with such a change.

A commenter also noted that fees for all methods of waste management should be based on dry weight, that there should be no distinction made for wastes from in state and wastes from out of state, and that fees for land treatment should be equal to those for other treatment methods. While the agency will continue to reevaluate the use of a dry weight measure for wastes which are injected in deep wells, current statutory language specifies that dry weight be used for injected wastes and total weight for other methods. As to the issue of the impact of differential fees for imported wastes, these concerns are not without validity. Such fees can, if not applied carefully, have undesirable effects on proper waste management and the use of available capacity. The agency feels, however, that its application of higher fees for imported waste can be justified as an attempt to recover from out-of-state generators a reasonable amount of revenue, commensurate with that paid by in-state generators in the form of generation, facility, and permit application fees to which those out-of-state generators are not subject. The agency further disagrees that the fee for land treatment should be the same as that for other methods of treatment. The assessment of fees for land treatment facilities similar to those for land disposal is consistent with the regulatory definition of such operations as land disposal facilities and with the historical treatment of such facilities in the hazardous waste fee program.

A commenter indicated that the language of §335.321(d)(1), relating to the application of revenue from commercial hazardous waste facilities, should be clarified to more accurately track the language of the Health and Safety Code. The agency agrees and §335.321(d)(1) is adopted with minor wording changes. It was also requested that consideration be given to excluding certain materials from the determination of the dry weight of a waste stream under some conditions. This provision would exclude brines added to maintain density control for the purposes of satisfying no-migration requirements of federal disposal well regulations. Another commenter provided similar, but broader, comments regarding injected waste streams. This commenter requested consideration of exclusion of all inorganic salts from the determination of dry weight and recommended that the assessment of fees for waste management should be determined for individual waste streams rather than composite waste streams. Such an approach would possibly relate more accurately the fee assessments to the hazardous wastes produced by facilities. This would eliminate the effects of combining hazardous and nonhazardous streams or the dilution of certain hazardous streams to render them nonhazardous. The agency agrees that the determination of fees on component rather than composite waste streams has merit. It is uncertain, however, whether the current system of recordkeeping and reporting of waste management activities can support such an approach without significant change. There are also valid reasons why it may not be the best application of waste management policy, particularly in terms of characteristic wastes which are often readily treated to be nonhazardous. The changes proposed by these respondents regarding the

exclusion of brines from the dry weight determination has implications for the entire rate structure for hazardous waste management fees and the definition and use of a A weight measure. Until the impacts of such proposals can be evaluated in detail, in terms of revenue effects, the equity of the related fee assessments and the implications for waste management incentives and policies, no specific change in the determination of dry weight is recommended. It is the intention of the commission, however, to research further the question of whether all inorganic salts should be excluded from consideration in the dry weight determination, regardless of origin, and determine if amendment to these regulations is warranted. Other changes included in this adoption are intended to correct errors or provide further clarification and improve administration of the revised industrial solid waste and hazardous waste fee program.

• 31 TAC §§335.321-335.332

The amendments and new sections are adopted under the Health and Safety Code, Chapter 361, as amended by House Bill 1986, Acts of the 72nd Legislature, 1991, which provides the Texas Water Commission with the authority to establish an industrial solid waste and hazardous waste fee program and implement fee assessments for industrial solid waste and hazardous waste generators, facilities and permit applicants, and the commercial and noncommercial management of hazardous waste and under the Water Code, §5.103, which gives the Texas Water Commission the authority to adopt any rules necessary to carry out its powers, duties, and responsibilities.

§335.321. Purpose.

(a) It is the purpose of this subchapter to establish an industrial solid waste and hazardous waste fee program. Under this program the following fees are imposed:

(1) an annual fee on each generator of Class I industrial solid waste or hazardous waste;

(2) an annual fee on each facility which either holds a Class I industrial solid waste or hazardous waste permit or operates Class I industrial solid waste or hazardous waste management units subject to permit authorization;

(3) a fee on the operator of a hazardous waste storage, processing, or disposal facility for hazardous waste which is managed on site by the facility;

(4) a fee on each application for a permit for an industrial solid waste or hazardous waste facility assessed under §305.53 of this title (relating to Application Fees).

(b) Hazardous and solid waste fees fund.

(1) The hazardous and solid waste fees fund shall be used for the purpose of regulation of industrial solid waste

and hazardous waste, including payment to other state agencies for services provided under contract relating to enforcement of the Health and Safety Code, Chapter 361.

(2) The fund shall consist of:

(A) generation fees assessed under §335.323 of this title (relating to Generation Fee Assessment);

(B) facility fees assessed under §335.324 of this title (relating to Facility Fee Assessment);

(C) hazardous waste management fees assessed and apportioned under §335.325 of this title (relating to Hazardous Waste Management Fee Assessment);

(D) application fees assessed under §305.53 of this title (relating to Application Fees); and

(E) interest penalties for late payment of industrial solid waste and hazardous waste fees imposed by §335.331 of this title (relating to Failure to Make Payment or Report).

(c) Hazardous and solid waste remediation fee fund.

(1) The hazardous and solid waste remediation fee fund shall be used for the purpose of the following:

(A) necessary and appropriate removal and remedial action at sites at which solid waste or hazardous substances have been disposed if funds from a liable party, independent third party, or the federal government are not sufficient for the removal or remedial action;

(B) necessary and appropriate maintenance of removal and remedial actions for the expected life of those actions if funds from a liable party have been collected and deposited in the fund for that purpose or if funds from a liable party, independent third party, or the federal government are not sufficient for the maintenance;

(C) expenses related to complying with the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 United States Code, §§9601 et seq) as amended, the federal Superfund Amendments and Reauthorization Act of 1986 (10 United States Code, §2701 et seq), and the Health and Safety Code, Chapter 361, Subchapters F and I;

(D) expenses concerning the regulation and management of household hazardous substances and the prevention of pollution of the water resources of the state from the uncontrolled release of hazardous substances; and

(E) expenses concerning the cleanup or removal of a spill, release, or potential threat of release of a hazardous substance where immediate action is appropriate to protect human health and the environment.

(2) The fund shall consist of:

(A) hazardous waste management fees assessed and apportioned under §335.325 of this title (relating to Hazardous Waste Management Fee Assessment);

(B) interest and penalties imposed under §335.331 of this title (relating to Failure to Make Payment or Report);

(C) money paid by a person liable for facility cleanup and maintenance under provisions of the Health and Safety Code, §361.197;

(D) interest received from the investment of the fund in accounts under the charge of the treasurer; and

(E) monies collected on behalf of the commission or transferred from other agencies under any applicable provisions of the Health and Safety Code, including §361.138 relating to fees on lead-acid batteries, or grants from any person made for the purpose of remediation of facilities under the Health and Safety Code, Chapter 361.

(d) Hazardous waste management fees collected under §335.325 of this title (relating to Hazardous Waste Management Fee Assessment) shall be credited to the funds of the state as follows:

(1) One quarter, or 25%, of the hazardous waste management fee collected from a commercial waste storage, processing, or disposal facility shall be credited to the hazardous and solid waste fees fund to be distributed to the county in which the facility paying the fee is located. Funds due the affected county shall be paid by the commission within 60 days of the receipt and verification of payments from a commercial hazardous waste facility in the county.

(2) The remaining amount of commercial hazardous waste management

fees and the total amount of noncommercial hazardous waste fees shall be deposited as follows:

(A) One half, or 50%, of each amount shall be credited to the hazardous and solid waste remediation fee fund.

(B) One half, or 50%, of each amount shall be credited to the hazardous and solid waste fees fund.

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

*Captured facility*—A manufacturing or production facility which generates an industrial solid waste or hazardous waste which is routinely stored, processed, or disposed, on a shared basis, in an integrated waste management unit owned and operated by and located within a contiguous manufacturing facility.

*Class I waste*—Any industrial solid waste or mixture of industrial solid wastes meeting the definition of Class I waste under §335.1 of this title (relating to Definitions).

*Class I nonhazardous waste*—Any Class I waste which is not a hazardous waste as defined in this section.

*Commercial waste storage, processing, and disposal facility*—Any facility which accepts an industrial solid waste or a hazardous waste for storage, processing (including incineration), or disposal for a charge.

*Generator*—Any person whose act or process produces industrial solid waste or hazardous waste or whose act first causes an industrial solid waste or a hazardous waste to become subject to regulation by the commission.

*Hazardous waste*—Those solid wastes not otherwise exempted which have been identified or listed as hazardous wastes by the administrator of the United States Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, 42 United States Code, §§6901 et seq, as amended.

*Industrial solid waste*—A solid waste meeting the definition of industrial solid waste under §335.1 of this title (relating to Definitions).

*Land disposal facility*—Any landfill, surface impoundment (excluding an impoundment treating, processing, or storing waste that is disposed pursuant to the Texas Water Code, Chapter 26 or Chapter 27), waste pile, facility at which land farming, land treatment, or a land application process is used, or an injection well. Land disposal does not include the normal application of agricultural chemicals or fertilizers.

*Noncommercial waste storage, processing, or disposal facility*—Any facility that accepts an industrial solid waste or a hazardous waste for storage, processing (including incineration), or disposal for no charge or that stores, processes, or disposes of wastes generated on site by the facility.

*Processing*—For the purposes of this subchapter, the term "processing" has the same meaning as defined in §335.1 of this title (relating to Definitions).

*Recycled*—For the purposes of this subchapter, a waste is recycled if it is used, reused, or reclaimed in a manner consistent with the definition of a recyclable material or nonhazardous recyclable material under §335.17 of this title (relating to Special Definitions for Recyclable Materials and Nonhazardous Recyclable Materials) and §335.24 of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials).

§335.323. *Generation Fee Assessment.*

(a) An annual generation fee is hereby assessed each generator which generates Class I industrial solid waste or hazardous waste or whose act first causes such waste to become subject to regulation under Subchapter B of this chapter on or after September 1, 1985. These fees shall be deposited in the hazardous and solid waste fee fund. The amount of a generation fee is determined by the total amount of Class I nonhazardous waste or hazardous waste generated during the previous calendar year. The annual generation fee may not be less than \$50. The annual generation fee for hazardous waste shall not be more than \$25,000 and for nonhazardous waste not more than \$1,000.

(b) Hazardous wastes subject to the provisions of §335.78 of this title (relating to Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators) and precluded from the quantity determinations of such section shall be considered for the purposes of this subchapter in the total volume of hazardous waste generated and subject to fee assessment.

(c) Wastewaters containing hazardous wastes which are designated as hazardous solely because they exhibit a hazardous characteristic as defined in 40 Code of Federal Regulations, Part 261, Subpart C, relating to characteristics of hazardous waste, and are rendered nonhazardous by neutralization or other treatment on-site in totally enclosed treatment facilities or wastewater treatment units for which no permit is required under §335.2 of this title (relating to Permit Required) or §335.41 of this title (relating to Purpose, Scope, and Applicability) are exempt from the assessment of hazardous waste generation fees. This exemption from hazardous waste fee assessment in no way limits a generator's obligation to report such waste generation or

waste management activity under any applicable provision of this chapter and does not preclude the assessment of generation fees for nonhazardous waste resulting from such treatment.

(d) Wastes generated in a removal or remedial action accomplished through the expenditure of public funds from the hazardous and solid waste remediation fee fund shall be exempt from any generation fee assessed under this section.

(e) Wastes which are recycled shall be exempt from any generation fee assessed under this section.

(f) Generation fees are to be assessed according to the following schedule including waste reported in tons and the annual fee:

- (1) hazardous waste:
  - (A) less than one ton—no charge;
  - (B) from one—50 tons—\$100;
  - (C) greater than 50 tons—\$2.00 per ton;
- (2) nonhazardous waste:
  - (A) less than one ton—no charge;
  - (B) from one—100 tons—\$50;
  - (C) greater than 100 tons—\$.50 per ton

(g) Any claim of exemption from or adjustment to the assessment of a generation fee under this section must be made in writing to the executive director prior to the due date of the assessment.

**§335.324. Facility Fee Assessment.**

(a) An annual facility fee is hereby assessed on each permittee who holds one or more Class I industrial solid waste or hazardous waste permits and each facility operating a Class I industrial solid waste or hazardous waste management unit subject to permit authorization. These fees shall be deposited in the hazardous and solid waste fees fund. The fee for each year is assessed on each facility for which a permit or the requirement to comply with permit authorization is in effect during any part of the fiscal year.

(b) An applicant who has, prior to September 1, submitted an affidavit of exclusion from permit requirements, shall not be subject to the annual facility fee, pending a decision by the commission on the affidavit of exclusion. If the commission determines that the facility is subject to the permit requirement, the applicant shall pay the fee within 30 days or is subject to the penalties for late payment established under §335.331 of this title (relating to Failure to Make Payment or Report).

(c) An applicant who files an affidavit after September 1 shall be subject to the annual facility fee for the billing year in which the affidavit is filed. The applicant shall not be subject to the annual facility fee for the following year, pending a decision by the commission on the affidavit of exclusion. If the commission determines that the facility is subject to the permit requirement, the applicant shall pay the fee within 30 days or is subject to the penalties for late payment established herein.

(d) The annual facility fee assessed is the cumulative total of fees for all Class I industrial solid waste or hazardous waste management units at the facility which are authorized by permit or subject to authori-

zation on September 1, 1991, and September 1 of each year thereafter. The minimum fee for each hazardous waste facility shall be \$2, 500. The maximum fee for each hazardous waste facility shall be \$25,000. The minimum fee for each facility authorized to manage only nonhazardous waste shall be \$500 and the maximum fee \$5,000.

(e) A fee under this section for storage or processing in tanks or containers will not be assessed against the owner or operator of an elementary neutralization unit or wastewater treatment unit exempt from the requirement of a permit under §335.41(d) of this title (relating to Purpose, Scope, and Applicability).

(f) An "other unit," for the purposes of subsection (i) of this section, is an incinerator, thermal processing unit, or other processing unit, not otherwise listed in subsection (i) of this section, used for waste reduction, recycling, or hazard reduction and subject to compliance with permit requirements.

(g) For facilities which require post-closure care permits, the fee for a closed unit shall apply. A fee is assessed for each unit which received waste after January 26, 1983, and which has been closed pursuant to an approved closure plan and which is subject to the post-closure care permit requirements. Disposal units which are closed in a manner such that all hazardous wastes and hazardous constituents are removed pursuant to an approved closure plan are not subject to the fee.

(h) The facility fee assessment in subsection (i)(2)-(5) of this section shall be based on the surface area of the waste management unit in which the storage, treatment, or disposal of waste has been authorized.

(i) Facility fees shall be assessed according to the following schedule:

	<u>Type of Waste Management Unit</u>	<u>Fee rate</u>	
		<u>Nonhazardous Waste</u>	<u>Hazardous Waste</u>
(1)	Storage/Processing (Tanks or Containers)	\$250	\$.02/gallon
(2)	Land Treatment	\$400/surface acre	\$4,000/surface acre
(3)	Waste Pile	\$400/surface acre	\$4,000/surface acre
(4)	Surface Impoundment	\$500/surface acre	\$5,000/surface acre
(5)	Landfill	\$500/surface acre	\$5,000/surface acre
(6)	Injection Well	\$1,000/well	\$10,000 well
(7)	Closed Disposal Unit	\$250/unit	\$2,500/unit
(8)	Other Unit	\$250/unit	\$2,500/unit

**§335.325. Hazardous Waste Management Fee Assessment.**

(a) A fee is hereby assessed on each owner or operator of a commercial or noncommercial hazardous waste storage, processing, or disposal facility, except as provided in subsections (b)-(e) of this section, for hazardous wastes which are stored, processed, disposed, or otherwise managed on or after October 1, 1991. For the purpose of this section, the storage, processing, or disposal of hazardous waste for which no permit is required under §335.2 of this title (relating to Permit Required) or §335.41 of this title (relating to Purpose, Scope, and Applicability) is not subject to a hazardous waste management fee.

(b) A fee imposed on the owner or operator of a commercial hazardous waste storage, processing, or disposal facility for hazardous wastes which are generated in this state and received from an affiliate or wholly owned subsidiary of the commercial facility, or from a captured facility, shall be the same fee imposed on a noncommercial facility. For the purpose of this section, an affiliate of a commercial hazardous waste facility must have a controlling interest in common with that facility.

(c) The storage, processing, or disposal of hazardous wastes generated in a removal or remedial action accomplished through the expenditure of public funds from the hazardous and solid waste remediation fee fund shall be exempt from the assessment of a waste management fee under this section.

(d) A fee shall not be imposed on the owner or operator of a waste storage, processing, or disposal facility for the storage of hazardous wastes if such wastes are stored within the time periods allowed by and in accordance with the provisions of §335.69 of this title (relating to Accumulation Time).

(e) A fee may not be imposed under this section on the operation of a facility permitted under the Water Code, Chapter 26, or the federal National Pollutant Discharge Elimination System Program for wastes treated, processed, or disposed of in a wastewater treatment system that discharges into surface waters of the state. For the purpose of this section, the management of a hazardous waste in a surface impoundment which is not exempt from assessment under this subsection will be assessed the fee for processing under subsection (j) of this section.

(f) The hazardous waste management fee authorized under this section shall

be based on the total weight or volume of a hazardous waste except for wastes which are disposed of in an underground injection well in which case the fee shall be based on the dry weight of the waste, measured in dry weight tons (dwt), as defined in §335.322 of this title (relating to Definitions) and §335.326 of this title (relating to Dry Weight Determination).

(g) The hazardous waste management fee for wastes generated in this state shall not exceed \$20 per ton for wastes which are landfilled.

(h) The operator of a hazardous waste storage, processing, or disposal facility receiving hazardous waste from out-of-state generators shall be assessed the fee amount required on wastes generated in state plus an additional increment to be established by rule, except as provided in subsection (k) of this section.

(i) for the purposes of subsection (j) of this section, energy recovery means the burning or incineration of a hazardous waste fuel and fuel processing means the handling of a waste fuel, including storage and blending, prior to its disposal by burning.

(j) Except as provided in subsections (k)-(o) of this section, hazardous waste fees shall be assessed according to the following schedule:

<u>Disposition</u>	<u>Noncommercial</u>		<u>Commercial</u>	
	<u>In State</u>	<u>Imported</u>	<u>In State</u>	<u>Imported</u>
Landfill	\$10/ton	\$15/ton	\$20/ton	\$30/ton
Land Treatment	\$8/ton	\$12/ton	\$16/ton	\$24/ton
Underground Injection	\$7/dwt	\$10/dwt	\$14/dwt	\$21/dwt
Incineration	\$6/ton	\$9/ton	\$12/ton	\$18/ton
Processing	\$5/ton	\$8/ton	\$10/ton	\$15/ton
Storage	\$1/ton	\$1.50/ton	\$2/ton	\$3/ton
Energy Recovery	\$3/ton	\$3/ton	\$6/ton	\$6/ton
Fuel Processing	\$2/ton	\$2/ton	\$4/ton	\$4/ton

(k) For hazardous wastes which are generated out of state, the fee will be that specified in subsection (j) of this section, except that the fee for the storage, processing, incineration, and disposal of hazardous waste fuels shall be the same for wastes generated out of state and in state.

(l) Except as provided in subsection (m) of this section, only one hazardous waste management fee shall be paid for a hazardous waste managed at a facility. In any instance where more than one fee could be applied under this section to a specific volume of waste, the higher of the applicable fees will be assessed.

(m) A fee for storage of hazardous waste shall be assessed in addition to any fee for other waste management methods at a facility. No fee shall be assessed under this section for the storage of a hazardous waste for a period of less than 90 days as determined from the date of receipt or generation of the waste (or the effective date of this section). The fee rate specified in the schedule under subsection (j) of this section shall apply to the quantity of waste in any month which has been in storage for more than 90 days or the number for which an extension has been granted under §335.69 of this title (relating to Accumulation Time).

(n) A facility which receives waste transferred from another facility shall pay any waste management fee applicable under this section and shall not receive credit for any fee applied to the management of the hazardous waste at the facility of origin.

(o) The fee rate for incineration of aqueous wastes containing 5.0% or less of total organic carbon will be 10% of the fee for incineration under the schedule in subsection (j) of this section.

#### §335.328. Fees Payment.

(a) Generation and facility fees are payable each year for all Class I industrial solid waste and hazardous waste generators, permittees, and facilities. Fees must be paid by check, certified check, or money order payable to "Texas Water Commission". Annual facility fees are payable by permittees, owners, or operators regardless of whether the facility is in actual operation. All annual generation and facility fees shall be due by a date to be established by the Texas Water Commission at the time payment is requested.

(b) Except as provided in subsection (c) of this section, hazardous waste management fees are to be paid monthly by each operator of a hazardous waste storage,

processing, or disposal facility for wastes managed subject to the provisions of §335.325 of this title (relating to Hazardous Waste Management Fee Assessment) in that month. Fees must be paid by check, certified check, or money order to "Texas Water Commission" and shall be due by the 25th day following the end of the month for which payment is due.

(c) An owner or operator required to pay a hazardous waste management fee who owes less than \$50 for a calendar month or less than \$150 for a calendar quarter is not required to file a monthly report under §335.329 of this title (relating to Records and Reports) but should file a quarterly report with and pay a quarterly fee to the commission.

#### §335.329. Records and Reports.

(a) Generators are required to:

(1) keep records of all hazardous waste and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed on site or shipped off site for storage, processing, or disposal in accordance with the requirements of §335.9 of this title (relating to Recordkeeping and Annual Reporting Procedures Applicable to Generators);



(2) keep records of the dry weight amount of each hazardous waste designated for disposal in an underground injection well;

(3) provide each operator of a hazardous waste underground injection well a certificate of computation of the dry weight of a hazardous waste to be disposed. For each off-site shipment, the dry weight amount of each hazardous waste to be disposed in an underground injection well is to be recorded in Item J of the Uniform Hazardous Waste Manifest as required under §335.30 of this title (relating to Appendix I); and

(4) submit the appropriate reports required under §335.13(b) of this title (relating to Recordkeeping and Reporting Procedures Applicable to Generators Shipping Hazardous Waste and Primary Exporters of Hazardous Waste) on forms furnished or approved by the executive director.

(b) Owners or operators of hazardous waste storage, processing, or disposal facilities are required to:

(1) for on-site facilities, keep records of all hazardous waste and industrial solid waste activities regarding the quantities stored, processed, and disposed on site or shipped off site for storage, processing, or disposal in accordance with the requirements of §335.9 of this title (relating to Recordkeeping and Annual Reporting Procedures Applicable to Generators);

(2) for off-site facilities, submit the appropriate reports required under §335.15(2) of this title (relating to Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities);

(3) record the dry-weight amount of each hazardous waste disposed in an underground injection well at the facility;

(4) document the basis for the assessment of any applicable fee as determined under §335.325 of this title (relating to Hazardous Waste Management Fee Assessment), including any adjustment to or exemption from assessment; and

(5) except as provided in §335.328 of this title (relating to Fees Payment), submit a monthly summary of on-site hazardous waste management activities subject to the assessment of fees under §335.325 of this title (relating to Hazardous Waste Management Fee Assessment) on forms furnished or approved by the executive director. This summary report shall be due by the 25th day following the end of the month (or quarter) for which a report is made. An owner or operator required to comply with this subsection shall continue to prepare and submit monthly (or quarterly) summaries, regardless of whether any

storage, processing, or disposal was made during a particular month (or quarter), by preparing and submitting a summary indicating that no hazardous waste was managed during that month (or quarter).

(c) Records or reports required to be kept under this section shall be retained for a minimum of three years after the date the record or report is made.

(d) The periods of record retention required by this section are automatically extended during the course of any unresolved enforcement action regarding the regulated activity.

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 27, 1992.

TRD-9202907

Mary Ruth Holder  
Director, Legal Division  
Texas Water Commission

Effective date: March 19, 1992

Proposal publication date: January 14, 1992

For further information, please call: (512) 463-8069

◆ ◆ ◆  
• 31 TAC §§335.325-335.333

The repeals are adopted under the Health and Safety Code, Chapter 361, as amended by House Bill 1986, Acts of the 72nd Legislature, 1991, which provides the Texas Water Commission with the authority to establish an industrial solid waste and hazardous waste fee program and to implement fee assessments for the commercial and noncommercial management of hazardous wastes.

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 27, 1992.

TRD-9202908

Mary Ruth Holder  
Director, Legal Division  
Texas Water Commission

Effective date: March 19, 1992

Proposal publication date: January 14, 1992

For further information, please call: (512) 463-8069

◆ ◆ ◆  
*(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 radioac-*

*live 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. The subchapter and undesignated head listed below are TWC's designation.

Any interested party may contact the Texas Register Section and request copies of any of the rules that have been administratively transferred from Texas Department of Health to the Texas Water Commission.

Sections 337.201, 337.202, 337.204 - 337.210, 337.211 (repealed and new), and 337.212 are published in the adopted section of this issue under Title 25. The new numbering scheme is as follows.)

Chapter 290. Water Hygiene  
Public Water Systems

Old: §§337.201-337.212 New:  
§§290.38-290.49

◆ ◆ ◆  
TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

◆ ◆ ◆  
• 34 TAC §3.286

The Comptroller of Public Accounts adopts an amendment to §3.286, concerning seller's and purchaser's responsibilities, without changes to the proposed text as published in the January 21, 1992, issue of the *Texas Register* (17 TexReg 463).

The amendment is the result of changes to the Tax Code, Chapter 151, made by the 72nd Legislature, 1991, First Called Session.

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

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

The third change due to legislation was the addition of subsection (1), which covers the cancellation of an inactive permit.

The last change due to legislation is to subsection (h)(2)(B). Taxes that become delin-



quent on or after September 1, 1991, draw interest at the rate of 12%, compounded monthly.

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

No comments were received regarding adoption of the amendment.

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

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 3. Income Assistance Services

##### Subchapter P. Relationship/Domicile

###### • 40 TAC §3.1601

The Texas Department of Human Services (DHS) adopts an amendment to §3.1601 concerning relationship requirements in the Aid to Families with Dependent Children (AFDC) Program.

The justification for the amendment is to comply with a policy clarification from the United States Department of Health and Human Services.

The amendment will function by allowing AFDC recipients to live with a first cousin once removed or a great-great-grandparent.

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 27, 1992.

TRD-9202900

Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Effective date: March 19, 1992

Proposal publication date: January 21, 1992

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

Old Chapters:

TITLE 37

Chapter 231

Chapter 233-247

Chapter 401-450

TITLE 28

Chapter 27, Subchapter F and G

Subchapter H

Subchapter A

Subchapter B

Subchapter C

Subchapter D and E

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which provides the department with the authority to administer public and financial assistance programs. The amendment is adopted in compliance with federal requirements to be effective January 1, 1992.

§3.1601. *Aid to Families with Dependent Children Relationship/Domicile Requirements.* Aid to families with dependent children clients must meet relationship/domicile requirements stipulated in 45 Code of Federal Regulations, §233.90(c)(1)(v) or, effective January 1, 1992, must live with a first cousin once removed or a great-great-grandfather or grandmother.

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 28, 1992.

TRD-9202995

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

Effective date: January 1, 1992

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

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part XIII. Texas Commission on Fire Protection

*(Editor's Note: Senate Bill 383, the Government Code, §419, transferred all the powers, duties, rights, and obligations of the State Fire Marshal's office, the town rating unit of the Property Division of the Texas Department of Insurance, the Fire Department Emergency Board, and the Commission on Fire Protection Personnel Standards and Education to the newly created Texas Commission on Fire Protection. The Texas Register is administratively transferring the rules from Title 28, Part I, Chapter 27, Texas Department of Insurance, Title 37, Part VIII, Commission on Fire Protection Personnel Standards and Education, and Title 37, Part XIII, Fire Department Emergency Board to Title 37, Part XIII, Texas Commission on Fire Protection. The following table illustrates the old and new corresponding chapter numbers. The text to these rules will not be printed.*

New Chapters

Chapter 420

Chapter 421-460

Chapter 461-465

Chapter 501-510

Chapter 520

Chapter 521-530

Chapter 531-540

Chapter 541-550

Chapter 591-600

## TITLE 43. TRANSPORTATION

### Part I. Texas Department of Transportation

#### Chapter 1. Administration

##### Advisory Committees

###### • 43 TAC §§1.80-1.84

The Texas Department of Transportation adopts new §§1.80-1.84 concerning advisory committees, without changes to the proposed text as published in the December 6, 1991, issue of the *Texas Register* (16 TexReg 6998).

Senate Bill 352, 72nd Legislature, Regular Session, 1991, and House Bill 9, 72nd Legislature, 1st Called Session, 1991, created four advisory committees regarding aviation, bicycles, the environment, and public transportation. The legislature authorized the commission to adopt rules governing the operations of each advisory committee it created.

These rules provide uniform procedures applicable to all advisory committees to ensure

that all committees are operated in a similar manner. The new sections prescribe the purpose, operation and procedures, and responsibilities, of advisory committees.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 6666, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of work of the Texas Department of Transpor-

tation, and more specifically by Texas Civil Statutes, Articles 46c-3, 6663b, 6673g, and 6673h, which create the four advisory committees and authorize the commission to adopt rules to govern the operations of those committees.

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 28, 1992.

TRD-9202971

Diane L. Norham  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Effective date: March 20, 1992

Proposal publication date: December 6, 1991

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

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# 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 met at 1033 La Posada, Suite 340, Austin. According to the emergency revised agenda summary, the board heard report of the Regulatory Compliance Committee: report on implementation of Senate Bill 3 by the Attorney General; status report on the board's strategic plan; and discussed other business. The emergency status was necessary as recent legislation would impact the board's short and long range legal and enforcement plans, and recent legislation required action on its strategic plan prior to its submission on April 1.

**Contact:** William Treacy, 1033 La Posada, Suite 340, Austin, Texas 78752, (512) 451-0241.

**Filed:** February 27, 1992, 2:23 p.m.

TRD-9202897

## Texas Department on Aging

**Wednesday, March 11, 1992, 9:30 a.m.** The Board on Aging's Business Advisory Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH 35, Third Floor, Small Conference Room, Austin. According to the agenda, the committee will consider and possibly act on approval of the minutes of the January 23, 1992 meeting.

**Contact:** Jan Patterson, 9854 Estate Lane, Dallas, Texas 75238, (214) 341-6225.

**Filed:** February 28, 1992, 9:28 a.m.

TRD-9202930

**Wednesday, March 11, 1992, 12 p.m.** The Board on Aging's Committee on Funding Formulas and Area Agency on Aging Operations will meet at the Texas Department on Aging, 1949 South IH 35, Third Floor, Small Conference Room, Austin. According to the agenda, the committee will call the

meeting to order; discuss approval of February 12, 1992 minutes; hear report on progress dealing with funding formulas and Area Agency on Aging (AAA) operations (including staffing and indirect costs); review TDoA's personnel manager's report concerning the office of the State Auditor's recommendations regarding employee reclassifications and prepare recommendation to the board on aging; and adjourn.

**Contact:** Jose Camache, 4214 Medical Parkway, Suite 201, Austin, (512) 454-4583.

**Filed:** February 28, 1992, 9:28 a.m.

TRD-9202935

**Wednesday, March 11, 1992, 12:30 p.m.** The Citizens Advisory Council of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH 35, Third Floor Conference Room, Austin. According to the agenda summary, the council will consider and possibly act on: approval of the minutes of the December 12, 1991 joint meeting of the Citizens Advisory Council and the Board; receive public testimony; hear Texas Board on Aging update; YES (Youth Exchanging with Seniors) Programs; report on the activities of the Area Plan Development Process Task Force; discuss recommendation to the Board on Aging regarding approval of the revised Program Development Standards (TAC 291); hear executive director's report; and discuss recommendations to the Board on Aging on appointment of officers of the Citizens Advisory Council.

**Contact:** Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

**Filed:** February 28, 1992, 9:29 a.m.

TRD-9202937

**Thursday, March 12, 1992, 8:15 a.m.** The Audit Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH 35, Third Floor, Small Conference Room, Austin. According to the agenda, the committee will call the meeting to order; discuss approval

of minutes of December 12, 1991 meeting; review Internal Auditor's audit of TDoA's budgeting process and prepare recommendation for the Board on Aging; and adjourn.

**Contact:** Penny Butler, 819 Briar Ridge, Houston, Texas 77057, (713) 461-9747.

**Filed:** February 28, 1992, 9:28 a.m.

TRD-9202933

**Thursday, March 12, 1992, 9:30 a.m.** Texas Board on Aging of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH 35, Third Floor Conference Room, Austin. According to the agenda summary, the board will consider and possibly act on: approval of the minutes of the February 13, 1992 meeting; receive public testimony; youth exchanging with seniors program; citizens advisory council chair's report; executive director's report; financial report to include update on status of budget; approval of the revised program development standards; appointment of officers of the Citizens Advisory Council; board committee reports to include Audit Committee's recommendation on Internal Auditor's audit of TDoA's budgeting process and Funding Formulas and AAA Operations Committee's recommendation on employee reclassifications; report from Internal Auditor; TDoA's mission and philosophy statements; and consideration of title change for the executive director.

**Contact:** Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

**Filed:** February 28, 1992, 9:29 a.m.

TRD-9202936

**Monday, March 23, 1992, 10 a.m.** The Texas Board on Aging's Minority Elderly Committee will meet at the Clarion Hotel Mockingbird, 1241 West Mockingbird Lane, Conference Room, Dallas. According to the agenda, the committee called the meeting to order; discuss approval of minutes of February 24, 1992 meeting; discuss program (speakers), sponsors, and local arrangements for August 12-14, 1992 minority elderly conference; and adjourn.

**Contact:** Claude Andrews, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641.

**Filed:** February 28, 1992, 9:28 a.m.

TRD-9202932

**Thursday, April 2, 1992, 8 a.m.** The Health Committee of the Texas Department on Aging will meet at the Texas Department on Aging, Third Floor, Small Conference Room, 1949 South IH 35, Austin. According to the agenda, the committee will call the meeting to order; discuss approval of the February 20, 1992 minutes; review and take action on draft policy on long-term care; Texas Department on Aging position on state involvement in health care reform; Texas Department on Aging position on national health care reform; and adjourn.

**Contact:** Ken Huff, 2507 Evelyn Road, Whitesboro, Texas 76273, (903) 564-6375.

**Filed:** February 28, 1992 9:28 a.m.

TRD-9202931

**Thursday, April 2, 1992, 9:30 a.m.** The Planning Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH 35, Third Floor, Small Conference Room, Austin. According to the agenda, the committee will call the meeting to order; discuss approval of the minutes of the February 5, 1992 meeting; review the process being developed by the network to include locally-determined objectives and outcomes into the department's strategic plan; and adjourn.

**Contact:** Aliceanne Wallace, Route 2, Box 2585, Belton, Texas 76513, (817) 939-8178.

**Filed:** February 28, 1992, 9:28 a.m.

TRD-9202934

## Texas Air Control Board

**Friday, March 13, 1992, 9 a.m.** The Hearings Oversight Committee of the Texas Air Control Board will meet at 12124 Park 35 Circle, Annex Building, Room 201A, Austin. According to the complete agenda, the committee will call the meeting to order; meet in executive session to discuss personnel evaluation of director of hearings; consider appointment of hearings examiners; consider and act on: compensation for director of hearings; and appointment of hearing examiner.

**Contact:** Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

**Filed:** March 3, 1992, 9:24 a.m.

TRD-9203062

**Friday, March 13, 1992, 10 a.m.** The Monitoring and Research Committee of the

Texas Air Control Board will meet at 12124 Park 35 Circle, Annex Building, Room 201A, Austin. According to the complete agenda, the committee will give a report on Air Toxics Monitoring; and hear a report on Houston Regional Monitoring Network.

**Contact:** Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

**Filed:** March 3, 1992, 9:24 a.m.

TRD-9203061

**Friday, March 13, 1992, 11 a.m.** The Regulation Development Committee of the Texas Air Control Board will meet at 12124 Park 35 Circle, Annex Building, Room 201A, Austin. According to the complete agenda, the committee will discuss and consider for approval to proceed with scheduling a public hearing on proposed revisions to the general rules regarding filing of emission inventory statements as required by the United States Environmental Protection Agency.

**Contact:** Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

**Filed:** March 3, 1992, 9:24 a.m.

TRD-9203060

**Friday, March 13, 1992, 1 p.m.** The Texas Air Control Board will meet at 12118 IH-35, Park 35 Technology Center Building, (Second Blue Building, South of TACB Offices), Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of minutes of the February 21, 1992, board meeting; hear public testimony; consider and act on local air pollution control program contracts; deliberation and possible action on staff requests to permit applicants for compliance history; enforcement report, consider and act on agreed enforcement orders; consider and act on hearings examiner's report; discuss reports; consider and act on resolution regarding strategic planning requirements; report on agency's minority recruitment efforts and equal employment opportunity commission guidelines; report agency's recycling efforts and negotiation of a memorandum of understanding with the United States Environmental Protection Agency concerning the Green Lights Program; discuss new business; and adjourn.

**Contact:** Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

**Filed:** March 3, 1992, 9:24 a.m.

TRD-9203059

**Thursday, March 12, 1992, 3 p.m.** The Enforcement Committee of the Texas Air Control Board will meet at 12124 Park 35 Circle, Annex Building, Room 201A, Austin. According to the complete agenda,

the committee will deliberate and take possible action on staff requests to permit applicants for compliance history; and discuss OSHA Star Program.

**Contact:** Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

**Filed:** March 3, 1992, 9:26 a.m.

TRD-9203065

**Thursday, March 12, 1992, 4 p.m.** The Budget and Finance Committee of the Texas Air Control Board will meet at 12124 Park 35 Circle, Annex Building, Room 201A, Austin. According to the complete agenda, the committee will consider and act on Dallas and Fort Worth local program contracts; report on legislative appropriation process for fiscal years 1994 and 1995; consider and act on: resolution regarding strategic planning requirements; continuation of contract with the University of Texas; and Pantex Monitor Installation contract.

**Contact:** Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

**Filed:** March 3, 1992, 9:26 a.m.

TRD-9203064

**Thursday, March 12, 1992, 7:30 p.m.** The Mobile Source Emissions Committee of the Texas Air Control Board will meet at 12124 Park 35 Circle, Annex Building, Room 201A, Austin. According to the complete agenda, the committee will discuss the optional implementation of the federal reformulated gasoline program in moderate and serious ozone nonattainment areas as provided for by the 1990 Federal Clean Air Act Amendments; and discuss mobile source control strategy development in response to the 1990 Federal Clean Air Act Amendments.

**Contact:** Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

**Filed:** March 3, 1992, 9:26 a.m.

TRD-9203063

## Texas Alcoholic Beverage Commission

**Friday, March 6, 1992, 10 a.m.** The Texas Alcoholic Beverage Commission will meet at 5806 Mesa, Room 180, Austin. According to the complete agenda, the commission will discuss agency mission statement and auxiliary documents developed by TABC pursuant to House Bill 2009, 72nd Legislature, Regular Session; Open Session Item: determination of open procedures for selecting, notifying, and interviewing finalists among applicants for administrator; Closed Session Item: determination of confidential

procedures for selecting, notifying, and interviewing finalists among applicants for administrator; and determine applicants to be interviewed for position of administrator.

**Contact:** Jeannene Fox, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

**Filed:** February 27, 1992, 1:04 p.m.

TRD-9202888

**Monday, March 9, 1992, 10 a.m.** The Texas Alcoholic Beverage Commission will meet at 5806 Mesa, Room 180, Austin. According to the complete agenda, the commission will meet in executive session to interview applicants and to take action on permanent position of administrator.

**Contact:** Jeannene Fox, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

**Filed:** February 27, 1992, 1:04 p.m.

TRD-9202887

**Tuesday, March 10, 1992, 10 a.m.** The Texas Alcoholic Beverage Commission will meet at 5806 Mesa, Room 108, Austin. According to the complete agenda, the commission will meet in executive session to interview applicants and to take action on permanent position of administrator.

**Contact:** Jeannene Fox, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

**Filed:** February 27, 1992, 1:04 p.m.

TRD-9202886

### Child Care Development Board

**Tuesday, March 10, 1992, 2 p.m.** The Child Care Development Board will meet at the Sam Houston Building, 201 East 14th Street, Room 710, Austin. According to the complete agenda, the board will discuss and make recommendations concerning the Department of Transportation child care proposal; promulgation of standards for state child care centers; opening ceremonies for Capitol Complex Child Care Center; and discuss new business.

**Contact:** Mary E. Fero, Office of the Attorney General, 201 West 14th Street, Austin, Texas 78701, (512) 463-2062.

**Filed:** February 28, 1992, 2:34 p.m.

TRD-9202972

### Texas Department of Commerce

**Thursday, March 12, 1992, 8:30 a.m.** The Product Commercialization Fund Advisory Board of the Texas Department of Commerce will meet at the Anson Jones Building, 410 East Fifth Street, Second Floor

Conference Room, Austin. According to the complete agenda, the board will make opening remarks and introductions; overview of PCF Program and Review Process; presentation of recommended projects; meet in executive session for advisory board to discuss projects; make recommendations made; vote on projects; and adjourn.

**Contact:** Mike Klonsinski, P.O. Box 12728, Austin, Texas 78701, (512) 320-9561.

**Filed:** March 3, 1992, 9:35 a.m.

TRD-9203066

### Texas State Board of Dental Examiners

**Friday, March 6, 1992, 8 a.m.** The Texas State Board of Dental Examiners will meet at the OMNI Houston Hotel, Four Riverway, Houston. According to the agenda summary, the board will take roll call; discuss approval of past minutes; settlement orders; hear request for modification of board orders; conduct appearances before the board-Dr. Charles Thompson, Dr. Richard Garza; discuss approval of sedation/anesthesia permits; hear discussion and proposal for repeal or modification of rules 105.1-105.41, 107.1, 107.2, 107.3, 107.55; hear reports-discussion and appointment consideration of infection control review panel, dental specialty advisory committee, records contract form, nitrous oxide monitoring syllabus, nitrous oxide monitoring exam; hear committee reports-administration, enforcement, examination and licensing, laser committee; and adjourn.

**Contact:** C. Thomas Camp, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

**Filed:** February 27, 1992, 10:29 a.m.

TRD-9202873

### Educational Economic Policy Center

**Monday, March 2, 1992, 1:30 p.m. (rescheduled from 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, 2313 Red River, Austin. According to the complete emergency revised agenda, the subcommittee discussed proposed university work plans; other business; and adjourned. The emergency status was necessary as time for meeting was changed.

**Contact:** Mary Ward, SRH 3.310, UT-Austin, Austin, Texas 78705, (512) 471-7561.

**Filed:** March 2, 1992, 8:30 a.m.

TRD-9203048

### Texas Education Agency

**Friday and Saturday, March 6-7, 1992, 8 a.m. respectively** The Continuing Advisory Committee for Special Education of the Texas Education Agency will meet at the Marriott at the Capitol, 11th Street and IH-35, Austin. According to the agenda summary, on Friday the committee will conduct team meetings to develop action plans for funding, inclusion, and outcome based instruction and monitoring; discuss approval of minutes; discuss perfection of agenda; receive hearing officer decisions; hear reports from teams on action plans; review memorandum of understanding on transition planning for students enrolled in special education; conduct team meetings to work on action plans, and ad hoc committee to work on mission statement. Saturday: hear report on mission statement by ad hoc committee and reports from the teams on action plan; conduct special education effectiveness study; discuss status of House Bill 7; funding for A&M study; plan for improving special education; and discuss agenda for next meeting.

**Contact:** Shirley Sanford, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9362.

**Filed:** February 27, 1992, 3:30 p.m.

TRD-9202906

**Monday, March 9, 1992, 3 p.m.** The State Board of Education Task Force on Professional Preparation and Development Committee on Preservice Education/Development and Continuing Staff Development of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the complete agenda, the committee will hold an informal discussion with professional organizations regarding the work of the task force.

**Contact:** Richard Swain, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9328.

**Filed:** February 28, 1992, 4:55 p.m.

TRD-9203006

**Tuesday, March 10, 1992, 9 a.m.** The State Board of Education Task Force on Professional Preparation and Development Committee on Preservice Education/Development and Continuing Staff Development of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the complete agenda, the committee will make changes to the document "Revised Statement of Policy Directives."

**Contact:** Richard Swam, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9328.

**Filed:** February 28, 1992, 4:55 p.m.

TRD-9203007

**Tuesday, March 10, 1992, 9 a.m.** The State Board of Education Task Force on Professional Preparation and Development Committee on Compensation and Incentive Systems of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the complete agenda, the committee will make changes to the document "Revised Statement of Policy Directives."

**Contact:** Richard Swam, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9328.

**Filed:** February 28, 1992, 4:55 p.m.

TRD-9203008

### Texas Employment Commission

**Tuesday, March 10, 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 approval of prior meeting notes; meet in executive session to discuss Administaff, Inc. versus James Kaster, et al.; Major Blair versus Texas Employment Commission and Robert Miller; Ben Hogan versus Texas Employment Commission; and relocation of agency headquarters; actions, if any, resulting from executive session; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 10; and set date of next meeting.

**Contact:** C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

**Filed:** February 28, 1992, 4:06 p.m.

TRD-9202999

### Texas Ethics Commission

**Saturday, March 7, 1992, 9:30 a.m.** The Texas Ethics Commission will meet at 1101 Camino La Costa, Room 235, Austin. According to the agenda summary, the commission will approve summary of the minutes of the February 14, 1992, meeting; discuss and possibly act: to request an opinion from the Attorney General on the proper interpretation of Legislative per diem requirements; on promulgating a rule relating to procedures for request and issuance of an

advisory opinion; on promulgating a rule relating to procedures for request and issuance of an advisory opinion; on promulgating a rule for scheduling proceedings at the commission pursuant to a sworn complaint; to promulgate revisions to adopted rules and forms requiring the reporting of 1991 income; briefing of commission by staff and possible discussion concerning Chapter 302, Texas Government Code; and communication to the commission from the public; and hear comments from the commissioners.

**Contact:** John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

**Filed:** February 28, 1992, 2:56 p.m.

TRD-9202980

### General Land Office

**Monday, March 9, 1992, 3 p.m.** Veterans Land Board of the General Land Office will meet at the Stephen F. Austin Building, Room 831, Austin. According to the agenda summary, the board will discuss approval of the February 5, 1992 minutes; consider enhancement of the Housing Assistance Program, including consideration of the following: steps for issuance of new debt or restructuring of existing debt; selection of underwriter(s); designation of portion of bond issue as College Savings Bonds and steps for authorization under College Opportunity Act; setting loan interest rates under VHAP; and other action necessary for enhancement of the VHAP.

**Contact:** Mae Vrazel, 1700 North Congress, Austin, Texas 78701, (512) 463-5340.

**Filed:** February 28, 1992, 10:20 a.m.

TRD-9202940

### Office of the Governor, Criminal Justice Division

**Sunday, March 15, 1992, 10 a.m.** The Texas Crime Stoppers Advisory Council Criminal Justice Division of the Office of the Governor will meet at the Habitat Inn, 500 Highland Mall Boulevard, Board Room, Austin. According to the complete agenda, the council will call the meeting to order; discuss approval of the minutes; hear state conference committee report; viewing of training video on board/staff roles and relationships and view suggestion for the playing of the national anthem at state conference; and judging of award entries submitted for Crime Stopper and Board Member of the year, productivity, television, radio, and newsprint competition. These awards will be given at State Conference in April; and adjourn.

**Contact:** David Cobbs, P.O. Box 12428, Austin, Texas 78711, (512) 463-1784.

**Filed:** February 28, 1992, 3:22 p.m.

TRD-9202988

### Governor's Health Policy Task Force

**Thursday, March 12, 1992, 9 a.m.** The Joint Subcommittee Meeting on Cost Containment and Finance of the Governor's Health Policy Task Force will meet at the John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the subcommittee will hear from public hospitals/clinics; conduct discussion; break; hear from state boards, medical schools and nursing; conduct discussion; lunch; discuss finance, income and cost containment implications of oversupply; conduct discussion; and discuss individual subcommittees' business.

**Contact:** Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

**Filed:** February 27, 1992, 3:58 p.m.

TRD-9202916

**Friday, March 13, 1992, 10 a.m.** The Subcommittee on Essential Services of the Governor's Health Policy Task Force will meet at the John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the subcommittee will hear pediatric services in Texas; primary care services in Texas; break; hear border health service issues; HIV/AIDS services in Texas; lunch; hear substance abuse services; mental health services; and Texas 2000: prevention.

**Contact:** Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

**Filed:** February 27, 1992, 3:57 p.m.

TRD-9202914

**Friday, March 13, 1992, 10 a.m.** The Subcommittee on Availability of the Governor's Health Policy Task Force will meet at the John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the subcommittee will convene; hear health care providers: resource availability and needs; lunch; hear physical therapists, occupational therapist, social workers, psychologists; hospital services: availability and needs; committee business; and adjourn.

**Contact:** Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

Filed: February 27, 1992, 3:57 p.m.

TRD-9202915

## Texas Department of Health

**Friday, March 6, 1992, 9 a.m.** The Asbestos Advisory Committee of the Texas Department of Health will meet at the Exchange Building, 8407 Wall Street, Room 400, Austin. According to the complete agenda, the committee will conduct a workshop on proposed rules to implement the Texas Occupational Disease reporting Act provisions concerning asbestos.

**Contact:** Jerry Lauderdale, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6600.

Filed: February 27, 1992, 4:23 p.m.

TRD-9202922

## Texas Department of Insurance

**Monday, March 9, 1992, 3:30 p.m.** The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, Room 1350I, 333 Guadalupe Street, Austin. According to the complete agenda, the board will hold a public meeting to discuss mandated legislative budget board requirements for agency planning.

**Contact:** Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: February 28, 1992, 2:44 p.m.

TRD-9202978

**Tuesday, March 10, 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 whether disciplinary action should be taken against Craig Weylin Randolph doing business as R.S.V.P. Insurance Agency, of Plano, who holds a Local Recording Agent's license. Docket Number 11424.

**Contact:** Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: March 2, 1992, 9:21 a.m.

TRD-9203014

**Wednesday, March 11, 1992, 9 a.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 U.S. Health Insurance Company, Fort Worth, increasing the authorized capital. Docket Number 11422.

**Contact:** Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: March 2, 1992, 9:20 a.m.

TRD-9203013

**Wednesday, March 11, 1992, 9 a.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 United International Life Insurance Company, Fort Worth, increasing the authorized capital. Docket Number 11423.

**Contact:** Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: March 2, 1992, 9:20 a.m.

TRD-9203012

**Thursday, March 12, 1992, 9 a.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 Memorial Service Life Insurance Company, Austin, to acquire control of Lincoln Memorial Life Insurance Company, Austin. Docket Number 11436.

**Contact:** Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: March 2, 1992, 9:20 a.m.

TRD-9203011

**Thursday, March 12, 1992, 4 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 hold an open forum to discuss a broad range of automobile insurance issues including, but not limited to, costs, rates, rules, the automobile plan, overall condition of the market, and other issues affecting the market.

**Contact:** Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 475-2983.

Filed: February 28, 1992, 8:31 a.m.

TRD-9202924

**Monday, March 16, 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 whether disciplinary action should be taken against Perry Budget Plan, Inc., Atlanta, Georgia who holds a Group 19, Premium Finance License. Docket Number 11393.

**Contact:** Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: March 2, 1992, 9:20 a.m.

TRD-9203010

**Thursday, March 19, 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 hold a public hearing to consider the appeal by Henry F. Guillory from Order Number 91-1366 of the Commissioner of Insurance.

**Contact:** Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: February 27, 1992, 3:58 p.m.

TRD-9202917

## Texas Department of Licensing and Regulation

**Tuesday, March 10, 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, Room 1012, 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 Community Vocational Schools of San Antonio, Inc. doing business as Models and Talent Plus 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: March 2, 1992, 8:37 a.m.

TRD-9203009

## Texas Council on Offenders with Mental Impairments

**Thursday, March 12, 1992, 10 a.m.** The Executive Committee of the Texas Council on Offenders with Mental Impairments will meet at the Texas Department of Criminal Justice, Pardons and Paroles Division, 8610 Shoal Creek Boulevard, Austin. According to the complete agenda, the committee will

call the meeting to order; receive introductions; hear public comments; discuss approval of minutes of previous meeting; discuss committees and membership; receive a program committee report; hear status report regarding House Bill 93; discuss TXMHR/TDCJ collaboration; hear executive director's report; and adjourn.

**Contact:** Pat Hamilton, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5406.

**Filed:** February 28, 1992, 9:32 a.m.

TRD-9202938

### ◆ ◆ ◆ State Board of Plumbing Examiners

**Monday, March 9, 1992, 9 a.m.** The State Board of Plumbing Examiners will meet at 929 East 41st Street, Austin. According to the complete agenda, the board will take roll call; recognize visitors; meet in executive session; discuss approval of minutes of January meeting; hear administrator's report; financial report; discuss biennial budget; field report; examination report; hardship cases; discuss plumbing inspector examinations; continuing education of plumbers; report from plumbing inspector examination and qualifications committee; grant authority effective April 1, 1992, to board administrator to authorize payment of voucher; instruction for preparing and submitting agency strategic plan for "Texas Tomorrow" Program; and any other topics for discussion that may come before the board.

**Contact:** Mary Lou Lane, 929 East 41st Street, Austin, Texas 78751, (512) 458-2145.

**Filed:** February 27, 1992, 11:34 a.m.

TRD-9202880

### ◆ ◆ ◆ Public Utility Commission of Texas

**Monday, March 9, 1992, 1:30 p.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 340N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10939-complaint of William A. Marek, Jr. against Houston Lighting and Power.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 28, 1992, 3:56 p.m.

TRD-9202994

**Tuesday, March 10, 1992, 10 a.m.** The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite

340N, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 10962-application of Southwestern Bell Telephone Company to revise access service tariff to provide access open network architecture (ONA) service offering.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 28, 1992, 3:04 p.m.

TRD-9202983

**Tuesday, March 10, 1992, 1 p.m.** The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 340N, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 10960-petition of United Telephone Company of Texas, Inc. to modify final order in Docket Number 9979.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 27, 1992, 3 p.m.

TRD-9202904

**Tuesday, March 10, 1992, 1:30 p.m.** The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 340N, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 10878-application of Central Telephone Company of Texas for customers specific contract pursuant to PUC Substantive Rule 23.27.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 28, 1992, 3:04 p.m.

TRD-9202984

**Thursday, March 12, 1992, 1:30 p.m.** The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 340N, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 10834-petition of Victoria County to amend Southwestern Bell Telephone Company's exchange area boundaries to include Fordtran Community in the Vitoria Exchange.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** March 2, 1992, 3:28 p.m.

TRD-9203050

**Thursday, March 26, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 340N, Austin.

According to the complete agenda, the division will hold a hearing on the merits for clarifying questions in Consolidated Docket Numbers 10642-petition of the general counsel to inquire into the reasonableness of the rates and services of Industry Telephone Company; and 10414-application of Industry Telephone Company to revise tariff.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 28, 1992, 3:05 p.m.

TRD-9202986

**Tuesday, March 31, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 340N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 10959-application of Taylor Telephone Cooperative, Inc. for temporary waiver from requirements of Substantive Rule 23.45(f)(1)(B)(iv-vi).

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 28, 1992, 3:06 p.m.

TRD-9202987

**Monday, April 27, 1992, 10 a.m.** The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 340N, Austin. According to complete the agenda, the commission will hold a prehearing conference in Docket Number 10881-application of new Era Electric Cooperative, Inc. for authority to change rates.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 28, 1992, 3:04 p.m.

TRD-9202982

**Tuesday, April 28, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 340N, Austin. According to the complete agenda, the commission will hold a hearing on the merits in Docket Number 10786-application of Brazoria Telephone Company for change in depreciation rates, and request for special amortization of digital switching equipment and operator systems.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 27, 1992, 3 p.m.

TRD-9202903

**Monday, June 1, 1992, 10 a.m.** The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 340N, Austin. According to the complete agenda,



the commission will hold a hearing on the merits in Docket Number 10687-application of Southwestern Bell Telephone Company for approval of new optional service, SmartTrunk.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 28, 1992, 3:05 p.m.

TRD-9202985

## Railroad Commission of Texas

**Monday, March 9, 1992, 9:30 a.m.** The Railroad Commission of Texas will meet at 1701 North Congress Avenue, 12th Floor Conference Room Austin. Agendas follow:

The commission will consider and act on the division director's report on budget and personnel matters related to organization of the Alternative Fuels Research and Education Division; consider the appointment of a Liquefied Petroleum Gas Advisory Committee for the Alternative Fuels Research and Education Division.

**Contact:** Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

**Filed:** February 28, 1992, 10:48 a.m.

TRD-9202950

The commission will consider and act on the office of the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants; the commission will discuss the implementation of individual operating budgets for each individual commission's office; consider appointment reassignment and/or termination of various positions, including division directors; consider reorganization of the well plugging program; and meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel, and pending litigation.

**Contact:** Walter H. Washington, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

**Filed:** February 28, 1992, 10:48 a.m.

TRD-9202951

The commission will consider and act on the automatic data processing division director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

**Contact:** Bob Kmetz, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7251.

**Filed:** February 28, 1992, 10:48 a.m.

TRD-9202952

The commission will consider and act on the office of information services director's report on division administration, budget procedures, and personnel matters.

**Contact:** Brian W. Schaible, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6710.

**Filed:** February 28, 1992, 10:48 a.m.

TRD-9202949

The commission will consider category determination under §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

**Contact:** Margie Osborn, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6755.

**Filed:** February 28, 1992, 10:48 a.m.

TRD-9202948

The commission will consider and act on the personnel division director's report on division administration, budget, procedures, and personnel matters; and meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

**Contact:** Mark Bogan, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

**Filed:** February 28, 1992, 10:47 a.m.

TRD-9202947

The commission will consider and act on the investigation division director's report on division administration, investigations, budget, and personnel matters.

**Contact:** Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6828.

**Filed:** February 28, 1992, 10:48 a.m.

TRD-9202953

The commission will consider and act on the administrative services division director's report on division administration, budget, procedures and personnel matters.

**Contact:** Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

**Filed:** February 28, 1992, 10:48 a.m.

TRD-9202954

The commission will consider various matters within the jurisdiction of the commission; they will also 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 action, including, but not limited to scheduling an item in its entirety or for particular action at a future time or date. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the

date the hearing was closed or from the date the transcript was received. The commission will meet in executive session as authorized by the Open Meeting Act, to receive legal advice regarding pending and/or contemplated litigation.

**Contact:** Walter Washington, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

**Filed:** February 28, 1992, 10:49 a.m.

TRD-9202955

The commission will hold a statewide hearing on oil and gas.

**Contact:** Paula Middleton, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6729.

**Filed:** February 28, 1992, 10:47 a.m.

TRD-9202946

## Texas Rehabilitation Commission

**Thursday, March 12-13, 1992, 9 a.m.** The Executive Committee, Texas Planning Council for Developmental Disabilities of the Texas Rehabilitation Commission will meet at the Brown Heatly Building, 4900 North Lamar Boulevard, Room 4240, Austin. According to the complete agenda, on Thursday, the council will call the meeting to order; discuss approval of minutes of January 9-10, 1992, and February 20, 1992; council member participation in Uniform Group Insurance Program; review of: stipends applications; stipends request for proposal; applications to open request for proposal; chairman's report; reimbursement of administrative costs to TRC; FY 1992 budget adjustments; consider FY 1993 budgets; and FY 1994-1995 appropriations request. On Friday, the council will review proposed TRC/TPCDD management agreement; discuss designated agency; hear executive director's report; and adjourn.

**Contact:** Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4080.

**Filed:** March 2, 1992, 3:56 a.m.

TRD-9203051

## House of Representatives

**Tuesday, March 10, 1992, 1 p.m.** The Higher Education Committee Subcommittee on Texas State Technical College of the House of Representatives will meet at the Reagan Building, 105 West 15th Street, Room 107, Austin. According to the complete agenda, the subcommittee will discuss the following: role, mission, and benefits of TSTC; update on status; meeting the educa-

tional needs of the area served; relationship with junior and community colleges; future funding; the coordinating board review as specified in rider to the Appropriations Bill; requested presentations from the following persons: Dr. Cecil Groves, Texas State Technical College; Dr. Staton Calvert, Texas Community and Junior College Association; Dr. Kenneth Ashworth, Texas Higher Education Coordinating Board; and Jim Oliver, Legislative Budget Board.

**Contact:** Judy Sexton, with Representative Delco's Office, P.O. Box 2910, Austin, Texas 78768-2910, (512) 463-0506.

**Filed:** March 2, 1992, 12:19 p.m.

TRD-9203044

### Board for Lease of State-owned Lands

**Wednesday, March 11, 1992, 4:30 p.m.** The Board for Lease of Texas Department of Criminal Justice of the Board for Lease of State-owned Lands will meet at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will approve minutes of previous board meeting; pooling application, Fort Trinidad (Glenrose D. Field, Houston County); lease suspension application, Beto E. (Rodessa) Field, Anderson County.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

**Filed:** February 28, 1992, 4:30 p.m.

TRD-9203002

### Structural Pest Control Board

**Tuesday, March 10, 1992, 8:30 a.m.** The Strategic Planning Committee of the Structural Pest Control Board will meet at the Thompson Conference Center, Room 1.122, 2405, East Campus Drive, Austin. According to the complete agenda, the committee will discuss the board's proposed strategic plan as mandated by House Bill 2009.

**Contact:** Benny M. Mathis, Jr., 9101 Burnet Road, #201, Austin, Texas 78758, (512) 835-4066.

**Filed:** February 27, 1992, 10:54 a.m.

TRD-9202875

### Texas A&M University System

**Wednesday, March 3, 1992, 9:30 a.m.** The Special Telephonic Meeting of the

Board of Regents of The Texas A&M University System met in the Board of Regents Meeting Room, MSC Suite 153, College Station. According to the complete agenda, the board met to adopt budget guidelines for the 1992-1993 operating budgets for The Texas A&M University System.

**Contact:** Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

**Filed:** February 27, 1992, 10:58 a.m.

TRD-9202876

**Friday, March 6, 1992, 2:30 p.m.** The Strategic Objectives and Long-Range Planning Subcommittee of the Board of Regents of The Texas A&M University System met in the Board of Regents Meeting Room, MSC, Suite 153, College Station. According to the complete agenda, the purpose of this meeting is to discuss the Northwest Houston project.

**Contact:** Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

**Filed:** February 27, 1992, 10:58 a.m.

TRD-9202874

### Texas Property and Casualty Insurance Guaranty Association

**Tuesday, March 10, 1992, 2 p.m.** The Board of Directors of the Texas Property and Casualty Insurance Guaranty Association will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the agenda summary, the board will consider election of officers; formation of transition committee to help the board in their duties; discuss orientation material for new directors; consider possible action on bridge agreement between association and commissioner for performance of new duties; consider and possibly act on plan of operation; meet in executive session to receive report from conservator, discuss personnel matters and matters related to solvency of insurers; reconvene in open meeting; and set the date for the next meeting.

**Contact:** Gene Brodhead, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 322-0223.

**Filed:** February 28, 1992, 4:17 p.m.

TRD-9203001

### Texas Water Commission

**Monday, March 9, 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 27, 1992, 3:56 p.m.

TRD-9202913

**Tuesday, March 10, 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 28, 1992, 4 p.m.

TRD-9202996

**Wednesday, March 11, 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 28, 1992, 4:03 p.m.

TRD-9202997

**Wednesday, March 11, 1992, 9 a.m.** The Texas Water Commission will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the agenda summary, the board will consider various matters within the regulatory jurisdiction of the Texas Water Commission. 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 action, 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) 463-7905.

**Filed:** February 27, 1992, 3:56 p.m.

TRD-9202911

**Wednesday, March 11, 1992, 10 a.m.** The Texas Water Commission will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the agenda summary, the board will consider various matters within the regulatory jurisdiction of the Texas Water Commission. 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 action, 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) 463-7905.

**Filed:** February 27, 1992, 3:56 p.m.

TRD-9202912

**Friday, March 13, 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 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 28, 1992, 4:05 p.m.

TRD-9202998

**Wednesday, April 22, 1992, 9 a.m.** The Texas Water Commission will meet at Stephen F. Austin State Office Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will conduct a hearing on River Place Municipal District of Travis County's application requesting approval to continue to levy a \$2,000 per equivalent single family connection impact fee for new connections within River Place §§2, 3, 4, and 5.

**Contact:** Randy Nelson, P.O. Box 13087, Austin, Texas 78711, (512) 463-8231.

**Filed:** February 28, 1992, 10:52 a.m.

TRD-9202958

**Thursday, May 21, 1992, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Room 543, Austin. According to the agenda summary, the commission will conduct a hearing before a hearing examiner on Walnut Creek

Water Supply Corporation of Parker & Wise Counties' application for conversion to a special utility district and transfer of Certificate of Convenience and Necessity Number 10285 to the new special utility district.

**Contact:** Sally C. Colbert, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** February 28, 1992, 10:52 a.m.

TRD-9202957

## **Texas Water Well Drillers Board**

**Thursday, March 12, 1992, 9:30 a.m.** The Texas Water Well Drillers Board will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will consider the approval of minutes of the regularly scheduled meetings of January 9 and 10, 1992, and special called meeting held on February 20, 1992; consider whether to set the following complaints for a formal public hearing before the board or appropriate legal action: James Smith, Jose L. Alvarado, Leslie Brewer, Ralph Cadwallader, Lewis Dodd, Jerry Kenneth Edmond, Rainey Ferguson, J. B. Gillen, Kenneth Korenek, Mark Randall, John Talbot, Jesse Temple, Jim Rea, Herbert Walker, Robert Earl West, Mike Winstead, Doyle Murphee, Richard Keena, Martin Tycher; the board will consider the certification of applicants for registration; consider the applications for driller-trainee registration; discuss with Steve and Dough Osborn on matter concerning monitor well completion; and consider staff reports.

**Contact:** Larry Persky, P.O. Box 13087, Austin, Texas 78711, (512) 463-8071.

**Filed:** February 27, 1992, 3:36 p.m.

TRD-9202909

**Thursday, March 12, 1992, 1:30 p.m.** The Texas Water Well Drillers Board will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the agenda summary, the board will discuss WWDB-91-36 John W. Kraatz, Jr., License Number 1986W (continuation); WWDB-92-5 Charles Garrard, License Number 1940W; WWDB-92-6 Samuel Gore, License Number 911W; WWDB-91-33 John W. Kraatz, Jr., License Number 1986W (continuation).

**Contact:** Larry Persky, P.O. Box 13087, Austin, Texas 78711, (512) 463-8071.

**Filed:** February 27, 1992, 3:37 p.m.

TRD-9202910

## **Regional Meetings**

**Meetings Filed February 27, 1992**

**The Bastrop Central Appraisal District Appraisal Review Board will meet at the**

Bastrop Central Appraisal District, 1200 Cedar Street, Bastrop, March 6, 1992, at 8:30 a.m. Information may be obtained from Dana Ripley, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9202893.

**The Dallas Central Appraisal District Board of Directors' met at 2949 North Stemmons Freeway, Dallas, March 4, 1992, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9202895.**

**The Dallas Central Appraisal District Budget Committee met at 2949 North Stemmons Freeway, First Floor, Room Eight, Dallas, March 4, 1992, at 8 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9202894.**

**The Hunt County Appraisal District Board of Directors met at 4801 King Street, Greenville, March 3, 1992, at 7 p.m. Information may be obtained from Joyce Barrow, P.O. Box 1042, Greenville, Texas 75403, (214) 455-1210. TRD-9202921.**

**The Johnson County Rural Water Supply Corporation held a special meeting at the Corporation Office, Highway 171 South, Cleburne, March 2, 1992, at 6 p.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9202885.**

**The Lower Colorado River Authority Board of Directors met at the FPP Administration Building, 6 1/2 Miles East of La Grange on Highway 71, La Grange, March 4, 1992, at 10:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9202902.**

**The Parmer County Appraisal District Board of Directors will meet at 305 Third Street, Bovina, March 12, 1992, at 7 p.m. Information may be obtained from Ron Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405. TRD-9202892.**

**The Region IX Education Service Center North Texas Quality Work Force Planning Committee met at the Vernon Regional Junior College, 4400 College Drive, Vernon, March 4, 1992, at 1:30 p.m. Information may be obtained from Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928. TRD-9202878.**

**The San Patricio County Appraisal District Appraisal Review Board will meet at the Appraisal District Office, 1146 East Market Street, Sinton, March 12, 1992, at 2 p.m. Information may be obtained from Kathryn Vermillion, P. O. Box 938, Sinton, Texas 78387, (512) 364-5402. TRD-9202890.**

**The South Texas Development Council** STED Corporation Board of Trustees met at the Commissioners Courtroom, Courthouse Annex, Zapata, March 5, 1992, at 10 a.m. Information may be obtained from Robert Mendiola, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995. TRD-9202919.

**The South Texas Development Council** Board of Directors met at the Commissioners Courtroom, Courthouse Annex, Zapata, March 5, 1992, at 11 a.m. Information may be obtained from Robert Mendiola, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995. TRD-9202918.

**The Sulphur River Basin Authority** Board of Directors will meet at 1604 North Jefferson Street, Mt. Pleasant, March 10, 1992, at 3 p.m. Information may be obtained from William R. Morris, P.O. Box 240, Texarkana, Texas 75504-0240. TRD-9202891.

**The Texas Rural Communities, Inc.** Board of Directors met at 314 Highland Mall Boulevard, Suite 103, Austin, March 5, 1992, at 9 a.m. Information may be obtained from Leslie Janca, 314 Highland Mall Boulevard, Suite 103, Austin, Texas 78752, (512) 458-1016. TRD-9202896.

**The West Central Texas Council of Governments** Private Industry Council met at 1025 East North Tenth Street, Abilene, March 5, 1992, at 10 a.m. Information may be obtained from Mary Ross, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9202905.

## Meetings Filed February 28, 1992

**The Bexar Appraisal District** Appraisal Review Board will meet at 535 South Main Street, San Antonio, March 3, 5, 11, 1992, at 8:30 a.m. Information may be obtained from Beverly Houston, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9202959.

**The Bexar Appraisal District** Appraisal Review Board met at 535 South Main Street, San Antonio, March 5, 1992, at 8:30 a.m. Information may be obtained from Beverly Houston, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9203005.

**The Bexar Appraisal District** Appraisal Review Board will meet at 535 South Main Street, San Antonio, March 11, 1992, at 8:30 a.m. Information may be obtained from Beverly Houston, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9203004.

**The Central Appraisal District of Johnson County** Board of Directors will meet at 109 North Main Street, Suite 210, Room 202, Cleburne, March 19, 1992, at 4:30 p.m. Information may be obtained from

Priscilla A. Bunch, 109 North Main Street, Cleburne, Texas 76031, (817) 645-3986. TRD-9202956.

**The Creedmoor Maha Water Corporation** met at 1699 Laws Road, Mustang Ridge, March 4, 1992, at 7 p.m. Information may be obtained from Charles Laws, 1699 Laws Road, Buda, Texas 78610, (512) 243-1991 or 243-2113. TRD-9203003.

**The Dallas Area Rapid Transit DART** Board Members met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, March 3, 1992, at noon. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202979.

**The Dallas Area Rapid Transit Dallas** DART Board Members met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, March 3, 1992, at noon. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202992.

**The Dallas Area Rapid Transit Rail** Planning, Development, Budget and Finance Committees met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, March 3, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202991.

**The Dallas Area Rapid Transit Rail** Planning and Development Committee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, March 3, 1992, at 3 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202975.

**The Dallas Area Rapid Transit** Governmental Relations Committee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, March 3, 1992, at 5:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202974.

**The Dallas Area Rapid Transit CBD** Transit Master Plan Subcommittee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, March 4, 1992, at 8 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202976.

**The Dallas Area Rapid Transit Personnel** Committee met at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, March 4, 1992, at 3:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202973.

**The East Texas Council of Governments** Executive Committee met at the ETCOG

Office, Kilgore, March 5, 1992, at 2 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9202977.

**The Gregg Appraisal District** Board of Directors will meet at 2010 Gilmer Road, Longview, March 9, 1992, at 10:30 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (903) 759-00115. TRD-9202989.

**The Hockley County Appraisal District** Appraisal Review Board met at Joyce's Cafe, 508 Avenue G, Levelland, March 3, 1992, at 7 a.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9202925.

**The Lower Colorado River Authority** Retirement Benefits Committee met at the Fayette Power Plant Administration Building, Six and One-Half Miles East of the City of La Grange on Highway 71, La Grange, March 4, 1992, at 1 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-4043. TRD-9202961.

**The High Plains Underground Water Conservation District Number One** Board of Directors will meet at the Conference Room, 2930 Avenue Q, Lubbock, March 10, 1992, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9203000.

**The Sabine Valley Center** Personnel Committee will meet at the Administration Building, 107 Woodbine Place, Bramlette Lane, Longview, March 9, 1992, at 6 p.m. Information may be obtained from Mack O. Blackwell, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9202944.

**The Sabine Valley Center** Board of Trustees will meet at the Ben F. Bane Room, Administration Building, 107 Woodbine Place, Bramlette Lane, Longview, March 9, 1992, at 7 p.m. Information may be obtained from Mack O. Blackwell, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9202945.

**The Shackelford Water Supply Corporation** met at the Fort Griffin Restaurant, Albany, March 4, 1992, at noon. Information may be obtained from E. D. Fincher, P.O. Box 1295, Albany, Texas 76430, (915) 762-2519. TRD-9202963.

**The Sharon Water Supply Corporation** called a special meeting at the Office of Sharon Water Supply Corporation, Highway 37 South, Winnsboro, March 2, 1992, at 7 p.m. Information may be obtained from Gerald Brewer, Route 5, P.O. Box 25-C-10, Winnsboro, Texas 75494, (903) 342-3525. TRD-9202964.

The West Central Texas Council of Governments Area Agency on Aging Citizens Advisory Council met at the Days Inn, 840 East Highway 80, Abilene, March 5, 1992, at 9:30 a.m. Information may be obtained from Brad Helbert, 1025 East North 10th Street, Judge Ely Boulevard, Abilene, Texas 79604, (915) 672-8544. TRD-9202962.



### Meetings Filed March 2, 1992

The Bexar-Medina-Atascosa Counties Water Control District Number One Board of Directors will meet at the District Office, Highway 81, Natalia, March 9, 1992, at 8 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132. TRD-9203047.

The Brazos Valley Development Council Brazos Valley Regional Advisory Committee on Aging met at the Council Offices, 3006 East 29th Street, Suite Two, Bryan, March 5, 1992, at 2 p.m. Information may be obtained from Roberta Lindquist, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9203026.

The Erath County Appraisal District Board of Directors will meet at the Erath County Appraisal District Board Room, 1390 Harbin Drive, Stephenville, March 9, 1992, at 4:30 p.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9203029.

The Heart of Texas Quality Work Force Planning Committee HOTLINK Committee will meet at the Hillsboro High School, 210 East Walnut Street, Hillsboro, March 5, 1992, at 9 a.m. Information may be obtained from Donna McAninch, P.O. Box 21689, Waco, Texas 76702, (817) 772-8756. TRD-9203045.

The Upshur County Appraisal District Board of Directors will meet at the Upshur County Appraisal District Office, Warren and Trinty Streets, Gilmer, March 9, 1992, at 1 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9203028.





Name: Jesse Garcia

Grade: 11

School: Plano East Senior High, Plano 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 of Agriculture Request for Proposals

**Purpose and Scope.** The Texas Agricultural Finance Authority (the Authority) is extending this Request for Proposals (this RFP) to evaluate qualifications of prospective senior managing underwriters to assist the Authority in the design of loan programs through the issuance of revenue bonds under the Texas Agriculture Code (the Code), Chapter 58. The goal of the process will be to position the Authority to move rapidly at such time as other requirements of the bond structuring have been completed.

The Code, Chapter 58, provides for the issuance of revenue bonds in an amount not to exceed \$500 million outstanding at any one time. The Authority requests that RFP respondents carefully review the Code, Chapter 58 and submit an RFP which meets the criteria identified in the Code.

This is a new bonding authority. All procedures and documents will be newly created. Thus, experience in the area of public financing through revenue bonds for industrial and small business development will be a very important criterion, and great consideration will be given to the qualifications of those firms who can demonstrate this experience.

The Authority was created during the 70th and 71st Regular Sessions of the Texas Legislature for the purpose of financing diversification and development of Texas food and fiber industries. With passage of Constitutional Amendment Number 3 on November 7, 1989, the Authority was further empowered to issue a total of \$25 million in general obligation bonds for credit enhancement of small food and fiber businesses. The Authority has in place a Loan Guaranty Program (the Program), which provides up to a 90% loan guaranty to a lending institution for such projects. The \$25 million program was approved by the Texas Bond Review Board in September 1991. The program is funded by commercial paper, which is backed by the full faith and credit of the State of Texas. The Authority anticipates that the program will be fully funded by the Spring of 1992. The Authority does not wish to create a revenue bond program which in any way relies on the program in place for any type of credit enhancement. Applicants must meet eligibility criteria established in the authorizing legislation.

The Texas Agricultural Finance Authority Board (the board) is considering using the revenue bond authority in the best and safest way possible to provide financing alternatives to Texas agricultural businesses.

The board intends to begin implementation of this program as quickly as feasible. For planning purposes, the board proposes to have a program developed by no later than

July 1992, and will consider the qualifications of firms that can commit to a significant effort in the creation of a revenue bond program.

**Statement of Contents:** Statements would include a thorough description of your firm's ability to represent the Authority as senior managing underwriter, which should include, but is limited to, the following: a description of how the firm is organized and how its resources will be put to work for the Authority; a description of the firm's experience as a senior managing underwriter for financing of industrial and small business development, including the identity of the issues, the amounts and types of bonds or notes, and the purposes for the issuances (projects financed) in the description for each of the past three years; a description of the firm's past experience as senior managing underwriter for other state agencies and political subdivisions in Texas, including the identity of the issues, the amounts and types of bonds or notes and the purposes for the issuances in the description; discussion of how the experience gained from one or two of the previous financings relates to the Authority; a description of the firm's financial condition as of the end of the most recent quarterly reporting period including the total capital, equity capital (as defined by the SEC), and approximate percentage of the firm's revenues derived from municipal securities, underwriting and trading; a statement from the firm's attorney of record of any pending litigation, court or administrative decision, or investigation that would materially impact the firm's ability to represent the Authority or its borrowers in the State of Texas; specific designation of each of the individuals who might be assigned to the Authority, including brief resumes and the specific issues they have worked on in the last two years; and a statement addressing the effort made by the firm to encourage and develop the participation of women and minorities in the procurement of contracts for underwriting services. This description shall include the degree of ownership in, or control of, your firm by minorities and women, the number and percentage of women and minority officers in the firm; the firm's internal recruitment efforts to include women and minorities, any offer tendered for apportioning responsibilities by subcontract or joint venture with women or minority-owned firms or companies, and the equal opportunity goals and policies of the firm.

The senior managing underwriter will be expected to perform all the normal duties associated with the underwriting and sale of bonds, including, but not limited to: assist the Authority in structuring the bond issues; advise the Authority on the structure of the agreements and supporting documents with participating businesses; assist the Authority in the development of the application review process; advise concerning market conditions and the timing of the sale; assist in the credit rating process; procure an underwriters' counsel (subject to the approval of the Authority); assist in the preparation of necessary documents related to the issue; develop a sale strategy and marketing plan, if necessary; conduct pre-sale briefing and

information sessions, if necessary; conduct the bond sale, if necessary, including "running the books" and underwriting; and perform any other items necessary for the program.

A brief description should be provided of any potential recommendations and options you may have for structuring of financing through the Authority, including likely credit concerns for the bonds, strategies for maximizing credit ratings, potential marketing problems associated with the bonds, and possible marketing efforts to make the bonds more attractive and reduce the total cost of financing to the Authority. Provide any other information which you believe is particularly relevant to the Authority in the evaluation of the firm.

Include in the recommendations and options a statement of the liquidity support needed for the proposed financing, if any, together with an estimate of the cost of this support, and other fees or expenses other than underwriting fees and expenses which would be payable by the Authority in developing the proposed financing.

**Statement Requirements:** The statement must be executed by a duly authorized representative of the firm. An unsigned statement will not be accepted. Issuance of this RFP in no way constitutes a commitment by the Authority to award a contract, to issue the bonds, or to pay for any services incurred either in the preparation of a response to this RFP or for the production of any contract for services. The Authority also reserves the right to make amendments to this RFP by giving written notice to all firms who receive this RFP.

The chairman of the Authority has requested that all communications with the Authority concerning this RFP and the selection of senior managing underwriters for submitting firms be directed to Robert Kennedy, Director of Agricultural Finance, Texas Department of Agriculture. Any contact by a submitting firm, its employees, or representatives with any member of the board for the purpose of soliciting or encouraging a favorable review may be considered grounds for disqualification.

**Evaluation Process:** Responses to this RFP will be evaluated and ranked based on ideas which can be implemented immediately and which will provide capital for both large and small Texas agricultural businesses. Firms submitting the top ranking RFPs will be asked to make oral presentations during a regularly scheduled board meeting.

**Statement Submission:** All statements must be received no later than 5 p.m., March 23, 1992. Responses, modifications, or addenda to an original response received by the Authority after the specific time and date for closing will not be considered. Each firm is responsible for ensuring that the response reaches the Authority before the proposed due date. Firms should submit one original and 10 copies of their responses to: **Mailing Address:** Robert Kennedy, Director of Agricultural Finance, Texas Agricultural Finance Authority, in care of Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711; **Federal Express Address:** Mr. Robert Kennedy, Director of Agricultural Finance, 1700 North Congress Avenue, Stephen F. Austin Building, Austin, Texas 78701. Please mark the envelopes containing proposals with the following note in the lower left hand corner: "IN RESPONSE TO REQUEST FOR PROPOSAL: SENIOR MANAGING UNDERWRITING." All responses become property of the Authority. Statements must set forth full, accurate, and

complete information as required by this RFP. Oral instruction or offers will not be considered. The Authority reserves the right to reject any and all responses.

**Proposal Modification:** Any statement may be modified even after receipt by the Authority at any time prior to the due date. A statement may be withdrawn by a firm prior to the due date. No material changes will be allowed after the expiration of the due date; however, non-substantive corrections or deletions may be made with the approval of the Authority.

Issued in Austin, Texas, on February 28, 1992.

TRD-9202960

Dolores Alvarado Hibbs  
Chief Administrative Law Judge  
Texas Department of Agriculture

Filed: February 28, 1992

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

## Texas Air Control Board

### 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 Agreed Board Order (ABO) pursuant to the Act of July 30, 1991, Senate Bill 2, §2.23, 72nd Legislature, 1st 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 an ABO unless the public has been provided an opportunity to submit written comments. Section 382.096 requires that notice of the proposed order and of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the state on which the public comment period closes, which in this case is April 6, 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 the proposed ABO 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 Fort Worth Regional Office. Written comments about this ABO should be sent to Scott A. Humphrey at the TACB's Central Office in Austin, and must be received by 5 p.m. on April 6, 1992. Written comments may also be sent by facsimile machine to the Staff Attorney at (512) 908-1850. Scott A. Humphrey, Staff Attorney, is available to discuss the ABO and/or the comment procedure at the listed phone number; however, §382.096 provides that comments on the ABO should be submitted to the TACB in writing. The ABO is as follows: Company: North Texas Cement Company; Location: Midlothian, Ellis County; Type of Facility: A cement plant; Rule Violated: TACB Rules 116.4 and 116.5 for violating a special provision of and representations made in TACB Permit Application Number C-16731 by exceeding the allowable emission rate for volatile organic compounds while burning waste derived fuels; Penalty: \$0.00, Staff



Attorney: Scott A. Humphrey, (512) 908-1847; Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531, (817) 732-5532.

Issued in Austin, Texas, on March 2, 1992.

TRD-9223024 Lane Hartsock  
Deputy Director, Air Quality Planning  
Texas Air Control Board

Filed: March 2, 1992

For further information, please call: (512) 908-1451

## Texas Commission on Alcohol and Drug Abuse

### Notice of Request for Proposals

The Texas Commission on Alcohol and Drug Abuse, under the authority of the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, gives notice of the purchase of service system request for proposals (RFP). The RFP is soliciting applications from licensed providers for alcohol and drug treatment services which can be purchased through a fee-for-service mechanism.

To request a copy of the RFP, call the Funding Processes Section at (512) 867-8113, or write to: Texas Commission on Alcohol and Drug Abuse, Funding Processes Section, 720 Brazos Street, Suite 403, Austin, Texas 78701.

The closing date for receipt of applications by the commission is 5 p.m. on April 10, 1992. Contracts with funded providers will be executed for the period of September 1, 1992-August 31, 1993.

The amount of funds that will be available for the contract period is not known at the time the RFP is released. The commission currently administers two sources of public funds that can be used for treatment services: Public Health Services Act, Part B, Alcohol and Drug Abuse and Mental Health Services Block Grant, Fiscal Year 1992 Award-\$74,187,781, estimated; and General Appropriations Act, Article II, Fiscal Year 1992 Amount-\$14,791,641. The General Appropriations Act does not provide for an increase of state funds for Fiscal Year 1993.

Eligible providers are private nonprofit, public, or for-profit organizations that provide treatment services and meet the following requirements: providers requesting funds for the first time shall be licensed by the commission at the proposed site(s) to provide the type of treatment service(s) offered through the application, which are, detoxification, residential, or outpatient. The license shall have been issued at least one year prior to the contract period stated in the RFP, and providers requesting funds for the first time shall have been providing the type of service(s) offered through the application for at least one year prior to the contract period stated in the RFP, and providers requesting renewal or expansion of current TCADA funding shall be licensed by the commission at the proposed site(s) to provide the type of treatment service(s) offered through the application, which are, detoxification, residential or outpatient license. The license shall have been issued by the application due date. The commission will mail the RFP to current providers.

The RFP contains additional provider eligibility requirements.

Technical assistance will be offered by the Funding Processes Section of the commission at (512) 867-8265.

Issued in Austin, Texas, on February 28, 1992.

TRD-9202990 Bob Dickson  
Executive Director  
Texas Commission on Alcohol and Drug Abuse

Filed: February 28, 1992

For further information, please call: (512) 867-8700

## Ark-Tex Council of Governments Request for Proposal

The Ark-Tex Council of Governments (ATCOG) is in the process of requesting proposals for activities to be conducted under Titles IIA, III, and IIA-8% of the Job Training Partnership Act (JTPA). Activities are for Program Year 1992, which will begin on July 1, 1992, and end on June 30, 1993. ATCOG reserves the right to exercise the option to extend services and/or extend the period of the contracts up to one year for activities funded by Titles IIA, and III. The projects shall be implemented in the Northeast Texas Service Delivery Area encompassing Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Morris, Red River, and Titus Counties.

Training must be provided by Texas Education Agency/Texas Higher Education Coordinating Board approved institutions that are either: accredited independent school districts, community colleges or post-secondary institutions, institutions of higher education; private businesses, trade, technical or vocational schools certified by TEA; the Texas State Technical Institute; or education service centers. Respondents to the Titles IIA and III RFP must have the capability for developing and implementing programs with special focus to include basic education, occupational skills training, and pre-employment with special emphasis to provide services. Respondents to the Title IIA-8% RFP must have the capability for developing and implementing programs with special focus to include basic education and skill training.

Proposals shall be evaluated in terms of the following criteria: project implementation, cost of service and training staff/individuals served, project management, past performance, and other resources. Selection shall be made by the Ark-Tex Private Industry Council.

Those interested in receiving RFP packets should contact Peggy White, Manager of Employment and Training, Ark-Tex Council of Governments, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. The deadline for proposal submission for both RFP's is April 10, 1992, 5 p.m.

Issued in Texarkana, Texas, on February 26, 1992.

TRD-9203030 Margaret Haak-Muse  
Comptroller  
Ark-Tex Council of Governments

Filed: March 2, 1992

For further information, please call: (903) 832-8636

## 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 formu-

las 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 <sup>(3)</sup>/Agricultural/ Commercial <sup>(4)</sup> thru \$250,000</u>	<u>Commercial <sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	03/02/92-03/08/92	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(1)	03/01/92-03/31/92	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	04/01/92-06/30/92	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11(3)	04/01/92-06/30/92	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d)(3)	04/01/92-06/30/92	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2)(2)	04/01/92-06/30/92	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11(3)	04/01/92-06/30/92	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	03/01/92-03/31/92	10.00%	10.00%

(1) For variable rate commercial transactions only. (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. (3) Credit for personal, family or household use. (4) Credit for business, commercial, investment or other similar purpose.

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

TRD-9202833 Al Endsley  
Consumer Credit Commissioner

Filed: February 26, 1992

For further information, please call: (512) 479-1280

### Credit Union Department Correction of Error

The Credit Union Department proposed an amendment to 7 TAC §91.211 for publication in the January 28, 1992, *Texas Register* (17 TexReg 607).

In paragraph (c)(9), the date was printed incorrectly. The paragraph should read as follows.

"(9) has proven that the shares and deposits of its members in the State of Texas are insured by the National Credit Union Share Insurance Fund or its successor by no later than **December 31, 1992**; [June 30, 1993. Any credit union subject to this rule and unable to qualify for federal share deposit by June 30, 1993 may be granted one or more six-month extensions by the commissioner to qualify for federal insurance, if the commissioner finds that the credit union is making substantial progress in qualifying for federal insurance with the NCUA;]"

### Texas Department of Health Corrections of Errors

The Texas Department of Health adopted amendments to 25 TAC §325.567, concerning financial assistance for regional and local plans. The rule was published in the December 17, 1991, *Texas Register* (16 TexReg 7350).

Although the rule was adopted without changes from the proposal in the September 3, 1991, issue of the *Texas Register* (16 TexReg 4779), the proposal contained an error. Under §325.567(c)(2), subparagraph (D) was shown as "no change". In fact subparagraph (D) was repealed in the May 29, 1990, issue of the *Texas Register* (15 TexReg

3013). It should have been omitted when the amendment was proposed September 3, 1991.

The Texas Department of Health submitted a Permit Application for Municipal Solid Waste Site--Notice of Filing, which was published in the January 28, 1992, *Texas Register* (17 TexReg 722).

Included in the first paragraph is the location description of a solid waste site. FM 14321 is an error and should read FM 1431.

The Texas Department of Health adopted amendments to 25 TAC §157.2 and new §157.124 and §157.125. The rules were published in the February 4, 1992, *Texas Register* (17 TexReg 943).

In §157.2, under the definition for "Trauma facility" the word "regional" was omitted between the words "an" and "emergency".

In §157.124(b), the words "Regional Advisory Council" should go before "(RAC)".

In §157.125, under paragraph (b)(1) the words "of this title" should be included in the phrase "...in §157.126 of this title (relating to Fees)...".

In §157.125(r)(2)(B), "30 days" should read "30 days".

### Notice of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Paul P. Schorr, D.O. (registrant) of Garland to cease and desist using any sources of radiation in his possession until all violations found during a recent inspection of his operations have been corrected. The bureau determined that the continued use of sources of radiation at this facility constitutes a threat to public health and safety. The registrant is further required to provide

written evidence satisfactory to the bureau regarding the actions to correct the violations and the method to prevent their recurrence.

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 27, 1992.

TRD-9202942 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of Health

Filed: February 28, 1992

For further information, please call: (512) 834-6688

### Notice of Agreed Order

On February 14, 1992, the director of the Radiation Control Program ordered that the settlement agreement be approved between the Division of Compliance and Inspection and Noel E. Williams, Jr., D.D.S., holder of Certificate of Registration Number R05029. An administrative penalty in the amount of \$2,000 was assessed the registrant for failure to comply with the Texas Health and Safety Code, Chapter 401, and 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 27, 1992.

TRD-9202941 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of Health

Filed: February 28, 1992

For further information, please call: (512) 834-6688

### Notice of Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: order of revocation issued November 19, 1991, to Peter R. DeFrank, D.P.M., 2020 North Glenbrook Drive, Garland, Texas 75040, holder of Certificate of Registration Number R14626.

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 28, 1992.

TRD-9202943 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of Health

Filed: February 28, 1992

For further information, please call: (512) 834-6688

## Texas Department of Housing and Community Affairs

### Summary of Texas Community Development Program FFY-1992 Proposed Final Statement

**Purpose/Activities/Applicants.** The purpose of the Texas Community Development Program (TCDP) is the development of viable communities by providing decent housing, a suitable living environment, and by expanding economic opportunities, principally for person of low and moderate income. All proposed activities under the program must either: benefit persons of low and moderate income; aid in the elimination of slums and blight; or meet other community development needs of a particular urgency.

Eligible applicants for the program are units of general government (e.g., cities and counties) that are not participating or designated as eligible to participate in the entitlement portion of the federal Community Development Block Grant (CDBG) Program.

**Allocation.** Assistance under the Texas Community Development Program is proposed to be available through five funding categories; the Community Development Fund; the Texas Capital Fund (economic development); the Colonia Fund; the Planning/Capacity Building Fund; and the Disaster Relief/Urgent Need Fund. The following information is a brief description of each funding category:

**Community Development Fund**—will be available on an annual basis for public facilities and housing assistance with regional allocations to each of the 24 planning regions across the state. All project activities must meet the eligibility requirement set forth in the Community Development Fund Application Guide. Funds will be awarded through an annual competition, in which scoring will be shared between the Texas Department of Housing and Community Affairs and the respective Regional Review Committees.

**Texas Capital Fund**—will be available on a continual basis for economic development funding to consider projects which will generally create or retain permanent employment opportunities, primarily for low and moderate income persons. Requests from an eligible applicant may be used for eligible activities, including the following: a grant for infrastructure improvements to assist a for-profit entity or a non-profit entity; a loan to a for-profit entity or a non-profit entity, to acquire real property or acquire, construct, reconstruct, or rehabilitate public facilities to assist a for-profit or a non-profit entity; a grant to an eligible applicant to acquire, construct or rehabilitate real estate and to provide public improvements in support of a non-profit incubator sponsor; and a loan to a for-profit small or minority business under the Governor's Special Assistance Fund for Small and Minority Businesses.

**Colonia Fund**—will be available annually on a competitive basis. Eligible applicants are generally counties within 150 miles of the Texas-Mexico border. Proposed project areas must be located in severely distressed unincorporated areas of counties that meet the definition as a "colonia": under this fund. The following information describes the two eligible activities:

**Planning**—payment of the costs associated with most aspects of planning for community development and housing activities, including, but not limited to, analyses of market

needs, preliminary site engineering and architectural services, and legal/financial services.

**Assessments for public improvement**—payment of assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by low and moderate income persons to recover the capital cost for improvements to water and/or sewer facilities.

**Planning/Capacity Building Fund**—will be available annually through a statewide competition for local governmental units to develop strategies, to build/improve local capacity, and/or to prepare other needed planning elements.

**Disaster Relief/Urgent Need Fund**—will be available as needed for eligible activities that relieve emergency situations where either: the Governor has made a state disaster declaration or has requested a federal disaster declaration; or activities addressing urgent needs that have resulted in either death, illness, injury, or pose an imminent threat to life or health within the applicant's jurisdiction. The urgent needs conditions must be certified as such by the appropriate state regulatory agency. It is important to note that the distribution of funds will be coordinated with other state and federal agencies.

According to the U.S. Department of Housing and Urban Development (HUD), the proposed 1992 allocation to the state of Texas is \$57,654,123. The allocation will be distributed according to the following percentages: Community Development Fund, 65.00%; Texas Capital Fund, 17.72% Colonia Fund, 10.00%; Planning/Capacity Building Fund, 1.00%; and, Disaster Relief/Urban Need Fund, 4.1%.

**Review Process.** Each of the state's 24 Regional Review Committees (RRC) shall consist of 12 members appointed by the Governor for two-year staggered terms. Each RRC shall review and score all Community Development Fund applications within its region and may comment on applications for the other funds. In addition, the State Community Development Review Committee, which is comprised of 12 members also appointed by the Governor for two-year terms, will oversee the Texas Community Development Program.

**Performance Requirements/Project Selection Criteria.** A locality must meet the following requirements in order to submit an application, under any fund, to the Texas Community Development Program: Demonstrate the ability to administer the proposed project; demonstrate the financial management capacity to operate and maintain any improvements resulting from the project; levy a local sales or property tax; demonstrate satisfactory performance on prior TODP contracts; and resolve any and all outstanding compliance and audit findings. In addition, each locality that applies for assistance through the program and has existing TCOP contracts must have shown the ability to expend funds in a timely manner in accordance with established guidelines.

All applications considered through the Community Development Fund, the Colonia Fund, and the Planning/Capacity Building Fund will be evaluated and rated in accordance with a numerical point system based on the following major criteria groups; community distress factors of the applicant; project impact/design; and other considerations. The final assignment of points for an application will be the total points received in the three criteria groups. In addition, each of these three funds will use

benefit to low and moderate income persons as a threshold factor.

A complete copy of the proposed final statement is available upon request. Please write or call Vicki Gossett, Texas Department of Housing and Community Affairs, Community Development Block Grant Division, P.O. Box 12026, Austin, Texas 78711-2026, (512) 320-9585.

Comments will be accepted at the above address through March 20, 1992.

Issued in Austin, Texas, on February 28, 1992.

TRD-9202923      Anne O. Paddock  
Assistant General Counsel  
Texas Department of Housing and  
Community Affairs

Filed: February 27, 1992

For further information, please call. (512) 320-9526

◆            ◆            ◆  
**Texas Department of Human Services**  
**Correction of Error**

The Texas Department of Human Services submitted a notice of open meeting, which was published in the February 18, 1992, *Texas Register* (17 TexReg 1391).

Due to an error in the department's submission the notice was dated "January 21, 1992." The date should be "February 21, 1992."

◆            ◆            ◆  
**Public Notices**

The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration, to amend the Title XIX Medical Assistance Plan by Transmittal Number 92-01, Amendment Number 340. The amendment eliminates the limitation of 12 Rural Health Clinic visits per year. The amendment is effective February 1, 1992.

If additional information is needed, please contact Genie DeKneef, (512) 338-6509.

Issued in Austin, Texas, on February 26, 1992.

TRD-9202854      Nancy Murphy  
Agency liaison, Policy and Document  
Support  
Texas Department of Human Services

Filed: February 26, 1992

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

◆            ◆            ◆  
The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration, to amend the Title XIX Medical Assistance Plan by Transmittal Number 91-24, Amendment Number 327. The amendment eliminates establishes a disproportionate share program, known as DISPRO-4, for rural disproportionate share providers. The amendment is effective September 1, 1991.

If additional information is needed, please contact Joe Branton, (512) 338-6505.

Issued in Austin, Texas, on February 26, 1992.

TRD-9202855 Nancy Murphy  
Agency liaison, Policy and Document  
Support  
Texas Department of Human Services

Filed: February 26, 1992

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



The Texas Department of Human Services has published a report describing the actual expenditures of Title XX Social Services Block Grant funds for fiscal year 1991. Free copies of the report are available to the public.

**Contact Person:** To obtain a copy of this report, write Burton Raiford, interim commissioner and chief financial officer, Texas Department of Human Services, W-619, P.O. Box 149030, Austin, Texas 78714-9030.

Issued in Austin, Texas, on February 28, 1992.

TRD-9202969 Nancy Murphy  
Agency liaison, Policy and Document  
Support  
Texas Department of Human Services

Filed: February 28, 1992

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



### Public Notice Open Solicitation

Pursuant to Title 2, Chapters 22 and 32, of the Human Resources Code and 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5315), the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days, effective the date of this public notice, for the counties identified below, where Medicaid contracted nursing facility occupancy rates exceed the threshold (90% occupancy) in each of five months in the continuous July-December, six-month period.

Potential contractors seeking to contract for existing beds which are currently licensed as nursing home beds or hospital beds in the county identified in this public notice must submit a written reply (as described in 40 TAC §19.2004) to TDHS, Gary L. Allen, Institutional Program Section, Long Term Care Department, Mail Code W-519, Post Office Box 149030, Austin, Texas 78714-9030.

The written reply must be received by TDHS by 5 p.m. April 6, 1992, the last day of the open solicitation period. Potential contractors will be placed on a waiting list for the primary selection process in the order in which the Texas Department of Health originally licensed the beds that are being proposed for Medicaid participation. The primary selection process will be completed on April 17, 1992.

If there are insufficient available beds after the primary selection to reduce occupancy rates to less than 80%, TDHS will place a public notice in the *Texas Register* announcing an additional open solicitation period for those individuals wishing to construct a facility.

County Number	County Name	Number of Months Over	Number of Months					
			July	Aug	Sept	Oct	Nov	Dec
059	Deaf Smith	5	87.4	91.8	90.2	91.2	91.6	91.8
108	Hidalgo	5	89.5	90.1	91.1	90.1	90.3	91.0
128	Karnes	5	90.3	90.2	89.6	90.6	90.0	92.0
171	Moore	5	87.4	92.4	92.9	93.6	92.0	91.5

[graphic]

Issued in Austin, Texas, on February 28, 1992.

TRD-9202967 Nancy Murphy  
Agency liaison, Policy and Document  
Support  
Texas Department of Human Services

Filed: February 28, 1992

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



Pursuant to Title 2, Chapters 22 and 32 of the Human Resources Code and 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5315), the Texas Department of Human Services (TDHS) is announcing the reopening of the open solicitation period for Sutton County, County Number 218, identified in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1542).

Potential contractors desiring to construct a 90- bed nursing facility in the above referenced area must submit a written reply (as described in 40 TAC §19. 2004) to TDHS, Gary L. Allen, Institutional Programs Section, Long Term Care Department, Mail Code W-519, P.O. Box 149030, Austin, Texas 78714-9030. Upon receipt of a reply from a potential contractor, TDHS will place a notice in the *Texas Register* to announce the closing date of the reopened solicitation period.

Issued in Austin, Texas, on February 28, 1992

TRD- 9202968 Nancy Murphy  
Agency liaison, Policy and Document  
Support  
Texas Department of Human Services

Filed: February 28, 1992

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



## Texas Department of Insurance Company Licensing

The following applications have been filed with the Texas Department of Insurance and are under consideration.

1. Application for Incorporation in Texas for Administrative Insurance Management Services, Inc., a domestic third party administrator. The home office is in Richardson, Texas.
2. Application for name change in Texas for Hudson Life Reassurance Corporation, a foreign life insurance company. The home office is in Shelton, Connecticut. The proposed new name is American Skandia Life Reinsurance Corporation.
3. Application for Incorporation in Texas for Cafeteria Administrators, Inc., a domestic third party administrator. The home office is in Austin, Texas.
4. Application for Admission in Texas for Diversified Group Administrators, Inc., a foreign third party administrator. The home office is in Canonsburg, Pennsylvania.
5. Application for name change in Texas for Hopkins County Life Insurance Company, a domestic life insurance company. The home office is in San Antonio, Texas. The proposed new name is Hopkins Life Insurance Company.
6. Application for Incorporation in Texas for Insurance Facility Management, Inc., a domestic third party administrator. The home office is in Arlington, Texas.
7. Application for name change in Texas for Insurdata Incorporated, a domestic third party administrator. The home office is in Irving, Texas. The proposed new name is Insurnational Insurance Administrators, Inc.
8. Application for Admission to do business in Texas for adding the DBA of MCA, Inc. (assumed name for Managed Care Administrators), a foreign third party administrator. The home office is in San Diego, California.
9. Application for Incorporation in Texas for adding the DBA of National Administrators (assumed name for M.L. Kuhn Enterprises, Inc.), a domestic third party administrator. The home office is in Plano, Texas.
10. Application for name change in Texas for Dependable Life Insurance Company, a foreign life insurance company. The home office is in Jacksonville, Florida. The proposed new name is National American Life Insurance Company of Texas.
11. Application for Incorporation in Texas for Retailers' Life Insurance Company, a domestic life insurance company. The home office is in Dallas, Texas.
12. Application for Admission in Texas for Security Savings Life Insurance Company, Inc., a foreign life insurance company. The home office is in Bessemer, Alabama.

Issued in Austin, Texas, on February 28, 1992.

TRD-9203023 Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of Insurance

Filed. March 2, 1992

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

## Correction of Errors

The Texas Department of Insurance adopted new 28 TAC §7.76, concerning annual and quarterly statement diskette filing requirements. The rule was published in the February 14, 1992, *Texas Register* (17 TexReg 1310). Due to errors in the agency's submission, the first sentence in the preamble should read as follows. "The State Board of Insurance adopts new §7.76 without changes to the proposed text as published in the November 5, 1991, issue of the *Texas Register* (16 TexReg 6268). The word "with" should read "without".

In the preamble the sentence "The change would delete the following text from. .the National Association of Insurance Commissioners" should be deleted. The sentence "After further review it was decided that these companies should file diskettes with the National Association of Insurance Commissioners" should be deleted.

In §7.76(b) text was omitted due to the agency's incorrect use of brackets. Beginning with the third sentence, the subsection should read as follows.

"(b)... The data on the diskettes shall be in the form and content specified in the current annual statement diskette filing specifications for life, accident and health for the year ended December 31, 1991, and the 1992 quarterly statement diskette filing specification, which the Board adopts by reference under this subsection; provided, however, any Texas stipulated premium company which is authorized to write life insurance only, and which collected premium income in the prior calendar year of less than \$1 million, and which had a profit from operations in the prior two calendar years, is not required to file quarterly diskettes with the National Association of Insurance Commissioners. Nothing in this section prohibits the Texas Department of Insurance from requiring any insurance company or other regulated entity from filing periodic financial reports with the Texas Department of Insurance pursuant to other rule or statutory authority...."



The Texas Department of Insurance submitted a notification pursuant to the Insurance Code, Chapter 5, Subchapter L. The notice was published in the February 14, 1992, *Texas Register* (17 TexReg 1316).

Due to a typographical error by the *Texas Register*, the effective date was incorrectly printed. The effective date should read "March 1, 1992."



## Texas Commission on Law Enforcement Officer Standards and Education

### Request for Proposals

Pursuant to Subchapter F, Chapter 415, Government Code, and Texas Civil Statutes, Article 601b, the Texas Peace Officers' Memorial Advisory Committee to the Texas Commission on Law Enforcement Officer Standards and Education, created by the Texas Legislature in 1989, announces a request for proposals (also referred to as design competition) to transform into reality the dream of a memorial for Texas peace officers who have died in the line of duty. The memorial will be located on the north

grounds of the Capitol, immediately west of the Sam Houston State Office Building. A construction budget of \$1,000,000 has been set for the memorial project.

**Contact Person.** Further information regarding the competition and requests for entry packets may be directed to James Pfluger, F.A.I.A., Architectural Advisor to the Committee, Texas Peace Officers' Memorial, 213 South Lamar Boulevard, Suite 300, Austin, Texas 78704, (512) 476-4040, FAX (512) 476-4389.

**Deadline for Submittal of Proposals.** Deadline for the receipt of proposals in the office of James Pfluger, Architectural Advisory to the Committee, is on or before 5 p.m., Thursday, April 30, 1992.

**Eligibility.** The competition is open to all citizens of the State of Texas subject to the entry requirements. Each design proposed shall be submitted by an architect who is registered in the State of Texas and resides in the State of Texas. It is intended that other members of the design team may include design professionals, artists, sculptors, landscape architects, planners, engineers, interior designers, students and interns in design fields, and particularly law enforcement professionals, law enforcement agencies, and law enforcement associations.

**Selection Procedure.** A five-member jury, comprised of design professionals, educators, and a family member of one of the law enforcement officers to be honored by the memorial, will convene in Austin to review all competition entries and select three design finalists in recommended rank of order.

The three finalists' work will then be reviewed and finally ranked in order of first place, second place, and third place by the Texas Peace Officers' Memorial Advisory Committee.

Review and final approval by the State Preservation Board is required.

**Awards.** First Place: \$25,000; it is intended that the successful first place award winner will have the opportunity of negotiating an Architectural Agreement for the Design Development and Contract Documents Phases of the Memorial Project.

Second Place: \$10,000.

Third Place: \$5,000.

**Application Process.** Information regarding the rules and requirements of the competition are included in the Memorial Competition Packet. Memorial Competition Packets are available from the Architectural Advisor on a non-refundable Cost Recovery Fee basis of \$100 for each packet. Payment shall be in the form of company or personal checks; cashier's check; or money order made payable to: Texas Peace Officers' Memorial Design Competition. This fee covers production, printing, mailing of packet, and other competition costs. Cost Recovery Fees are non-refundable with unused balance, if any, going to the Memorial Fund. Packet may be examined without cost at the Architectural Advisory's office.

Each design entry must be submitted by a registered architect of the team who may have registered with the Architectural Advisor for the Committee and received a Texas Peace Officers' Memorial Design Competition Packet of information noting memorial design requirements and competition of rules.

Individuals who wish to offer their talents and services and be considered as a part of a team entering a submission

may have their name and address added to a list of "Interested Team Members and Consultants" which will be mailed to each registrant receiving a competition packet, as well as others who may wish to try to put a team together.

The list of "Interested Team Members and Consultants" and the list of "Registrants Receiving Competition Packets" will be available to anyone requesting a copy in writing.

Issued in Austin, Texas, on February 27, 1992.

TRD-9202929 Fred Toler  
Executive Director  
Texas Commission on Law Enforcement  
Officer Standards and Education

Filed. February 28, 1992

For further information, please call (512) 450-0188

◆ ◆ ◆  
**Texas Department of Mental Health  
and Mental Retardation**  
Correction of Error

The Texas Department of Mental Health and Mental Retardation adopted 25 TAC §401.587, concerning Patient Care Requirements for Licensure. The rule appeared in the February 14, 1992, *Texas Register* (17 TexReg 1301).

Due to an error in the agency's submission, the word "illegally" was omitted from paragraph (c)(2). The paragraph should read as follows.

"(2) Hospitals licensed by TXMHMR shall not employ, contract with, refer to, or accept referrals from any person who offers or accepts remuneration, in kind gifts or services, or other compensation of any kind for illegally securing patients or patronage, including, but not limited to, securing patients or patronage in violation of the Health and Safety Code, Chapter 1561, Subchapter I §161.091."

◆ ◆ ◆  
**Panhandle Regional Planning  
Commission**  
Consultant Proposal Request

This request by the Panhandle Regional Planning Commission (PRCR) for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11c. Specifically, the PRPC is seeking consultant assistance, on behalf of a number of communities in the Panhandle region, to provide assistance in the development of local administrative policies, procedures and job descriptions which will comply with Titles I and II of the Americans With Disabilities Act of 1990 (ADA). This request for proposal also includes elements for the training of key staff from the participating communities so that once the policies, procedures, and job descriptions have been developed, they can be implemented and utilized in compliance with ADA on an on-going basis and training in the area of facility, service and program compliance assurance.

**Background.** On July 26, 1990, the Americans With Disabilities Act of 1990 (ADA) was signed into law. The intent of this law, as it affects local governments, is to remove those barriers which would preclude or discriminate against the ability of disabled individuals to access employment, facilities, services or programs offered by the

local government. Compliance with the new law will call for the redefining of local administrative policies, procedures, and job descriptions and require the reassessment of locally operated facilities, services and programs to ensure that they are "reasonably accessible" to individuals with disabilities. In order to meet the intent of the new legislation, a number of communities in the Panhandle region will join together under the auspices of the PRPC to select a common consultant which will provide the aforementioned services to all participating communities under a single contract.

**Contact Person.** Individuals or firms interested in submitting a proposal may obtain a proposal package by writing Dwayne McMinn at the PRPC offices, P.O. Box 9257, Amarillo, Texas 79105 or by phoning Mr. McMinn at (806) 372-3381. Proposals are due at the PRPC offices by 5 p.m. on Friday, March 27, 1992. Late proposals will not be accepted.

**Contract Award Procedures.** The firm selected to assist in the development of these policies, procedures and job descriptions and to provide the related training will be recommended by a committee composed of representatives from communities participating in this joint endeavor. Final approval of consultant selection will be given by the Executive Board of the Panhandle Regional Planning Commission. Final consideration will be based upon the responding firm's demonstrated grasp of ADA compliance requirements, experience and background in the development of administrative policy, procedures and job descriptions and an evaluation of the cost for this assistance.

The Panhandle Regional Planning Commission in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 42 United States Code 2000d-4, will affirmatively ensure that no firm or individual will be discriminated against on the grounds of their race, color, sex, age, national origin, or disability in regard to the participation in this proposal process nor in the consideration of the eventual award of this project.

Issued in Amarillo, Texas, on February 26, 1992.

TRD-9203027      Dwayne McMinn  
Computer Manager, Finance Division  
Panhandle Regional Planning Commission

Filed: March 2, 1992

For further information, please call: (806) 372-3381

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## Public Utility Commission of Texas

### Notice of Application to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on February 21, 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 Grayson-Collin Electric Cooperative, Inc. for a certificate of convenience and necessity for a transmission line within Grayson County, Docket Number 10957 before the Public Utility Commission of Texas.

**The Application:** In Docket Number 10957, Grayson-Collin Electric Cooperative, Inc. requests approval of its application to construct approximately six miles of 69/138-kV transmission line south of Sherwood Shores on Lake Texoma in Grayson 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 27, 1992.

TRD-9202981      Mary Ross McDonald  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: February 27, 1992

For further information, please call: (512) 458-0100

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## Texas Racing Commission

### Correction of Error

The Texas Racing Commission proposed amendments to 16 TAC §313.103 and §313.303 for publication in the February 4, 1992, issue of the *Texas Register* (17 TexReg 899).

In paragraph three of the preamble to §313.103, the words "horse participation" should read "horses participating".

In §313.103(g), "not less than" should read "not later than".

In §313.303, paragraph one of the preamble, "claim a horse" should read "claim to a horse".

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## Texas Department of Transportation, Division of Aviation

### Notice of Contract Awards

Under the provisions of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for professional engineering services was published in the *Texas Register* on September 3, 1991 (16 TexReg 4864).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 92/33-053, Abernathy Municipal Airport.

The engineering firm for these services is Parkhill, Smith & Cooper, Inc., 4010 Avenue R., Lubbock, Texas 79412.

The total value of the contract is \$24,975 and the contract period starts on February 21, 1992, until the completion of the project.

If there are any questions, please contact Lydia Scarborough, Assistant Division Director, Division of Aviation, (512) 476-9262.



Issued in Austin, Texas, on February 27, 1992.

TRD-9202899 Diane L. Northam  
Legal Administrative Assistant  
Texas Department of Transportation

Filed: February 27, 1992

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



Under the provisions of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for professional engineering services was published in the *Texas Register* on September 3, 1991 (16 TexReg 4861).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 93/07-031, Cherokee County Airport, Jacksonville.

The engineering firm for these services is Wisenbaker, Fix and Associates, Inc., 3800 Paluxy Drive, Suite 510, Tyler, Texas 75703.

The total value of the contract is \$29,880 and the contract period starts on February 21, 1992, until the completion of the project.

If there are any questions, please contact Lydia Scarborough, Assistant Division Director, Division of Aviation, (512) 476-9262.

Issued in Austin, Texas, on February 27, 1992.

TRD-9202898 Diane L. Northam  
Legal Administrative Assistant  
Texas Department of Transportation

Filed: February 27, 1992

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



## Texas Water Commission Notice of Request for Proposals

The Galveston Bay National Estuary Program (GBNEP) announces available funds for potential Action Plan Demonstration Projects (APDPs). Approximately \$67,000 is available for APDPs for GBNEP in FY 1992. GBNEP may elect to submit one or several proposals to EPA Region 6 for funding. While EPA has indicated a funding target for GBNEP of \$67,000 with \$23,333 non-federal match for APDPs, they may elect to award a greater amount to GBNEP, or a lesser amount, depending on the quality and nature of GBNEP proposals and proposals received from the Barataria-Terrebonne National Estuary Program (BTNEP). All proposals must provide a 25% match. In addition to field implementation activities, actions such as development of model ordinances and program modifications to remove institution barriers to achieving progress on priority problems qualify for APDP funding.

The proposal work plans will be reviewed by the GBNEP Scientific/Technical Advisory Committee, the Citizens Advisory Steering Committee and the Management Committee. Persons submitting proposal work plans will be expected to make a brief presentation to the Management Committee at its meeting on April 15. A recommendation will be made to the Policy Committee regarding which proposal(s) to forward to EPA for funding consideration. To obtain a copy of the APDP guidance regarding proposal format and "Eligibility Requirements" contact Carol Ward at (713) 332-9937. Proposal work plans should be received in the GBNEP Office no later than March 16, 1992. It is the responsibility of the potential contractor to verify that each Proposal Work Plan has been received by the Program Office. Any and all expenses incurred during the development and/or presentation of Proposal Work Plans shall be the responsibility of the potential contractor.

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

TRD-9202830 Frank S. Shipley, Ph.D.  
Program Director, Galveston Bay National  
Estuary Program  
Texas Water Commission

Filed: February 26, 1992

For further information, please call: (713) 332-9937





Name: Ann Rutledge

Grade: 12

School: Plano East Senior High, Plano ISD

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## TAC Titles Affected

The following is a list of the administrative rules that were published in the January 1992, issues.

### TITLE 1. ADMINISTRATION

#### Part I. Office of the Governor

1 TAC §3.603.....319

#### Part II. Texas Ethics Commission

1 TAC §§1.1, 1.3, 1.5, 1.7, 1.9, 1.11, 1.13, 1.23, 1.25, 1.27, 1.29, 1.31, 1.43, 1.45, 1.47, 1.49, 1.51, 1.71, 1.81 1491

1 TAC §§3.111, 3.113, 3.115, 3.117, 3.119, 3.131, 3.133, 3.135, 3.137..... 1489, 1493

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## 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.

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