

# Texas Register

Volume 17, Number 22, March 24, 1992

Pages 2161-2226

## In This Issue...

### **Office of the Governor**

#### *Appointments Made March 12, 1992*

Texas Alcoholic Beverage Commission.....	2171
Teachers' Professional Practices Commission.....	2171
Texas Partnership for Economic Development Board .....	2171

### **Proposed Sections**

#### *Office of the Attorney General*

#### *Child Support Enforcement*

1 TAC §§55.1-55.5.....	2173
1 TAC §55.32.....	2174

#### *Railroad Commission of Texas*

#### *Transportation Division*

16 TAC §5.4.....	2174
16 TAC §5.44.....	2175

#### *Texas Board of Veterinary Medical Examiners*

#### *Practice and Procedure*

22 TAC §575.9.....	2176
--------------------	------

#### *Texas Department of Health*

#### *Occupational Health and Radiation Control*

25 TAC §289.127.....	2176
----------------------	------

#### *Texas Department of Mental Health and Mental Retardation*

#### *Protection of Clients and Staff*

25 TAC §§404.1-404.20.....	2177
----------------------------	------

#### *Interagency Council on Early Childhood Intervention*

#### *Early Childhood Intervention Program*

25 TAC §621.23.....	2184
---------------------	------

#### *Texas Water Commission*

#### *Underground Injection Control*

31 TAC §§331.2, 331.3, 331.14.....	2186
31 TAC §§331.42, 331.43, 331.45-331.47.....	2187
31 TAC §§331.61-335.65, 331.67-331.68.....	2189
31 TAC §331.121.....	2193
31 TAC §§331.161-331.171.....	2194

#### *Texas Juvenile Probation Commission*

#### *Texas Juvenile Probation Commission*

37 TAC §345.1, §345.2.....	2201
----------------------------	------

#### *Texas Department of Human Services*

#### *General Licensing Procedures*

40 TAC §85.2012.....	2203
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## Texas Register

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**Information Available:** The nine sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

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**Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

Notice of Meeting .....2223

Notice of Public Hearing.....2223

*Texas Department of Human Services*

Cancellation of Consultant Proposal Request.....2223

Notice of Public Hearing.....2224

*General Land Office*

Correction of Error.....2224

*Public Utility Commission of Texas*

Notice of Application For A Temporary Waiver From PUC Substantive Rule 23.45 (f)(1).....2224

Notice of Intent to File Pursuant to PUC Substantive Rule 23.27 ..... 2225

*Railroad Commission of Texas*

Invitation for Bids..... 2225

Notice of Hearing Regarding Proposed Statewide Rule 29..... 2225

*Texas Water Commission*

Correction of Error ..... 2225

Notice of Application for Waste Disposal Permit.....2225

Request for Proposal..... 2226

*Texas Workers' Compensation Research Center*

Notice of Public Hearing on Research Agenda..... 2227

**Withdrawn Section**

*Texas Board of Chiropractic Examiners*

Rules of Practice

22 TAC §§75.2-75.4..... 2205

Delegation of Authority

22 TAC §76.1 ..... 2205

*Texas Department of Health*

Long-Term Care

25 TAC §§145.161-145.174..... 2205

25 TAC §§145.161-145.171..... 2205

*Commission on Fire Protection Personnel Standards and Education*

Standards for Certification

37 TAC §233.113 ..... 2205

Examinations for Certification

37 TAC §241.3 ..... 2205

**Adopted Sections**

*Texas Department of Commerce*

Allocation of Private Activity Bonds

10 TAC §§165.1-165.8..... 2207

*Texas Department of Insurance*

Property and Casualty Insurance

28 TAC §5.401 ..... 2207

*Texas Department of Human Services*

Memorandum of Understanding with other State Agencies

40 TAC §72.2001 ..... 2210

**Open Meetings**

Texas Department of Agriculture ..... 2211

Texas Board of Architectural Examiners ..... 2211

Texas Commission on the Arts..... 2211

Texas Department of Criminal Justice ..... 2212

Texas School for the Deaf ..... 2212

Texas Education Agency ..... 2212

Employees Retirement System of Texas ..... 2212

Governor's Health Policy Task Force .....2212

Texas Department of Health.....2213

Texas High-Speed Rail Authority .....2213

Texas Department of Human Services.....2213

Texas Department of Insurance.....2213

Texas National Guard Armory Board .....2213

Public Utility Commission of Texas .....2213

Texas National Research Laboratory Commission.....2214

Texas County and District Retirement System .....2214

Interagency Council on Sex Offender Treatment.....2214

The Texas A&M University System .....2214

Texas Appraiser Licensing and Certification Board....1214

Texas Southern University .....2215

Texas Tech University.....2215

Texas Tech University Health Sciences Center .....2216

Texas Department of Transportation.....2217

University of Texas System .....2217

Texas Water Commission .....2217

Texas Workers' Compensation Insurance Fund .....2218

Texas Youth Commission .....2218

Regional Meetings.....2218

**In Addition Sections**

*Office of the State Auditor*

Notice of Contract Award .....2221

*Texas Department of Banking*

Notice of Hearing .....2221

*Comptroller of Public Accounts*

Consultant Service Request.....2221

*Office of Consumer Credit Commissioner*

Notice of Rate Ceilings .....2222

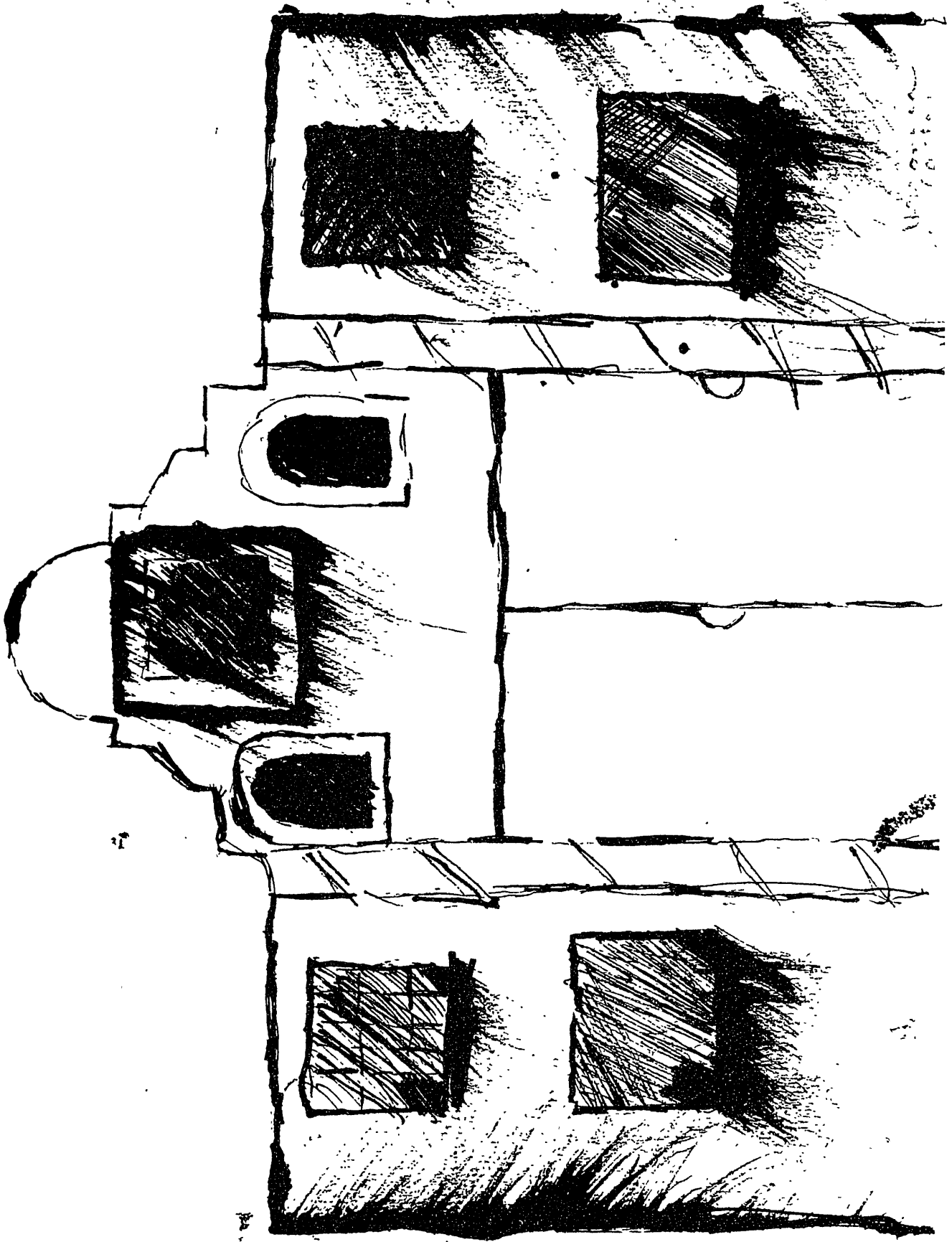
*Texas Education Agency*

Notice of Public Hearings .....2222

*Texas Department of Health*

Notice of Emergency Cease and Desist Order.....2223

Notice of Revocation of Certificate of Registration....2223

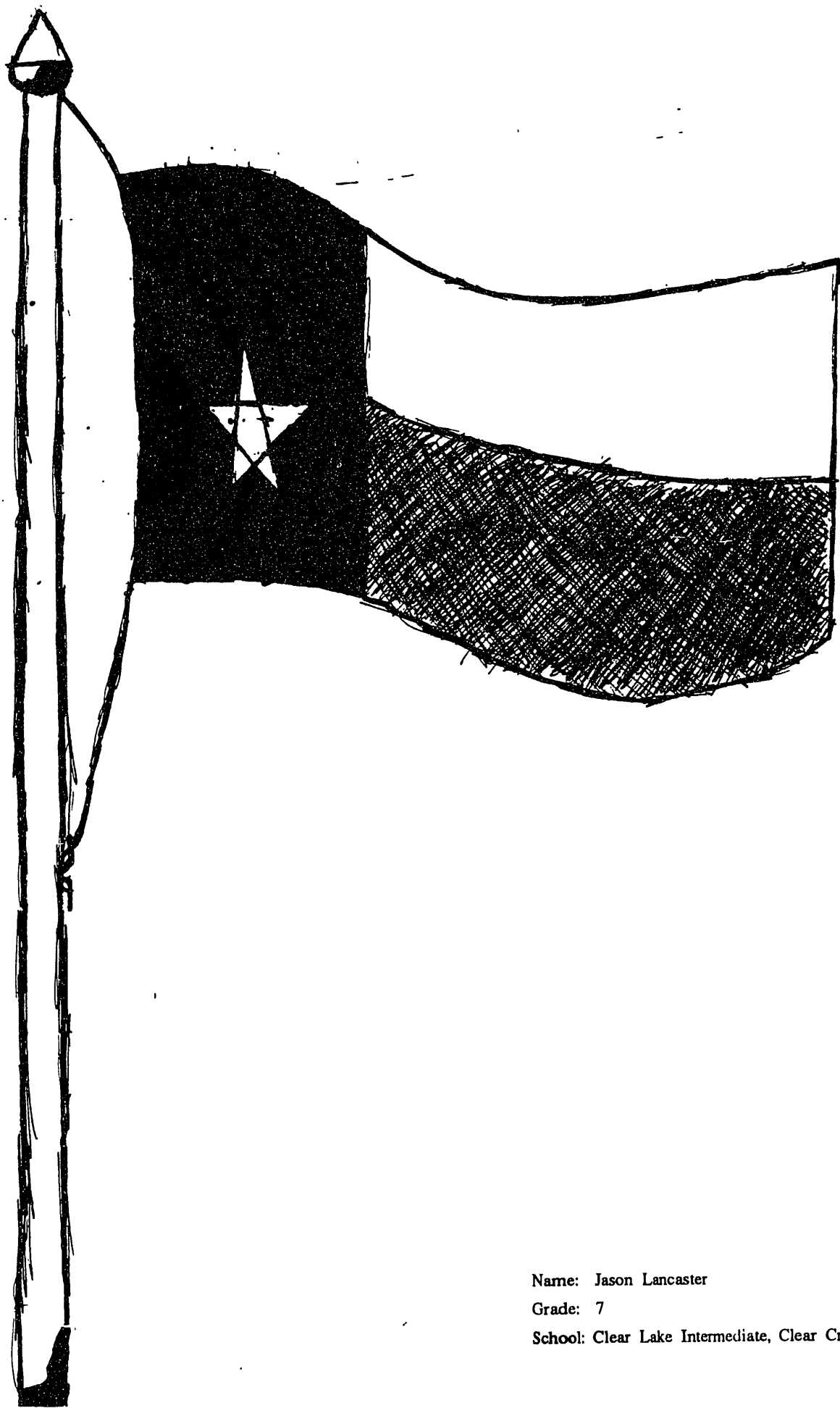


Name: Veronica Carter

Grade: 7

School: Clear Lake Intermediate, Clear Creek ISD

P. 1/1/11



Name: Jason Lancaster

Grade: 7

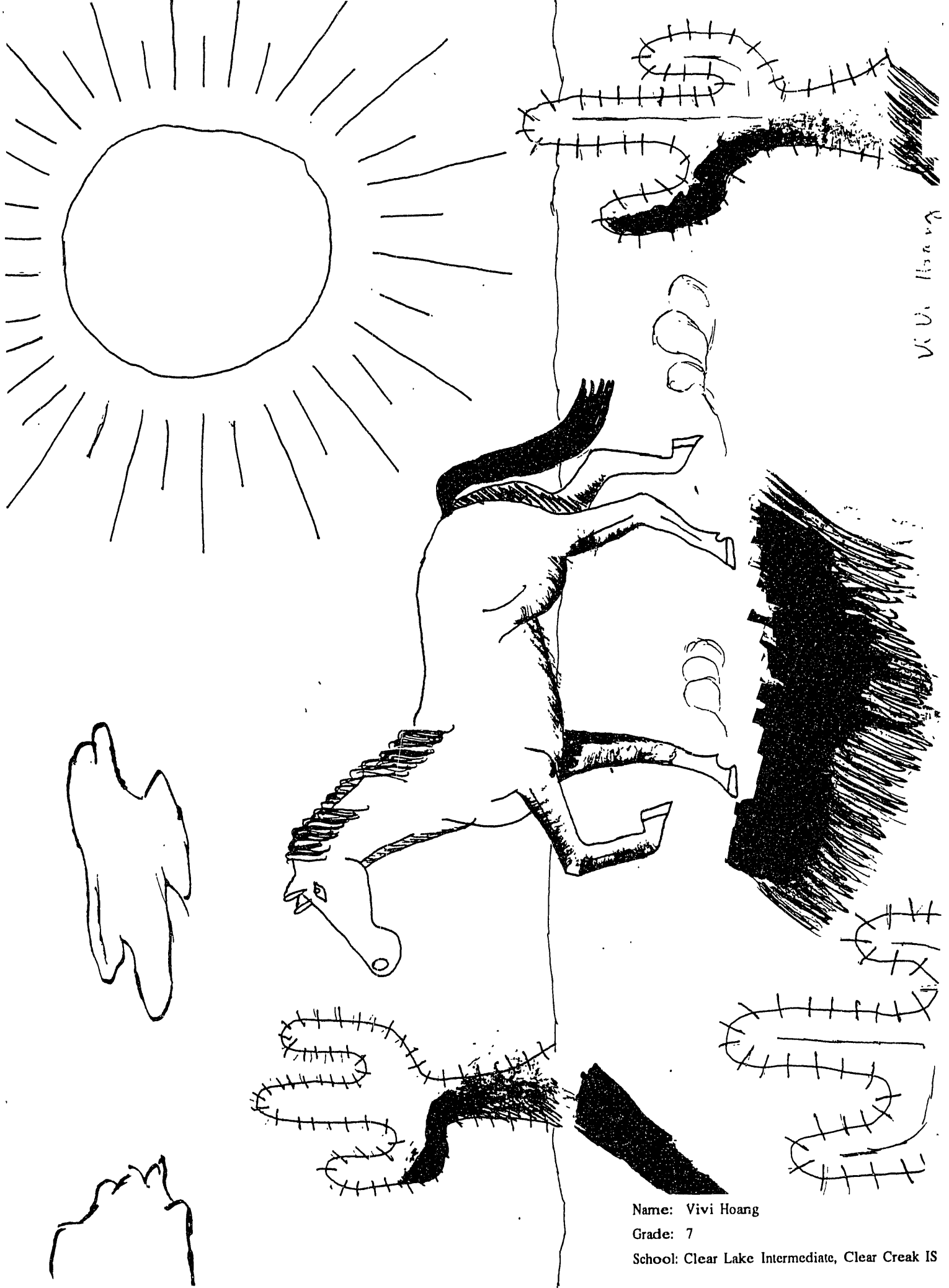
School: Clear Lake Intermediate, Clear Creek ISD



Name: Akira Kamio

Grade: 7

School: Clear Lake Intermediate, Clear Creek ISD



Name: Vivi Hoang

Grade: 7

School: Clear Lake Intermediate, Clear Creek IS

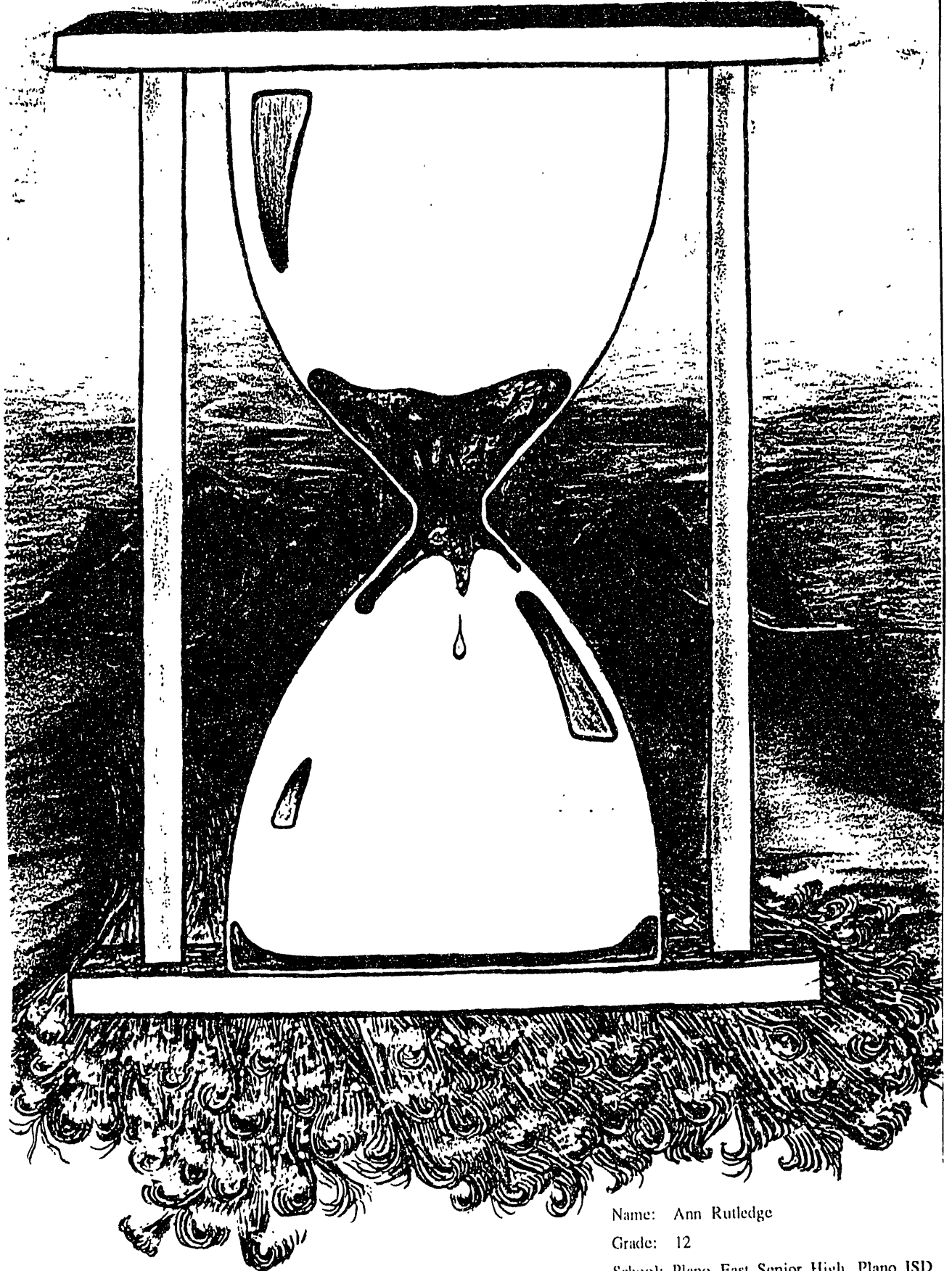




Name: Matt Cauley

Grade: 12

School: Plano East Senior High, Plano ISD



Name: Ann Rutledge

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 March 12, 1992

To be a member of the **Texas Alcoholic Beverage Commission** for a term to expire November 15, 1993: Neal S. Manne, 3754 Nottingham Street, Houston, Texas 77005. Mr. Manne will be filling the unexpired term of R. Allan Shivers, Jr. of Austin who resigned.

To be a member of the **Teachers' Professional Practices Commission** for a term to expire August 31, 1993: Pedro Alaniz, 10402 Eagle Fox, San Antonio, Texas 78245. Mr. Alaniz will be replacing Rosa Cotner Lavender of Kerrville whose term expired.

To be a member of the **Teachers' Professional Practices Commission** for a term to expire August 31, 1993: Elden Royce Barrett, Route 1, Box 782, Lorena, Texas 76655. Dr. Barrett will be replacing Dr. Audean Allman of Houston whose term expired.

To be a member of the **Teachers' Professional Practices Commission** for a term to expire August 31, 1993: Maria R. Calderon, 2029 San Jose Avenue, El Paso, Texas 79902. Ms. Calderon will be replacing Marilyn Adams of Austin whose term expired.

To be a member of the **Teachers' Professional Practices Commission** for a term to expire August 31, 1993: David Jay Clinkscale, 27 Woodcreek Drive, Granbury, Texas 76049. Mr. Clinkscale will be replac-

ing Jimmie R. Hancock of Paris whose term expired.

To be a member of the **Teachers' Professional Practices Commission** for a term to expire August 31, 1993: Dolores Cecilia De Avila, 1940 Septiembre, El Paso, Texas 79935. Ms. De Avila will be replacing Carroll Bert Lockett of Lubbock whose term expired.

To be a member of the **Teachers' Professional Practices Commission** for a term to expire August 31, 1993: Joyce Roberta Miller, 8222 Kingsbrook #410, Houston, Texas 77024. Ms. Miller will be replacing Drusilla Knight of Corpus Christi whose term expired.

To be a member of the **Teachers' Professional Practices Commission** for a term to expire August 31, 1993: Anne Lynch Orr, 901 Gayle Lane, Longview, Texas 75601. Ms. Orr will be replacing Susan Tuminello of Houston whose term expired.

To be a member of the **Teachers' Professional Practices Commission** for a term to expire August 31, 1993: Lou Williams, 2811 Windy Oaks, San Antonio, Texas 78230. Ms. Williams will be replacing Thomasine Sparks of Kingsville whose term expired.

To be a member of the **Teachers' Professional Practices Commission** for a term to expire August 31, 1993: John E. Wilson, 7822 Tarrytown, Amarillo, Texas 79121. Dr. Wilson is being reappointed.

To be members of the **Texas Partnership for Economic Development Board** for

terms designated as follows. The appointments are being made pursuant to House Bill Number 2136, 72nd Legislature.

Terms expire February 1, 1993:

W. Arthur Porter, President and CEO, Houston Advanced Research Center, 4800 Research Forest Drive, The Woodlands, Texas 77381

Karl Keck, Kay Homes, Route 5, Box 8570, Quinlan, Texas 75474

Laura J. Kilcrease, Director, Austin Technology Incubator, The University of Texas at Austin, 8920 Business Park Drive, Austin, Texas 78759

M. Thomas Lardner, President and CEO, The Lehndorff (USA) Group of Companies, 2501 Cedar Springs, Suite 340, Dallas, Texas 75201

Terms expire February 1, 1994:

Gregory A. Kozmetsky, Chairman of the Board, KDT Industries, Inc., P.O. Box 1787, Austin, Texas 78767

Dr. Dennis Jasper Judd, Full Professor of Physics/High Energy, Prairie View A&M University, Prairie View, Texas 77446

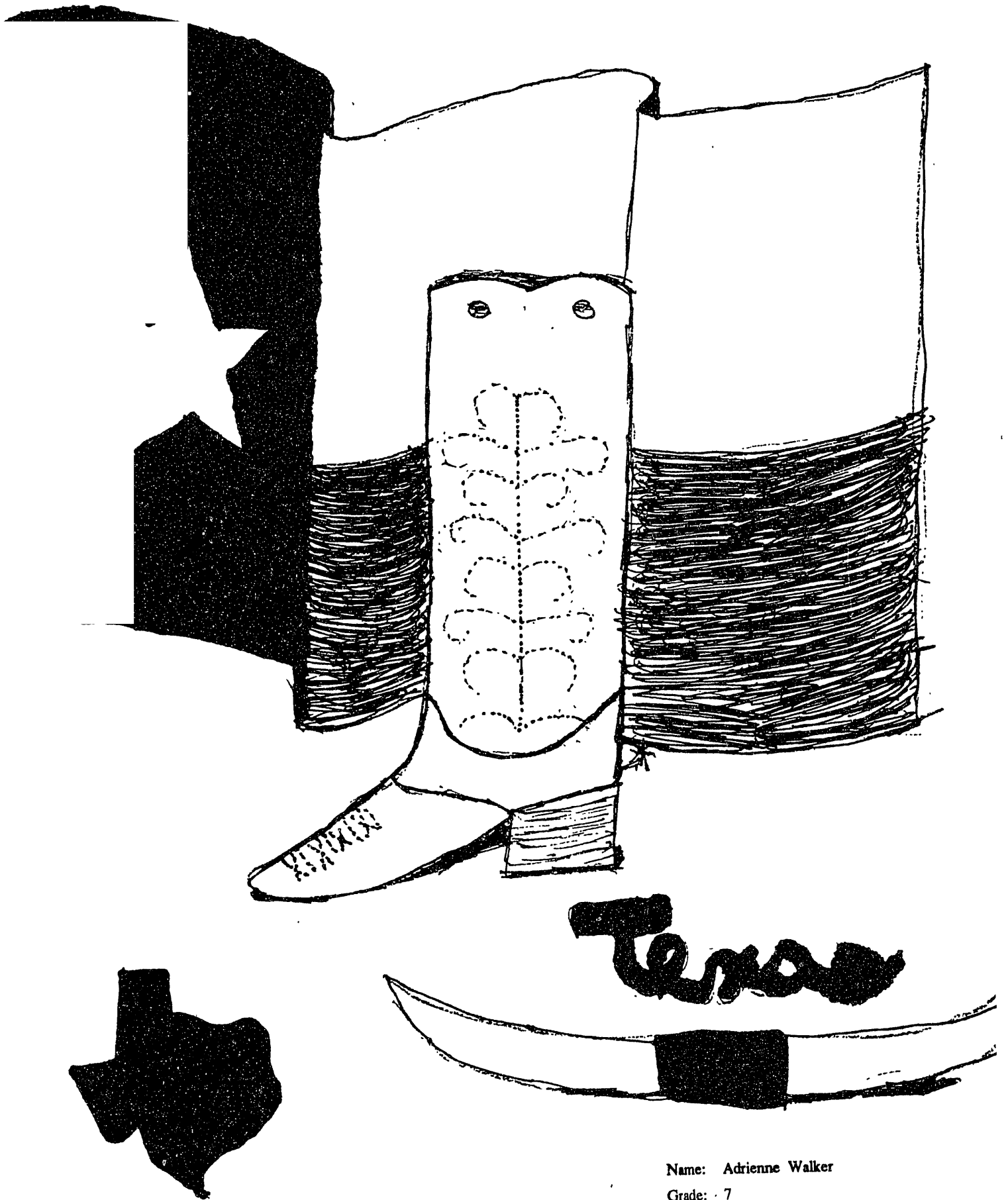
William E. Dreyer, President-Texas Division, Southwestern Bell Telephone Company, One Bell Plaza, Suite 3700, Dallas, Texas 75202

Issued in Austin, Texas on March 16, 1992.

TRD-9203817

Ann W. Richards  
Governor of Texas





Name: Adrienne Walker

Grade: 7

School: Clear Lake Intermediate, Clear Creek IS

# 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 III. Office of the Attorney General

#### Chapter 55. Child Support Enforcement

##### Subchapter A. General Guidelines

###### • 1 TAC §§55.1-55.5

The Office of the Attorney General proposes new §§55.1-55.5, concerning general guidelines with respect to the requirement that all persons receiving child support enforcement services from the Office of the Attorney General, as the state's designated Title IV-D agency, must cooperate with the agency in identifying and locating absent parents, establishing paternity, establishing, enforcing, or modifying child support obligations, including medical support, collecting and distributing child support payments, and in performing any other required IV-D function.

Proposed §55.1 states that all persons receiving child support services from the Office of the Attorney General must cooperate with the agency.

Proposed §55.2 states what action the agency will take if a custodial parent receiving child support services fails to cooperate.

Proposed §55.3 states that the Office of the Attorney General will terminate services on public assistance cases if the appropriate state agency finds that the recipient has good cause for failure to cooperate with the IV-D agency, unless the appropriate state agency determines that support enforcement may proceed without the participation of the caretaker or other relative.

Proposed §55.4 and §55.5 clarify the status of the Office of the Attorney General and the status of the lawyers employed by the Office of the Attorney General in performing the functions and providing the services which are required by federal law in Title IV-D of the Social Security Act and by the federal regulations in 45 Code of Federal Regulations, Parts 300-399, adopted by the secretary of the U.S. Department of Health and Human Services regarding state Title IV-D child support enforcement programs. These proposed new rules state that the Office of the Attorney General is a party to legal actions to carry out the purposes of Title IV-D of the Social Security Act and that attorneys employed by the

Office of the Attorney General, as the designated IV-D agency, represent the agency and the State of Texas, or another state, and do not have an attorney-client relationship with any individual.

Alice Embree, Manager for Strategic Planning, Child Support Enforcement Division of the Office of the Attorney General, 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. Embree 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 make clear the authority of the Office of the Attorney General to perform the functions and services required by federal and state law, the means by which the agency will perform the required functions and services, and the relationship between the agency and individual parties to legal actions in which the agency participates. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Tom Laramey, General Counsel, Child Support Enforcement Division, Office of the Attorney General, P.O. Box 12017, Austin, Texas 78711-2017. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

A public hearing will be held at 9 a.m., April 23, 1992, in Room 105, Reagan Building, 101 West 15th Street, Austin, Texas 78701, for public comment on this proposal. Persons or organizations wishing to appear at this hearing must submit a statement of intention to appear for comment, which includes the name of the organization or individual wishing to comment, the name(s) of each person who wishes to speak at the hearing, and the approximate amount of time each person will speak, to Tom Laramey, General Counsel, Child Support Enforcement Division, Office of the Attorney General, P.O. Box 12017, Austin, Texas 78711-2017, no later than 5 p.m. on April 6, 1992. Each speaker or organization will be permitted a maximum of 20 minutes for oral presentation.

The new sections are proposed under the Human Resources Code, Chapter 76, which provides the Office of the Attorney General of Texas, as the state agency designated pursuant to Part D of Title IV of the federal Social Security Act (42 United States Code,

§§651 et seq), with the authority to perform the functions and provide the services (locating absent parents; establishing paternity; establishing; enforcing, reviewing, and modifying child support obligations; and collecting and distributing support payments) required by federal and state law.

*§55.1. Cooperation Required for Recipients of Child Support Services.* All persons who receive child support services pursuant to the Human Resources Code, Chapter 76 and other applicable provisions of law are required to cooperate with the designated state agency (hereafter the IV-D agency) in identifying and locating absent parents, establishing paternity, establishing, enforcing, or modifying child support obligations, including medical support, collecting and distributing child support payments, and in performing any other required IV-D function.

*§55.2. Failure to Cooperate.* If a person receiving services from the IV-D agency fails to cooperate with the agency, the agency will:

(1) if the person is a recipient of public assistance, report the failure to cooperate to the appropriate state agency; or

(2) if the person is not a recipient of public assistance, notify the recipient of services that failure to cooperate will result in the termination of IV-D services.

*§55.3. Good Cause for Refusing to Cooperate.* If the appropriate state agency finds that a public assistance recipient has good cause for failing to cooperate with the IV-D agency as to a particular obligor or potential obligor, the IV-D agency will cease to provide IV-D services regarding that obligor or potential obligor, unless the appropriate state agency determines that support enforcement may proceed without the participation of the caretaker or other relative. If the appropriate state agency determines that a public assistance recipient does not have good cause for failing to cooperate with the IV-D agency as to a particular obligor or potential obligor, the IV-D agency will continue to take whatever actions it deems appropriate to locate, establish paternity, establish or modify a support obligation, or

enforce a child support obligation, as to that obligor or potential obligor.

**§55.4. Agency and Agency Attorneys in Child Support Cases.**

(a) The Title IV-D agency is the agency designated by Texas law to perform the functions and provide the services required by Title IV-D of the Social Security Act, 42 United States Code, §§651, et seq, and 45 Code of Federal Regulations, Parts 300-399, as these federal statutes and regulations now exist or may in the future be amended. In providing services required by federal and state law, the IV-D agency may:

- (1) determine which services and remedies are appropriate in each case;
- (2) employ attorneys to represent the interests of the State of Texas in providing such services; and
- (3) appear as a party in any legal proceeding in any trial or appellate court.

(b) The IV-D agency shall inform all applicants for services that child support attorneys represent the State of Texas to provide child support services, but do not represent any individual.

**§55.5. Title IV-D Agency May Appear as a Party at Any Stage of Litigation.** The IV-D agency, in providing services pursuant to state and federal law, may appear as a party at any stage in any legal proceeding, whether or not the agency was a party at trial.

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 13, 1992.

TRD-9203886 Will Pryor  
First Assistant Attorney  
General  
Office of the Attorney  
General

Earliest possible date of adoption: April 24, 1992

For further information, please call: (512) 463-2040

◆ ◆ ◆  
**Subchapter B. Locate Services**

**• 1 TAC §55.32**

The Office of the Attorney General proposes new §55.32, concerning parental kidnapping and child custody services.

Proposed new §55.32 contains the provisions of existing §55.33, but, upon the repeal of current §55.32, will be renumbered as §55.32.

Alice Embree, Manager for Strategic Planning, Child Support Enforcement Division of

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

Ms. Embree also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to make clear the authority of the Office of the Attorney General to perform the functions and services required by federal and state law, the means by which the agency will perform the required functions and services, and the relationship between the agency and individual parties to legal actions in which the agency participates. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Tom Laramey, General Counsel, Child Support Enforcement Division, Office of the Attorney General, P.O. Box 12017, Austin, Texas 78711-2017. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

A public hearing will be held at 9 a.m., April 23, 1992, in Room 105, Reagan Building, 101 West 15th Street, Austin, Texas 78701, for public comment on this proposal. Persons or organizations wishing to appear at this hearing must submit a statement of intention to appear for comment, which includes the name of the organization or individual wishing to comment, the name(s) of each person who wishes to speak at the hearing, and the approximate amount of time each person will speak, to Tom Laramey, General Counsel, Child Support Enforcement Division, Office of the Attorney General, P.O. Box 12017, Austin, Texas 78711-2017, no later than 5 p.m. on April 6, 1992. Each speaker or organization will be permitted a maximum of 20 minutes for oral presentation.

The new section is proposed under the Human Resources Code, Chapter 76, which provides the Office of the Attorney General of Texas, as the state agency designated pursuant to Part D of Title IV of the federal Social Security Act (42 United States Code, §§651 et seq), with the authority to perform the functions and provide the services (locating absent parents; establishing paternity; establishing, enforcing, reviewing, and modifying child support obligations; and collecting and distributing support payments) required by federal and state law.

**§55.32. Parental Kidnapping and Child Custody Services.** An applicant must apply for locate services for parental kidnapping and child custody determination through an authorized agent and pay the required application fee. The State Parent Locator Service accepts applications for these services only from district judges, county attorneys, district attorneys, or the attorney general and staff.

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 13, 1992.

TRD-9203887 Will Pryor  
First Assistant Attorney  
General  
Office of the Attorney  
General

Earliest possible date of adoption: April 24, 1992

For further information, please call: (512) 463-2040

◆ ◆ ◆  
**TITLE 16. ECONOMIC  
REGULATION**

**Part I. Railroad  
Commission of Texas**

**Chapter 5. Transportation  
Division**

**Subchapter A. General Provi-  
sions**

**• 16 TAC §5.4**

The Railroad Commission of Texas proposes an amendment to §5.4, concerning definitions. The amendment brings §5.4(a)(4) into conformity with the legislative amendments to Texas Civil Statutes, Article 911b, §1a(1), which provide exceptions to the definition of terms "motor carrier" and "contract carrier." The amendment adds several exceptions to the definition of the terms "motor carrier" and "contract carrier," including persons or companies transporting: mobile classrooms or simulator driver education units; certain property for members of a corporate family; USDA (United States Department of Agriculture) commodities; and permanent buildings or housing structures not designed to be transported over the highway.

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

Barbara H. Owens, hearings examiner, 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 consistency of the commission's rules with current law excluding certain activities from the Motor Carrier Act. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Public comment is invited and may be submitted within 30 days to Barbara H. Owens, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Arti-

cle 911b, §1a(1), which provides for exceptions to the definition of the terms "motor carrier" and "contract carrier."

#### §5.4. Definitions.

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

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

(4) Contract carrier-Any motor carrier as hereinabove defined transporting property for compensation or hire over any highway in this state other than as a common carrier. Provided, however, that the term "motor carrier" and the term "contract carrier" as defined in preceding subsection shall not be held to include the following:

(A)-(F) (No change.)

(G) any person or company while engaged in transporting a mobile classroom or simulator driver education unit from one school district to another school district under contract between an education service center and a school district or districts; provided, however, that such a person or company shall have first filed with the contracting agency certificates of insurance covering each motor vehicle to be used in such transportation with public liability and property damage insurance in the amounts required by the contracting agency;

(H) the transportation by motor vehicle for compensation by a member of a corporate family, as herein-after defined, for other members of such corporate family of property which one member of the corporate family leases for use in its primary business or of which one member of the corporate family is, or will become upon delivery, the bona fide owner, manufacturer, or producer, and which is produced, manufactured, or distributed as part of such corporate family member's primary business, other than a transportation business. Provided, however, that before engaging in the transportation, the parent corporation shall file with the Railroad Commission of Texas certificates of insurance covering each motor vehicle to be used in the transportation with public liability and property damage insurance in the amounts required by the commission for motor vehicles subject to its regulation and a notice of intent to provide the transportation together with a list of the subsidiaries involved and an affidavit that the parent corporation owns directly or indirectly a 100% interest in each of the participating subsidiaries. The notice required by this section shall be in a form

prescribed by the commission, and a copy of the notice shall be carried in the cab of all vehicles conducting the transportation. In this subsection, "corporate family" means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100% interest. Any corporation electing to engage in the transportation authorized hereunder shall be deemed to have given its consent to allow authorized employees or representatives of the commission to inspect the books and records of all members of the corporate family engaging in such transportation for the sole purpose of ensuring that all exempt transportation provided other members of the corporate family is in strict conformity with the provisions hereof; or

(I) a person or company while engaged exclusively in transporting donated USDA (United States Department of Agriculture) commodities under contract with a state agency; or

(J) any person transporting a permanent building or housing structure that does not have a wheeled undercarriage and was not designed to be transported over a highway.

(5)-(20) (No change.)

(b) (No change.)

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

Issued in Austin, Texas on March 16, 1992.

TRD-9203918

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

Earliest possible date of adoption: April 24, 1992

For further information, please call: (512) 463-7095

### Subchapter B. Operating Certificates, Permits and Licenses

#### • 16 TAC §5.44

The Railroad Commission of Texas proposes new §5.44, concerning incidental transportation by oil field service companies. The section exempts from the provisions of the Motor Carrier Act transportation provided by oil field service companies which is incidental to the performance of oil field services. The section is proposed as a result of the enactment of House Bill 2454 by the 72nd Legislature, 1991.

Jackye S. Greenlee, assistant director-central operations, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

E. A. Galvan, hearings examiner, 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 is the exemption of incidental transportation services from the requirements of the Motor Carrier Act. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to E. A. Galvan, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

The new section is proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, §1a(4), which exempts certain incidental transportation by oil field service companies from the definition of motor carrier.

#### §5.44. Incidental Transportation by Oil Field Service Companies.

(a) A transporter of oil field equipment is not a motor carrier when the oil field equipment is:

(1) owned by an owner, lessor, or operator of the oil or gas field location; or owned by a provider of oil field services that has an established place of business for performing such services;

(2) transported between oil or gas field locations and other places of business; and

(3) transported either:

(A) to oil or gas field locations for use by the person transporting the equipment to perform oil field services to begin within 24 hours of delivery of the equipment; or

(B) from oil or gas field locations to places of business for return to inventory or for reconditioning, disposal, or storage for reconditioning or disposal.

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

(1) Oil field services-The actual construction, operation, repair, maintenance, or dismantling of an oil or gas field location; excluding the discovery and drilling of oil and gas wells; pipe refurbishing, inspection, and stringing; transportation of oil field rental tools; and services connected with the refining of oil.

(2) Oil or gas field location-The facilities or land used for the production, processing, or pipeline movement of natural gas or petroleum, excluding an oil or gas well being drilled.

(3) Owned-Title to the oil field equipment being transported at the time of transportation.

(4) Owns-Any ownership interest in the oil or gas field location whether in fee or not, include the rights granted by license, easement, right-of-way, or similar right.

(5) Place of business-A warehouse, service yard, shop, or other business site operated by the owner, lessor, or operator (in whole or in part) of an oil or gas field location, or by the provider of oil field services.

(6) Transportation-Transportation incidental to an established business of performing oil field services.

(c) Notwithstanding any other provision of this section:

(1) the total weight of the oil field equipment being transported at one time in connection with oil field service shall not exceed 1,500 pounds;

(2) the transportation of pipe and tubing shall be limited to five or less joints of pipe or tubing with four-inch diameter or less; and

(3) shall not include transportation of oil field casing or drill pipe.

(d) A provider of oil field services may transport spare parts commonly needed for anticipated maintenance or repairs between points defined in subsection (a)(2) of this section, regardless of whether the spare parts are used at the oil or gas field location within 24 hours of arrival at the location.

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 16, 1992.

TRD-9203832

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

Earliest possible date of adoption: April 24, 1992

For further information, please call: (512) 463-7096



## TITLE 22. EXAMINING BOARDS

### Part XXIV. Board of Veterinary Medical Examiners

#### Chapter 575. Practice and Procedure

##### • 22 TAC §575.9

The Texas Board of Veterinary Medical Examiners proposes an amendment to §575.9 concerning docketing and numbering of causes, and service in order to clarify the original intent of the rule. The rule as presently written could be misinterpreted to imply that the secretary docket all complaints received for board action, when in fact the original intent was that the board secretary, rather than the executive director, docket complaints for board action when the board secretary feels that action is warranted.

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

Mr. Matthijetz, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure that only cases involving sufficient evidence of acts constituting violations of the Veterinary Practice Act and/or Rules of Professional Conduct are prosecuted. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

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

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

*§575.9. Docketing and Numbering of Causes, and Service.* Upon receipt of a complaint in which sufficient evidence exists to have a good cause to believe that violations of the Veterinary Licensing Act, Article 8890, and/or Rules of Professional Conduct, [or other pleading, which is intended to institute a contested proceeding before the board and complies with these sections as to form and content,] the board secretary shall cause the complaint to be docketed [the same] as a pending proceeding and shall cause notice to be served thereon by certified [personal service] or registered mail. If unable to obtain [personal] service by mail then services

may be effected [had] as provided in the Rules of Civil Procedure for district courts. While said case is under investigation, reports shall be made to the executive director and will not be discussed with the members of the board prior to hearing and there will be no ex parte consultations as provided in the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §17. Notice to the respondent [defendant] and the members of the board shall contain the same information.

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 13, 1992.

TRD-9203842

Buddy Matthijetz  
Executive Director  
Texas Board of Veterinary  
Medical Examiners

Proposed date of adoption: June 12, 1992

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

## TITLE 25. HEALTH SER- VICES

### Part I. Texas Department of Health

#### Chapter 289. Occupational Health and Radiation Control

##### Texas Regulations for Control of Radiation

##### • 25 TAC §289.127

The Texas Department of Health (department) proposes new §289.127, concerning the control of radiation. Section 289.127 will adopt by reference Part 46 of the Texas Regulations for Control of Radiation entitled, "Licensing of Naturally Occurring Radioactive Materials (NORM)."

NORM which is present in most soils and minerals is not to be regulated. However, there are certain processes that concentrate NORM to levels far above those existing as background radiation and above which similar radioactive material classified as source or byproduct material is regulated. Concentrated NORM can increase radon risk from direct exposure, increased radon concentration, inhalation and ingestion.

The proposed rule contains sections which address worker protection; exemptions of materials that pose insignificant risk; release criteria for land and equipment for unrestricted use; activities to be included under a general license and provisions for use of the general license; and activities requiring a specific license and regulations concerning specific licensure.

Stephen Seale, Chief Accountant III, has determined that for each year of the first five-



year period there will be no fiscal implications for state or local government as a result of enforcing or administering the section as proposed.

Ruth E. McBurney, C.H.P., Director, Division of Licensing, Registration and Standards, Bureau of Radiation Control, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure appropriate and adequate regulatory control of concentrated NORM which could pose a health risk to workers and the general public. The section will require those entities possessing and handling NORM to conduct operations in such a manner as to protect workers and the general public. There will be a varying impact on small business and individuals who are required to comply with the rule. To determine exemptions and comply with the requirements of a general license, companies which do not currently possess adequate instrumentation must obtain such instrumentation or a service to perform surveying, at a cost of approximately \$1,000. Companies required to obtain a specific license must pay an annual fee ranging from approximately \$ 1,000-\$2,000, depending upon licensed activities. No impact is anticipated on local employment as a result of implementing the section.

Comments on the proposal may be presented in writing to the Bureau of Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3189. Public comments will be accepted for 60 days following publication of this proposed new section in the *Texas Register*. In addition, a public hearing will be held at 9 a.m., Thursday, May 7, 1992, in the conference room of the Bureau of Radiation Control, Texas Department of Health, located at the Exchange Building, 8407 Wall Street, Room S400-S401, Austin.

The new section is proposed under the Health and Safety Code, Chapter 401, which provides the Board of Health with the authority to adopt rules and guidelines relating to the control of radiation. This new section affects Chapter 401 of the Health and Safety Code.

***§289.127. Licensing of Naturally Occurring Radioactive Materials (NORM).***

(a) The Texas Department of Health adopts by reference Part 46, "Licensing of Naturally Occurring Radioactive Materials (NORM)" of the Department's document titled "Texas Regulations for Control of Radiation", as amended in June 1992.

(b) The document adopted by reference in this section is indexed and filed in the Bureau of Radiation Control, located in the Exchange Building, 8407 Wallstreet, Austin, Texas 78754, and is available for public inspection during regular working hours.

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 17, 1992.

TRD-9203931

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

Proposed date of adoption: June 27, 1992

For further information, please call: (512) 834-6688

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**Part II. Texas Department  
of Mental Health and  
Mental Retardation**

**Chapter 404. Protection of  
Clients and Staff**

**Subchapter A. Abuse and Ne-  
glect of Persons Served by  
TXMHMR Facilities**

**• 25 TAC §§404.1-404.20**

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

The Texas Department of Mental Health and Mental Retardation (TXMHMR) proposes the repeal of §§404.1-404.20 concerning abuse and neglect of persons served by TXMHMR facilities. The proposal of new Chapter 404, Subchapter A, also concerning abuse and neglect of persons served by TXMHMR facilities, is proposed contemporaneously in this edition of the *Texas Register*.

The proposed new subchapter includes provisions directed towards preparing for the transfer of the abuse and neglect investigation function to the Texas Protective and Regulatory Services agency, expected to occur September 1, 1992.

Leilani Rose, director, Office of Financial Services, has determined that there will be no significant fiscal implications for state or local government as a result of administering the repeals as proposed. Local economic impact is anticipated to be insignificant.

Pam Carley, director, Office of Consumer Services and Rights Protection, has determined that the public benefit is the adoption of rules providing for the thorough and timely investigation of all allegations of abuse or neglect of persons served in TXMHMR facilities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Linda Logan, director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The repeals are proposed under Texas Civil Statutes, Article 5547-202, §2. 11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

**§404.1. Purpose.**

**§404.2. Application.**

**§404.3. Definitions.**

**§404.4. Classification of Abuse and Neglect.**

**§404.5. Prohibition Against Abuse and Neglect of Persons Served by Facilities, Facility Contractors, and Agents.**

**§404.6. Reporting Responsibilities of All TXMHMR Employees.**

**§404.7. Responsibilities of the Head of the Facility or Designee: Immediate Actions Required.**

**§404.8. Abuse and Neglect Committee and Facility Investigator.**

**§404.9. Peer Review.**

**§404.10. Abuse and Neglect Investigative Procedures for Facility Contractors.**

**§404.11. Responsibilities of Head of the Facility or Designee: Following Investigation.**

**§404.12. Responsibilities of Head of the Facility or Designee: Disciplinary Action.**

**§404.13. Responsibilities of the Office of Consumer Services and Rights Protection.**

**§404.14. Appeals Process.**

**§404.15. Prohibition Against Retaliatory Action.**

**§404.16. Staff Training in Identifying and Reporting Abuse and Neglect.**

**§404.17. Confidentiality of Investigative Process and Report.**

**§404.18. Exhibits.**

**§404.19. References.**

**§404.20. Distribution.**

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 18, 1992.

TRD-9203958

Anne K. Utley  
Chair  
Texas Board of Mental  
Health and Mental  
Retardation

Earliest possible date of adoption: April 24, 1992

For further information, please call: (512) 465-4670

The Texas Department of Mental Health and Mental Retardation (TXMHMR) proposes new §§404.1-404.20, concerning abuse and neglect of persons served by TXMHMR facilities. The repeal of existing Chapter 404, Subchapter A, also concerning abuse and neglect of persons served by TXMHMR facilities, is proposed contemporaneously in this edition of the *Texas Register*.

The proposed new subchapter includes provisions directed towards preparing for the transfer of the abuse and neglect investigation function to the Texas Protective and Regulatory Services Agency, expected to occur September 1, 1992.

The primary difference between the current proposed sections and the existing subchapter involves the deletion of the concept of the abuse and neglect committee. An abuse and neglect investigator, employed by the Office of Consumer Services and Rights Protection until such time as the Texas Protective and Regulatory Services agency is created, will receive and conduct all investigations of allegations of abuse and neglect at TXMHMR facilities. Upon completion of the investigation, the investigator will submit a report to the head of the facility and the Office of Consumer Services and Rights Protection for further action.

Other changes include the addition of definitions for the terms "incitement" and "complainant," and the addition of the concept of "inconclusive" to describe those investigations where there is insufficient evidence to determine whether or not abuse or neglect occurred. The definition of Class II abuse in §404.4 has been expanded to include "any act of excessive force or corporal punishment, including striking or pushing a person served, regardless of whether the act results in nonserious injury to a person served."

A requirement that the AN-1-A be submitted to the Office of Consumer Services and Rights Protection by the head of the facility or designee within 30 calendar days of receipt of the final investigative report has been added to §404.10. In §404.11, options for disciplinary action for class II abuse and neglect have been expanded; reference to specific disciplinary actions required for a first offense have been deleted to allow the head of the facility or designee to take what action is considered appropriate based on the criteria outlined in §404.11(a)(1).

Provisions regarding investigative procedures for facility contractors have been revised in §404.12. In addition, references to independent school districts have been deleted throughout the document since they are un-

der the jurisdiction of the Texas Department of Health (TDH). The provision that all current employees receive a copy of the new subchapter within 60 days of its effective date has been deleted from §404.16; the rule simply requires that each employee be briefed on its contents within 60 days of its effective date.

Exhibit D has been revised to allow the abuse and neglect investigator to conduct an initial investigation immediately upon receipt of an allegation of abuse and neglect; however, it requires that any person summoned for questioning by the abuse and neglect investigator more than 24 hours after commencement of the initial investigation must receive 24 hours notice.

The section on peer review found in the existing subchapter has been deleted from the proposed new subchapter; peer review is now referenced in §404.7(6)(A). Also deleted from this document is reference to the memorandum of understanding with the Texas Department of Health (TDH) which requires reporting allegations of abuse and neglect at ICF/MR facilities to TDH. Despite the deletion of the reference, the provisions as outlined in the MOU continue to apply until such time as the Texas Regulatory and Protective Services agency is created.

Leilani Rose, director, Office of Financial Services, has determined that there will be no significant fiscal implications for state or local government as a result of administering the sections as proposed. Local economic impact is anticipated to be insignificant.

Pam Carley, director, Office of Consumer Services and Rights Protection, has determined that the public benefit is the adoption of rules providing for the thorough and timely investigation of all allegations of abuse or neglect of persons served in TXMHMR facilities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Linda Logan, Director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The new sections are proposed under Texas Civil Statutes, Article 5547-202, §2.11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

**§404.1. Purpose.** The purpose of this subchapter is to define and prohibit abuse and neglect of any person receiving services from a facility, facility contractor, or an agent of the Texas Department of Mental Health and Mental Retardation and to prescribe procedures for its report, investigation, and prevention.

**§404.2. Application.** The provisions of this subchapter shall apply to all facilities of the Texas Department of Mental Health and

Mental Retardation and their contractors and agents.

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

**Absent—A** term in the client assignment and registration system used to describe when a person is physically away from a campus-based location, formerly known as "furlough."

**Abuse and neglect investigator—An** employee or independent contractor (consultant) with expertise in conducting investigations, training, experience, and demonstrated competence in the area of investigation. The investigators will be employed or retained by the Office of Consumer Services and Rights Protection of the Texas Department of Mental Health and Mental Retardation until such time that the Texas Protective and Regulatory Services Agency is created.

**Adult—A** person 18 years of age or older.

**Agent—Any** individual not employed by the facility but working under the auspices of the facility, such as volunteers, students, etc.

**Allegation—A** report by a person believing or having knowledge that a person receiving services has been or is in a state of abuse, exploitation, or neglect as defined in this subchapter.

**Child—A** person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.

**Client abuse and neglect reporting system (CANRS)—A** subsystem of CARE developed to record incidents involving abuse or neglect of persons served by facilities.

**Client assignment and registration system (CARE)—The** on-line data entry system developed to provide demographic and other data about persons served by the department.

**Clinical issues—Issues** related to unsafe nursing or medical practice or violations of the Nursing Practice Act or Medical Practice Act.

**Complainant—The** person filing a complaint.

**Confirmed—Term** used to describe an allegation of abuse or neglect which is supported by the preponderance of the evidence.

**Contractor—Any** organization, entity, or individual associated by contract in a working alliance with a facility.

**Department—The** Texas Department of Mental Health and Mental Retardation.

**Designee—A** staff member immediately available who is temporarily appointed to assume designated responsibilities of the head of the facility.

**Exploitation**—The illegal or improper act or process of using the resources of a person served for monetary or personal benefit, profit, or gain.

**Facility**—Any institution, program, or service operated by the department.

**Head of the facility**—The superintendent or director of a facility.

**Incitement**—A stirring up or urging on; implies responsibility for initiating another's actions.

**Inconclusive**—Leading to no conclusion or definite result due to lack of witnesses or other relevant evidence.

**Negligence**—An action that a person of ordinary prudence would not have taken under the same or similar circumstances, or the failure to take an action that a person of ordinary prudence would have taken under the same or similar circumstances.

**Nonserious physical injury**—Any injury determined not to be serious by the examining physician. Examples of nonserious injury may include the following: superficial laceration, contusion, abrasion.

**Office of Consumer Services and Rights Protection**—The office located at the Texas Department of Mental Health and Mental Retardation.

**Peer review**—A review of clinical and/or medical practice(s) by peer physicians or nurses.

**Perpetrator unknown**—Term used to describe instances in which abuse or neglect is confirmed but positive identification of the responsible person cannot be made, and in which self-injury has been eliminated as the cause.

**Person served**—Any person receiving services from the department, including those persons who are absent who are still carried on the rolls of the facility.

**Prevention and management of aggressive behavior (PMAB)**—The department's proprietary risk management program which uses the least intrusive, most effective options to reduce the risk of injury for persons receiving services and for staff from acts or potential acts of aggression.

**Retaliatory action**—Any action intended to inflict emotional or physical harm or inconvenience on an employee or person served that is taken because he or she has reported abuse or neglect. This includes, but is not limited to, harassment, disciplinary measures, discrimination, reprimand, threat, and criticism.

**Serious physical injury**—An injury determined to be serious by the examining physician. Examples of serious injury may include the following: fracture; dislocation of any joint; internal injury; any contusion larger than two and one half inches in diameter; concussion; second or third degree burn.

**Sexual assault**—A criminal act as defined in the Texas Penal Code, §22.011, a copy of which is included as an attachment in Exhibit A.

**Sexual exploitation**—Any act in which a less able individual is coerced, manipulated, or otherwise used sexually, or is threatened with the same by a more physically and intellectually advanced or more socially able individual.

**Sexually transmitted disease**—Any infection of a person served, with or without symptoms or clinical manifestations, that is or may be transmitted from one person to another during or as a result of sexual contact between persons.

**Unconfirmed**—Term used to describe an allegation of abuse or neglect which is not supported by the preponderance of the evidence.

**§404.4. Classification of Abuse and Neglect.** When the perpetrator is an employee, contractor, or agent, or the perpetrator is unknown, confirmed abuse or neglect shall be classified in accordance with the "Procedures and Techniques for Investigation of Abuse and Neglect," which is herein adopted by reference in §404.18 of this title (relating to Exhibits) as Exhibit A.

(1) Class I abuse means any act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused serious physical injury to a person served. Without regard to injury, any sexual assault or sexual exploitation involving an employee, agent, or contractor and a person served will be considered to be Class I abuse.

(2) Class II abuse means:

(A) any act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused nonserious physical injury to a person served;

(B) any act of excessive force or corporal punishment, including striking or pushing a person served, regardless of whether the act results in nonserious injury to a person served; or

(C) exploitation.

(3) Class III abuse means any use of verbal or other communication to curse, vilify, or degrade a person served, or to threaten a person served with physical or emotional harm, or any act which vilifies, degrades, or threatens a person served with physical or emotional harm.

(4) Neglect means negligence which causes or could predictably lead to any physical or emotional injury to a person served.

**§404.5. Prohibition Against Abuse and Neglect of Persons Served by Facilities, Facility Contractors, and Agents.**

(a) Abuse or neglect of persons served by facilities, facility contractors, and agents is prohibited and shall be grounds for appropriate action, including reporting to law enforcement authorities; reporting to governing boards for professional practice; and, additionally for employees, disciplinary action up to and including termination.

(b) Any pregnancy of a person served, provided there is medical verification that the conception could have occurred while the person was a resident of the facility, or any diagnosis of a sexually transmitted disease in a person served which could have occurred while the person was a resident of the facility shall be reported in keeping with the provisions of this subchapter as possible Class I abuse or neglect. Additional reporting requirements for the head of the facility or designee are described in Subchapter G of this Chapter (relating to Unusual Incidents Involving Persons Served by TXMHMR Facilities).

(c) Abuse does not include:

(1) the proper use of restraints or seclusion, including PMAB, and the approved application of behavior modification techniques as described in Chapter 405, Subchapter F of this title (relating to Restraint and Seclusion—Mental Health Facilities) and Chapter 405, Subchapter HH of this title (relating to Restraint and Seclusion—Mental Retardation Facilities);

(2) other actions taken in accordance with the rules of the department; or

(3) such actions as an employee may reasonably believe to be immediately necessary to avoid imminent harm to self, persons served, or other individuals if such actions are limited only to those actions reasonably believed to be necessary under the existing circumstances.

(d) All theft of property belonging to a person served shall be handled administratively in accordance with department personnel procedures.

**§404.6. Reporting Responsibilities of All TXMHMR Employees.**

(a) Each employee who suspects or has knowledge of, or who is involved in an allegation of, abuse or neglect shall make a verbal report to the abuse and neglect investigator immediately, if possible, but in no case more than one hour after the incident. The employee shall submit a written incident report to the abuse and neglect investigator within two hours. Employees who become aware of a situation at any time after the fact shall make a verbal report to the abuse and neglect investigator immediately, if possible, but in no case more than one hour after learning of the incident. The

employee shall submit a written incident report to the abuse and neglect investigator within two hours.

(1) The "Report of Suspected Abuse/Neglect" form, which is attached as Exhibit B, should be made available to all staff to expedite the process of submitting written reports. However, lack of availability of this form should not impede the reporting of abuse and neglect.

(2) Failure to make such reports within the allotted time period without sufficient justification shall be considered a violation of this subsection and make the employee subject to disciplinary action and possible criminal prosecution.

(b) Without regard to the identity of the perpetrator, suspected sexual assault or sexual exploitation shall be reported to the abuse and neglect investigator immediately, if possible, but in no case more than one hour later by the person making the allegation. If the person making the allegation is not an employee, e.g., a person receiving services, a guest, etc., staff shall assist the individual in making the report, if necessary. The head of the facility or designee receiving a report of such an allegation shall immediately contact the abuse and neglect investigator.

(c) If there is reason to suspect that a person served was abused, neglected, or exploited during an absence from the facility with a family member or guardian, the employee shall immediately, if possible, but in no case more than one hour later contact the Department of Human Services (1-800-252-5400) and the head of the facility or designee.

(d) Upon receiving a report of an allegation of abuse or neglect, the investigator will:

(1) immediately notify the head of the facility or designee;

(2) immediately, if possible, but in no case more than one hour later report abuse-related allegations of a criminal nature to the appropriate local or state law enforcement agencies.

(e) Anonymous allegations will be received and investigated following the same procedures that are used when the complainant is known.

(f) An allegation that sexual assault has been committed by a person receiving services shall be reported and investigated following the procedures outlined in this subchapter with the understanding that negligence on the part of staff may have made it possible for the assault to have occurred. Other aggressive behaviors by persons receiving services shall be reported and investigated according to §404.244 of this title (relating to Reporting Injuries and Incidents

Involving Persons Served) and §404.245 of this title (relating to Reporting a Criminal Act).

*§404.7. Responsibilities of the Head of the Facility or Designee: Immediate Actions Required.* Immediately upon notification of an allegation of abuse or neglect, if possible, but in no case more than one hour later, the head of the facility or designee shall ensure that adequate medical care has been provided to the victim, and shall take measures to insure the safety of the individual, including the following actions.

(1) If the accused is an employee, the head of the facility or designee will determine whether action should be taken regarding the employee, which may include immediately granting the employee emergency leave, reassigning the employee to a nondirect care area, allowing the employee to continue in a nondirect care post pending investigation, or allowing the employee to remain in his or her current position pending investigation.

(2) If the accused is a person receiving services, the head of the facility or designee will take immediate appropriate action to protect the victim, e.g., one-on-one observation of the accused and/or the victim, separation, etc. For cases in which the accused is a person served, the head of the facility or designee shall immediately, if possible, but in no case more than 24 hours later, refer the allegation to that person's treatment team or interdisciplinary team.

(3) If the accused is another person who is known but who is neither a staff member nor a person receiving services, e.g., family member, friend, etc., the head of the facility or designee will effect a restriction on that person's access to the victim pending investigation. The restriction should be documented in the record of the person served, with a copy included in the final report.

(4) The head of the facility or designee shall immediately, if possible, but in no case later than 24 hours after notification of an allegation of abuse/neglect, notify the parents, guardian, spouse, or other appropriate relative of the alleged victim, unless specifically prohibited by Chapter 403, Subchapter K of this title (relating to Client-Identifying Information), Chapter 405, Subchapter L of this title (relating to Client Rights-Mental Health Services), or Chapter 405, Subchapter Y of this title (relating to Client Rights-Mental Retardation Services).

(5) If the allegation involves physical abuse, sexual assault, or sexual exploitation, the head of the facility or designee will ensure necessary immediate and ongoing medical and/or psychological attention is obtained for the victim, and, as needed, for the perpetrator, if a person receiving

services, e.g., screening and treatment for sexually transmitted diseases, psychological counseling and support, etc., consistent with the procedures described in "Procedures and Techniques for Investigation of Abuse and Neglect," which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit A.

(6) If the allegation appears to involve medical or nursing practice of a physician or registered nurse, the head of the facility or designee shall:

(A) immediately, if possible, but in no case more than one hour later refer the allegation to the medical director or nursing director, as appropriate, for review for possible peer review. If the allegation is against the medical director, it shall be referred to the TXMHMR medical director;

(B) ensure that reports of confirmed cases of abuse or neglect are made as required by law to the licensing authority for the discipline under review, e.g., to the Board of Medical Examiners for physicians, and to the Board of Nurse Examiners for registered nurses.

#### *§404.8. Abuse and Neglect Investigator.*

(a) Abuse and neglect investigator. An abuse and neglect investigator will conduct all abuse and neglect investigations.

(b) Investigations. Facilities shall ensure that abuse and neglect investigators are afforded immediate access to all records and provided keys as are necessary to carry out the investigation.

(c) Consultants. The abuse and neglect investigator may retain a consultant for the purpose of assisting with investigations.

(d) Responsibilities.

(1) The abuse and neglect investigator shall fully investigate alleged incidents of abuse or neglect.

(A) The abuse and neglect investigator shall begin the investigation immediately, if possible, but in no case more than one hour later, including investigations of sexual assault or sexual exploitation.

(B) Allegations involving rights violations received by the investigator shall be turned over to the facility's rights officer as appropriate.

(C) Investigative procedures outlined in "Procedures and Techniques for Investigation of Abuse and Neglect," which is referenced in §404.18 of this title (relat-

ing to Exhibits) as Exhibit A, are to be followed in all investigations.

(i) Written statements shall be obtained from all witnesses and any other persons who may provide collateral information.

(ii) The abuse and neglect investigator shall ensure that all photographs relevant to the investigation, including photographs depicting the existence or nonexistence of injuries, are taken as soon as possible, but in no case more than 24 hours after the report of the allegation. All such photographs shall be submitted with the investigative report sent to the head of the facility and the Office of Consumer Services and Rights Protection, central office.

(iii) The physician's exam and treatment of abuse-related injuries shall be documented on the Client Injury/Incident Report form, which is referenced in §404.18 of this title as Exhibit C, and attached to the investigative report submitted to the Office of Consumer Services and Rights Protection, central office. The physician's remarks during or following the examination should address the injury's cause, age, and treatment, to the extent that can be determined, as well as the timing of the medical exam with regard to the date the injury was received. All clinical issues will be referred to the medical/clinical director or designee for consultation.

(2) The abuse and neglect investigator shall indicate "perpetrator unknown" in those instances where the preponderance of evidence exists to confirm abuse or neglect, but positive identification of the person(s) responsible cannot be determined and self-injury has been eliminated as the cause. Evidence must exist that abuse or neglect has been committed for the term "perpetrator unknown" to be used. When there is a lack of evidence that abuse or neglect has occurred, the recommendation should be that the investigation was inconclusive or unconfirmed.

(e) Rights of employees. The rights of employees summoned to appear before the abuse and neglect investigator are outlined in the memo titled "Procedures in Client Abuse Investigations and Thurston Rebuttal Proceedings," which is herein adopted by reference as Exhibit D and which is referenced in §404.18 of this title as Exhibit D.

**§404.9. Responsibilities of Abuse and Neglect Investigator; Completion of Investigation.**

(a) Within five working days of the commencement of the investigation, the abuse and neglect investigator shall complete the investigation and submit to both

the director of the Office of Consumer Services and Rights Protection and the head of the facility a copy of:

(1) the investigative report, including a statement of the allegation(s), a summary of the investigation, an analysis of the evidence, the abuse and neglect investigator's recommendations concerning whether or not abuse or neglect occurred, the completed AN-1-A, and concerns resulting from the investigation;

(2) the Client Injury/Incident Report, which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit C; and

(3) all witness statements and supporting documents.

(b) If additional time is required to complete the investigative report, written justification must be received by the Office of Consumer Services and Rights Protection for approval or disapproval and this will be noted in the final report.

(c) In cases of abuse or neglect previously reported to a law enforcement agency, the investigator will submit a copy of the investigative report to the appropriate law enforcement agency.

(d) When abuse of a child is alleged, the head of the facility shall submit a "Final Report of Suspected Abuse and Neglect in a Child Care Facility," which is referenced in §404.18 of this title as Exhibit H, to the Office of Consumer Services and Rights Protection to be forwarded to the Office of Youth Care Investigations.

**§404.10. Responsibilities of the Head of the Facility or Designee; Completion of the Investigation.**

(a) The head of the facility or designee shall submit to the director of the Office of Consumer Services and Rights Protection a copy of the "Client Abuse/Neglect Report" (AN-1-A) within 30 calendar days after receipt of the investigative report.

(b) Upon completion of the investigation of any allegation, the head of the facility or designee shall take the following actions.

(1) The facility or designee shall review the abuse and neglect investigator's report.

(A) The abuse and neglect investigator's recommendations concerning whether abuse or neglect occurred is not binding on the head of the facility; however, the head of the facility or designee shall document the specific reasons for his or her determination as to whether or not abuse occurred. Such documentation shall be forwarded by the head of the facility or designee

to the Office of Consumer Services and Rights Protection.

(B) The head of the facility or designee shall establish a mechanism for evaluating the abuse and neglect investigator's concerns resulting from the investigation.

(2) Unless specifically prohibited by Chapter 403, Subchapter K of this title (relating to Client-Identifying Information), Chapter 405, Subchapter L of this title (relating to Client Rights-Mental Health Services), or Chapter 405, Subchapter Y of this title (relating to Client Rights-Mental Retardation Services), the head of the facility or designee shall ensure that the parents, guardian, spouse, or other appropriate relatives who were notified of the allegation are promptly notified of the final results of the investigation.

(3) The head of the facility or designee shall ensure that, if requested, the parents, guardian, spouse, or other appropriate relatives are notified in a timely manner if a grievance is filed by the employee regarding the findings.

**§404.11. Responsibilities of Head of the Facility or Designee: Disciplinary Action.** The head of the facility or designee in the absence of the head of the facility shall be responsible for taking prompt and proper disciplinary action when a charge of abuse or neglect is confirmed.

(1) Disciplinary action shall be based on criteria including, but not limited to:

(A) the seriousness of the abuse and/or neglect;

(B) the circumstances surrounding the event;

(C) the employee's record;

(D) repeat offenses; and

(E) if a second violation, the length of time between violations.

(2) When the head of the facility or designee determines that abuse or neglect has occurred, the following disciplinary action shall be taken.

(A) Class I abuse. The employee shall be dismissed from employment.

(B) Class II abuse. The employee shall be placed on suspension for up

to 10 days, demoted, or dismissed. If the employee is exempt under the provisions of the Fair Labor Standards Act (FLSA), the suspension shall be in compliance with relevant provisions of the FLSA and current TXMHMR personnel policies.

(C) Class III abuse, neglect. The employee may receive a written reprimand which shall become a part of the employee's personnel file, or may be placed on suspension, demoted, or dismissed. If the employee is exempt under the provisions of the Fair Labor Standards Act (FLSA) the suspension shall be in compliance with relevant provisions of the FLSA and current TXMHMR personnel policies.

(3) When disciplinary action is taken against an employee based on abuse or neglect, the head of a facility shall notify the disciplined employee in writing of any right to a grievance hearing the employee may have under the department's internal policies and procedures relating to employee grievances.

*§404.12. Abuse and Neglect Investigative Procedures for Facility Contractors.* For purposes of reporting, investigating, and preventing abuse and neglect by contractors or agents of state facilities, the procedures described in this subchapter for employees of facilities shall be followed.

(1) An allegation that an employee of a contractor has committed abuse or neglect shall be reported to the abuse and neglect investigator immediately, if possible, but in no case more than one hour later. The abuse and neglect investigator will immediately notify the administrator of the contract provider and the head of the facility or designee.

(2) The investigation of an allegation that an employee of a contractor has committed abuse or neglect shall be handled in accordance with the procedures outlined in §404.8 of this title (relating to Abuse and Neglect Investigator).

(3) The abuse and neglect investigator shall submit a written report to the administrator of the contract provider and the head of the facility or designee regarding whether there is cause to believe that abuse or neglect has occurred in the incident investigated. If there is any disagreement in the findings, the administrator of the contract provider shall document the specific reasons and notify the Office of CSR and the head of the facility or designee.

(4) The administrator of the contract facility shall notify the head of the facility or designee of any action taken against the accused contract employee.

(5) The head of the facility or designee will complete the AN-1-A form and forward to the Office of CSR.

*§404.13. Responsibilities of the Office of Consumer Services and Rights Protection.* The Office of Consumer Services and Rights Protection shall:

(1) monitor statistical trends in abuse and neglect;

(2) review all abuse and neglect investigations and make recommendations to facilities concerning corrective and preventive actions (including rights violations which may require further action);

(3) determine closure on all investigations within 30 days of when the AN-1-A is received;

(4) report all allegations of abuse involving a child to the Office of Youth Care Investigations;

(5) report all allegations of abuse involving adults served by the department to the Adult Protective Services division of the Texas Department of Human Services (DHS) until such time as the Texas Protective and Regulatory Services agency is created; and

(6) ensure that appropriate reports of abuse regarding registered nurses or physicians are made to the respective boards of examiners.

*§404.14. Appeals Process.*

(a) A complainant who makes an allegation of abuse or neglect is to be notified of the right to appeal the outcome of an investigation.

(b) A complainant who makes an allegation of abuse or neglect and wishes to appeal the findings shall request a review of the completed investigation by notifying the Office of Consumer Services and Rights Protection, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

(1) Upon receipt of a request for an appeal from the complainant, a review of the findings of the investigation will commence. The appeal process will include a review of the investigative report and all supporting documents and records. An on-site investigation may occur in those instances in which new information is reported or there are inconsistencies with the witness statements.

(2) The appeal process will be completed within 30 days from the day the request was received.

(3) A letter reflecting the outcome of the appeal will be sent to the complainant with a copy to the head of the facility.

(c) If the incident involves a person under the age of 18, the complainant may

further request a review from the Office of Youth Care Investigation, Attorney General's Office, P.O. Box 12548, Austin, Texas 78711.

(d) If the incident involves a person 18 years or older, the complainant may further contact the Office of Adult Protective Services, Department of Human Services, P.O. Box 2960, Austin, Texas 78769.

*§404.15. Prohibition Against Retaliatory Action.*

(a) Any employee or person served who in good faith reports abuse, exploitation, or neglect shall not be subjected to retaliatory action by any employee of the department or any person affiliated with an employee of the department.

(b) Any person who believes he or she is being subjected to retaliatory action upon making a report of abuse or neglect, or who believes a report has been ignored without cause, shall immediately, contact the head of the facility or designee. Such person may also contact:

(1) the Office of Consumer Services and Rights Protection, Central Office, at the toll free number 1-800-252-8154;

(2) the Office of the Attorney General at (512) 463-2120 which, under the Whistleblower Act, Texas Civil Statutes, Article 6252-16a, may prosecute a supervisor who suspends or terminates a public employee for reporting a violation of law to law enforcement authorities.

(c) Any employee found guilty of retaliatory action may be subject to disciplinary action.

*§404.16. Staff Training in Identifying and Reporting Abuse and Neglect.*

(a) This subchapter shall be thoroughly and periodically explained to all employees of each facility as follows.

(1) All new employees, contractors, and agents shall receive the instruction on the content of this subchapter during their orientation training and prior to beginning work that involves direct contact with any person served. Acknowledgment of this instruction shall be certified by the employee, contractor, or agent using the Orientation to Chapter 404, Subchapter A form, which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit I, and filed.

(2) Orientation shall include a thorough explanation of the definitions contained in these rules, including the categories or classes of abuse or neglect, the disciplinary consequences of abuse or neglect, and the procedures for reporting incidents of abuse or neglect.

(3) Within 60 days after the effective date of this subchapter, all current employees shall be briefed on the contents of this subchapter by the head of the facility or designee. Within six months following the effective date of this subchapter, all current employees shall receive refresher training on identifying and reporting abuse and neglect. Acknowledgment of this instruction shall be certified by the employee using the Orientation to Chapter 404, Subchapter A form, which is referenced in §404.18 of this title as Exhibit I and filed in the employee's record.

(b) Those employees in frequent contact with persons served shall receive additional instruction on the prevention and therapeutic management of aggressive, combative behavior or similar volatile situations as a unit of training within the employee's six months probationary period of employment. Training shall comply with training standards promulgated by the department.

(c) All supervisory personnel shall have a continuing responsibility to keep employees currently informed on rules governing abuse or neglect and shall insure that each employee receives training on identifying and reporting abuse and neglect not less than once each calendar year. Such training shall be reported to the facility office for staff development.

(d) Instructional materials, audio-visual, and/or other training aids concerning this subchapter shall be approved by the deputy commissioner of Human Resources, Central Office, in concurrence with the Office of Legal Services and the Office of Consumer Services and Rights Protection.

(e) A record shall be kept by the facility office for staff development on each employee receiving orientation, annual training, or additional instruction in compliance with this section, including the date training was provided and the name of the individual conducting the training.

#### *§404.17. Confidentiality of Investigative Process and Report.*

(a) The reports, records, and working papers used by or developed in the investigative process and the resulting final report regarding abuse and neglect are confidential and may be disclosed only as provided under law. Information discussed during deliberations of abuse and neglect investigations may not be discussed outside the purview of those deliberations with the exception of the concerns and recommendations which are to be addressed by the appropriate person(s) or as otherwise allowed in §404.7 of this title (relating to Responsibilities of the Head of the Facility or Designee: Immediate Actions Required) and in §404.8 of this title (relating to Abuse and Neglect Investigator).

(b) Some information may be released as follows.

(1) Parents/guardians shall be told that an abuse or neglect allegation has been made, with a description of the nature of the allegation and any action taken such as medical treatment provided or remedial measures.

(2) Upon request, copies of the investigative report shall be released to the person served, parent, or legal guardian in accordance with Attorney General Opinion OR 90-562, a copy of which is attached as Exhibit J.

(3) The complainant shall be notified of the findings, but neither the perpetrator's name nor the disciplinary action taken shall be released to the complainant. The name of the person served may be used in informing the complainant of the findings.

(4) The accused shall be informed of the investigative findings. If disciplinary action is taken and the employee files a grievance, the employee may read the investigative report, but may not obtain a copy of the report.

*§404.18. Exhibits.* Copies of the following exhibits are available from the Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711:

(1) Exhibit A—Procedures and Techniques for Investigation of Abuse and Neglect;

(2) Exhibit B—"Report of Suspected Abuse/Neglect" Form;

(3) Exhibit C—Client Injury/Incident Report;

(4) Exhibit D—Procedures in Client Abuse Investigations and Thurston Rebuttal Proceedings;

(5) Exhibit E—Operating Instruction 408-2, governing Investigative Medical Peer Review;

(6) Exhibit F—Operating Instruction 408-1, governing Professional Nursing Quality Assurance;

(7) Exhibit G—Client Abuse/Neglect Report (AN-1-A);

(8) Exhibit H—Final Report of Suspected Child Abuse and Neglect in a Child Care Facility;

(9) Exhibit I—Orientation to Chapter 404, Subchapter A certification form; and

(10) Exhibit J—Attorney General Opinion OR 90-562.

*§404.19. References.* Reference is made to the following statutes, rules of the department, and attorney general opinions:

(1) Texas Family Code, §34.01 et seq;

(2) Title 7, Chapter 576, §576.005, Health and Safety Code (formerly Texas Civil Statutes, Article 5547-87);

(3) Title 7, Chapter 532, §532.011, Health and Safety Code (formerly Texas Civil Statutes, Article 5547-202, §2.12);

(4) Title 7, Subtitle D, Health and Safety Code (formerly Texas Civil Statutes, Article 5547-300);

(5) Whistleblower Act, Texas Civil Statutes, Article 6252-16a;

(6) Texas Penal Code, Chapters 19 and 21, §§22.01, 22.02, 22.04, 22.05, 22.07, 22.08, 22.10;

(7) Texas Family Code, §§11.01, 34.01, 34.02, 34.03;

(8) Human Resources Code, Chapter 48;

(9) Chapter 403, Subchapter P of this title (relating to Public Responsibility Committees);

(10) Subchapter G of this chapter (relating to Unusual Incidents at TDMHMR Facilities);

(11) Chapter 405, Subchapter F of this title (relating to Restraint and Seclusion—Mental Health);

(12) Chapter 405, Subchapter G of this title (relating to Restraint and Seclusion—Mental Retardation);

(13) Chapter 405, Subchapter L of this title (relating to Client Rights—Mental Health Services);

(14) Chapter 405, Subchapter Y of this title (relating to Client Rights—Mental Retardation Services);

(15) TDMHMR Personnel Manual, sections relating to:

(A) emergency leave;

(B) suspension, demotion, and reduction in salary; and

(C) dismissal for cause;

(16) TDMHMR policy and procedures relating to employee grievances; and

(17) Attorney General Opinion Numbers H-237 (1974), H-986 (1977), and H-494 (1975).

**§404.20. Distribution.**

(a) The provisions of this subchapter shall be distributed to:

- (1) members of the Texas Board of Mental Health and Mental Retardation;
- (2) deputy commissioners, associate deputy commissioners; assistant deputy commissioners; and directors of Central Office;
- (3) superintendents and directors of all department facilities;
- (4) contractors and agents;
- (5) the attorney general of Texas;
- (6) the Attorney General's Office of Youth Care Investigation;
- (7) the Association for Retarded Citizens of Texas;
- (8) the Mental Health Association in Texas;
- (9) the Parent Association for the Retarded of Texas;
- (10) the Texas Association on Mental Deficiency;
- (11) the Texas Association for Mental Health;
- (12) the Texas Department of Health;
- (13) the Texas Department of Human Services;
- (14) the Texas Youth Commission;
- (15) the Texas Alliance for the Mentally Ill;
- (16) Texas Mental Health Consumers; and
- (16) Advocacy, Inc.

(b) The head of each facility shall be responsible for duplicating and disseminating copies of this subchapter to:

- (1) appropriate staff; and
- (2) any person served, employee, or other person desiring a copy.

(c) The head of each facility shall be responsible for prominently displaying copies of this subchapter at nursing stations and on bulletin boards within each facility.

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 18, 1992.

TRD-9203957  
 Anne K. Utey  
 Chair  
 Texas Board of Mental  
 Health and Mental  
 Retardation

Earliest possible date of adoption: April 24, 1992

For further information, please call: (512) 465-4670

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**Part VIII. Interagency  
 Council on Early  
 Childhood Intervention**

**Chapter 621. Early Childhood  
 Intervention Program**

**Early Childhood Intervention  
 Service Delivery**

• 25 TAC §621.23

The Interagency Council on Early Childhood Intervention (council) proposes an amendment to §621.23, concerning service delivery requirements. The amendment is to paragraph (5)(L) and relates to the conditions for which parental consent for the use of third party resources is required and the policies which apply if parental consent is denied.

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

Ms. Elder also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the establishment of a consistent interpretation of requirements related to obtaining parental consent to bill third party resources. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with section as proposed. There also will be no effect on local employment.

Comments on the proposal may be submitted to Mary Elder, Executive Director, Early Childhood Intervention, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673. Public comments will be accepted for 30 days after publication of the section in the *Texas Register*.

The amendment is proposed under the Human Resources Code, §73.003, which provides the Interagency Council on Early Childhood Intervention with the authority to establish rules regarding services provided for children with developmental delays. The amendment will affect the Human Resources Code, Chapter 73.

**§621.23. Service Delivery Requirements.** Programs that receive Early Childhood Intervention Program (ECI) funds must have written policies and procedures which are implemented and evaluated in each of the following areas.

- (1)-(4) (No change.)
- (5) Individualized family service plan (IFSP). An IFSP must be developed

for each child and the child's family.

(A)-(K) (No change.)

(L) Reimbursement for service.

(i) All ECI required services must be provided at no cost to families including, but not limited to, child find, evaluation and assessment, service coordination, and administration and coordination related to the development, review, and evaluation of IFSPs. The determination of the duration, scope, and nature of the services provided will not be based on parental consent to the use of funding resources for which they may be eligible.

(ii) No child may be denied services because of the family's inability to pay, or unwillingness to consent to third party billing. Informed parental consent is required prior to billing private insurers. Billing third party insurers must be at no cost to families. All programs will be required to discuss with families implications of billing private insurance. [All programs will be required to bill third party insurers for all services at no cost to families. Third parties include, but are not limited to, HMOs, private insurance, Medicaid, and the Chronically Ill and Disabled Children's Program.]

(iii) Programs will be required to encourage the family to apply [Families will be required to apply for assistance] for all applicable funding resources for which they are potentially eligible including, but not limited to, Medicaid and the Chronically Ill and Disabled Children's Program. No child may be denied services because of the family's refusal to apply for Medicaid or other funding resources for which they may be eligible.

(iv) (No change.)

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

Issued in Austin, Texas, on March 17, 1992.

TRD-9203934  
 Austin R. Kessler  
 Chairman  
 Interagency Council on  
 Early Childhood  
 Intervention Program

Earliest possible date of adoption: April 24, 1992

For further information, please call: (512) 458-7673



# TITLE 31. NATURAL RESOURCES AND CONSERVATION

## Part IX. Texas Water Commission

### Chapter 331. Underground Injection Control

#### Subchapter A. General Provisions

##### • 31 TAC §§331.2, 331.3, 331.14

The Texas Water Commission (commission) proposes amendments to §§331.2, 331.3, 331.42, 331.43, 331.45-331.47, 331.61-331.65, 331.67, 331.68, and 331.121, and new §§331.14 and 331.161-331.171, concerning permit requirements for solid waste management facilities, specifically dealing with the construction and operation of salt dome caverns by injection well technology under the authority of the Texas Injection Well Act and the federal Safe Drinking Water Act.

The proposed changes to §331.2 modify the definitions of the terms "injection interval," "injection zone," and "long-string casing or production casing" to make them more precise and applicable to salt cavern waste disposal. Also, new definitions include "caprock," "disturbed salt zone," "intermediate casing," "new waste stream," "salt cavern," "salt cavern confining zone," "salt cavern injection interval," "salt cavern injection zone," "salt cavern solid waste disposal well or salt cavern disposal well," "salt dome," and "salt stock."

The proposed change to §331.3 makes clear that the determinations detailed in 40 Code of Federal Regulations Part 148, involving the prohibition of injection of certain hazardous wastes and variances from such prohibitions, are beyond the scope of the commission's authority.

New §331.14 prohibits salt cavern solid waste disposal wells and associated caverns in horizontally-bedded or non-domal salt until such time when specific rules for such facilities are promulgated.

The proposed change to §331.42 redefines, in a form applicable to all injection wells including salt cavern waste disposal wells, the purpose of an area of review (AOR) around an injection well and the types of information that must be compiled for such an area. Also, the change would provide for an AOR for salt cavern disposal wells which, depending on the shape of the host salt stock, may exceed the 2 1/2 mile radius AOR for conventional Class I injection wells. No substantive changes would be made regarding the AOR for Class II and Class V wells, but their subsection numbering would be changed within this section as a result of incorporation of requirements specific to salt cavern waste disposal.

The proposed changes to §331.43 refine the definition of well mechanical integrity to better emphasize the performance standard of no

unauthorized fluid movement outside the injection zone and no introduction of waste fluids to the well annulus. Also, the term "wellhead" would be added to the list of well components which are specifically considered in the mechanical integrity definition. Further, oxygen activation logging would be added to the commissions approved mechanical integrity test procedures, as a result of its having been approved for such uses by the USEPA. Also, new criteria for determining salt cavern integrity would be established in this section. Some existing subsections of §331.43 would be reordered, but without substantive change.

The proposed changes to §331.45 would make the requirements for certification of the construction and completion of certain injection wells also applicable to salt cavern solid waste disposal wells. The changes would also provide for certain distinctions between conventional Class I wells and salt cavern disposal wells, in the data to be considered in obtaining the necessary certification. Some existing subsections of §331.45 would be reordered, but without substantive changes.

The proposed changes to §331.46 would extend the general requirements for proper plugging and abandonment of injection wells to salt cavern disposal wells, while also providing requirements specific for plugging salt cavern wells. Also, changes would be made to no longer limit plugging materials to cement, but to provide for the determination of optimum plugging designs. Further, requirements would be added for certifications that the plugging reports are true and accurate. Finally, a requirement would be added to specify that all pre-closure monitoring required by permit shall be completed prior to plugging a salt cavern disposal well.

The proposed changes to §331.47 would add new liner standards for ponds associated with injection wells, and standards for leak detection monitoring and shallow groundwater monitoring for such ponds.

The Subchapter D title, "Standards for Class I Wells," is proposed to be amended by adding the words "Other than Salt Cavern Solid Waste Disposal Wells."

The proposed changes to §331.61 would make clear that Subchapter D applies to all Class I wells other than salt cavern wells.

The proposed changes to §331.62 would provide new allowances for cementing of casings by staging, and alternate approved methods provided the operator can demonstrate that the cement is continuous or does not allow any fluid movement behind the casings. Also, changes would require consideration of the sufficiency of cement and cement additives in the well to maintain well integrity over the design life of the well. Also, a requirement would be added for determination or calculation of fracture pressure and other physical and chemical characteristics of the injection zone and confining zone.

The proposed changes to §331.63 would require specific responses to activation of any alarm or automatic shutoff in the well operation as required by rule or permit, any indicated loss of well mechanical integrity, or any indication of release of injected waste into an unauthorized zone.

The proposed changes to §331.64, relating to monitoring and testing requirements, would impose the new standard for a waste analysis plan as required by 40 Code of Federal Regulations, §146.68(a). Also, this section would be amended to make clear that mechanical integrity must be maintained at all times that a well is in service and not just when the well is injecting. In addition, quarterly testing and calibration of all gauges, pressure sensors, and recording devices would be required. Demonstrations of hydrogeologic compatibility, including the wastestreams and any anticipated reaction products, will also be required. Some existing portions of §331.64 would be renumbered, but without substantive change.

The proposed changes to §331.65 would simply make clear that pre-operating reports are required for new wells only. Also, some existing portions of this section would be reordered, but without substantive changes.

The proposed changes to §331.67 would require that all records be promptly made available on location for review upon request from a commission representative. Also, a proposed change to this section would make clear that, in regard to the existing requirement to keep records of all well activities for five years after well closure, such records must be retained at the well location.

The proposed change to §331.68 would require that in submission of a survey plat to the local zoning authority, such zoning authority be approved by the executive director.

The proposed changes to §331.121 would extend the requirement for tabulation of artificial penetration data within the AOR for salt cavern disposal wells to any penetrations into the caprock. Also, requirements are made for consideration of waste characteristics which may have implications for salt cavern waste disposal, such as bulk waste density, permeability, porosity, and compaction rate. Also, additions are made to this section to require that contingency plans to cope with cavern failures to prevent migration of fluids into any USDW are considered. Finally, this section would be amended to say that consideration must be given to delineation of faults and demonstration of no hazardous waste migration along such faults within the AOR rather than within just a radius of 2 1/2 miles. This definition will better fit the case of salt cavern waste disposal wells, which may easily have an AOR greater than 2 1/2 miles in radius. The section also includes a new subsection providing additional criteria for consideration prior to issuing a permit for a salt cavern disposal well including: the geologic suitability of the location, establishment of baseline monitoring conditions for groundwater quality and land subsidence, characterization of the predicted impact of the proposed cavern operations on the salt stock, and demonstrations of adequate separation of the waste disposal cavern from other caverns, from the edge of the salt stock, and from any other co-users of the salt stock or dome.

New proposed Subchapter J (§§331.161-331.171), regarding standards for "Class I Salt Cavern Solid Waste Disposal Wells," is patterned after Subchapter D "Standards for Class I Wells." Standards for Class I salt cavern disposal wells are identical to regular

Class I wells, except where supplemental regulations are needed for salt specific conditions.

New proposed §331.161 states that all sections in the subchapter apply to all Class I salt cavern wells, and references the new proposed §331.14 prohibition on such wells and associated caverns in horizontally-bedded or non-domal salt until new regulations specific for to such operations are promulgated.

New proposed §331.162 provides a performance standard for all phases of a salt cavern disposal well project, requiring the permittee to assure that there will be no escape of hazardous constituents from the injection zone even if such standard may require a permittee to go beyond the terms of any permit for a subject operation.

New proposed §331.163 lists well construction standards, including design, drilling, coring, and testing requirements. Surface facilities will be required to prevent unauthorized releases of cavern contents to the atmosphere, in addition to the standard Class I restrictions.

New proposed §331.164 specifies cavern construction standards, including design, construction, testing, and reporting standards.

New proposed §331.165 requires that salt cavern disposal facilities be operated in accordance with standard Class I requirements, with additional requirements that are salt cavern specific. Also, standards protecting the casing seat and regulating wastestream characteristics to minimize gas production are specified.

New proposed §331.166 includes standard Class I language for well and cavern monitoring and testing, as well as additional salt specific requirements. Continuous monitoring, mechanical integrity, cavern integrity, corrosion monitoring, ambient monitoring, and mandatory responses to alarms are included.

New proposed §331.167 lists reporting requirements for pre-operation reports, as well as operational reports. The required reports include well and cavern completion reports, annual injection zone reports, workover reports, well mechanical integrity reports, cavern integrity reports, and procedures for reporting emergencies.

New proposed §331.168 repeats the same additional requirements and conditions as are present in Subchapter D. Provisions are added to require secondary containment around the wellhead and to limit the wastestream to prevent excessive generation of gases or pressure imbalances.

New proposed §331.169 lists the records required to be kept by the permittee. The requirements are the same as for other Class I wells with the addition of continuous records of cavern gas chemistry and pressures, cavern fill volume and chemistry, and cavern fluid volume. Records of periodic tests required specifically for salt cavern disposal facilities include cavern pressure tests, cavern integrity, and geometry

New proposed §331.170 requires that prior to plugging and abandoning a well and associated cavern, the operator must complete any pre-closure monitoring required by permit or rule. This section also requires the use of

redundant seals to provide immediate as well as long term containment

New proposed §331.171 is modeled after the corresponding post-closure care section in Subchapter D. Additional language requires cavern pressure measurements and predictions of pressure equilibrium of the cavern with the salt stock.

Norma J. Nance, Director of the Budget, Planning, and Evaluation Division, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on state government will be an increase in costs of approximately \$25,000 in fiscal year 1992, \$50,000 in fiscal year 1993, and \$25,000 in each of the fiscal years 1994- 1996. There are no effects on revenues. There are no effects anticipated for local governments. These regulations will represent increased costs of developing applications for certain waste management facilities. These effects, however, will vary on a case-by-case basis and cannot be estimated until an application for a specific site or project is made. While these costs for any one application may be significant, the potential increased cost is not anticipated to represent a major increase to the total cost of developing an application.

Ms Nance 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 improvements in consistency of permit application regulations and agency permitting policies, support of statutory waste management policies, and protection of the water resources of the state. There will be no effect on small businesses. There are no known costs to persons required to comply with these sections as proposed

Comments on the proposal may be submitted to Bob L. Warncke, Jr., Staff Attorney, Legal Division, Texas Water Commission, P O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted until 5 p.m., 30 days after the date of this publication. For more information call (512) 463-8069.

The amendments and new sections are proposed under the Texas Water Code, §5.103, and the Texas Health and Safety Code, §361.024(a), which provides the commission with the authority to adopt any rules necessary to carry out its powers and duties under the provisions of the Texas Water Code and other laws of this state.

#### • 31 TAC §§331.2, 331.3, 331.14

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

Caprock—A geologic formation typically overlying the crest and sides of a salt stock. The caprock consists of a complex assemblage of minerals including carbonate (CaCO<sub>3</sub>), anhydride (CaSO<sub>4</sub>), and accessory minerals. Caprocks often contain lost circulation zones characterized by rock layers of high porosity and permeability.

Confining zone—A part of a formation, a formation, [A formation] or group of formations between the injection zone and the lowermost USDW or freshwater aquifer that acts as a barrier to the [upward] movement of fluids out of the injection zone.

Disturbed salt zone—Zone of salt enveloping a salt cavern, typified by increased values of permeability relative to undisturbed salt which lies more distant from the salt cavern, and is the result of mining activities during salt cavern development.

Injection interval—Is that part of the injection zone in which the well is authorized to be screened, or in which the waste is otherwise authorized to be directly emplaced.

Injection zone—A formation, a group of formations, or part of a formation, in which migration of injected hazardous waste is authorized and in which all migration of hazardous waste must be contained [that receives fluid through a well].

Intermediate casing—A string of casing with diameter intermediate between that of the surface casing and that of the smaller long-string or production casing, and which is set and cemented in a well after installation of the surface casing and prior to installation of the long-string or production casing.

Long string casing or production casing—[The second string of casing that is set in a well, usually set to or through the injection zone] A string of casing that is set inside the surface casing and usually extending to or through the injection zone. The long-string or production casing is usually the second string of casing that is set and cemented in a well, but if intermediate casing has been installed in a well, the long-string or production casing is then the third string of casing to be installed.

New waste stream—A waste stream not previously submitted to the executive director for review. Changes in the physical or chemical characteristics of waste streams already accepted from a generator, which do not fall outside the ranges for these parameters contained in a waste analysis previously submitted to the executive director, do not constitute new waste streams.

Out of service—The operational status when a well is not authorized to inject fluids, or the well itself is incapable of injecting fluids for mechanical reasons, [loss of mechanical integrity, ] maintenance operations, or well workovers[.] or when injection is prohibited due to the well's inability to comply with the operating standards of this section.

Salt cavern—A hollowed-out void space that has been purposefully constructed within a salt stock, typically by means of solution mining by circulation of water

from a well or wells connected to the surface.

**Salt cavern confining zone**—A zone between the salt cavern injection zone and all USDWs and freshwater aquifers, that acts as a barrier to movement of waste out of a salt cavern injection zone, and consists of the entirety of the salt stock excluding: any portion of the salt stock designated as a UIC Class I salt cavern injection zone; or any portion of the salt stock occupied by a UIC Class II or Class III salt cavern or its disturbed salt zone.

**Salt cavern injection interval**—That part of a salt cavern injection zone consisting of the void space of the salt cavern into which waste is stored or disposed of, or which is capable of receiving waste for storage or disposal.

**Salt cavern injection zone**—The void space of a salt cavern that receives waste through a well, plus that portion of the salt stock enveloping the salt cavern, and extending from the boundaries of the cavern void outward: a sufficient thickness to contain the disturbed salt zone; and an additional thickness of undisturbed salt sufficient to assure to reasonable certainty that there will be no migration of hazardous constituents from the salt cavern injection zone for as long as the waste remains hazardous, as required by 40 Code of Federal Regulations (CFR) 148, Subpart C.

**Salt cavern solid waste disposal well or salt cavern disposal well**—For the purposes of this chapter, regulations of the Texas Water Commission, and not to UIC Class II or UIC Class III wells in salt caverns regulated by the Texas Railroad Commission, a type of UIC Class I injection well used:

(A) to solution mine a waste storage or disposal cavern in naturally-occurring salt; and/or

(B) to inject hazardous, industrial, or municipal waste into a salt cavern for the purpose of storage or disposal of the waste.

**Salt dome**—A geologic structure that includes the caprock, salt stock, and deformed strata surrounding the salt stock.

**Salt stock**—A geologic formation consisting of a relatively homogeneous mixture of evaporite minerals dominated by halite (NaCl) that has migrated from originally tabular beds into a vertical orientation.

#### §331.3. Injection Prohibited.

(a) (No change.)

(b) The following activities are not within the scope of subsection (a) of this section:

(1) injection of waste into subsurface strata via a single family residential cesspool or other device that receives waste, which has an open bottom or perforated sides;

(2) injection of waste into subsurface strata via a septic system well used for single family residential waste disposal; [.]

(3) injection of wastes prohibited in 40 CFR Part 148.

(c) (No change.)

*§331.14. Prohibition of Class I Salt Cavern Solid Waste Disposal Wells and Associated Caverns in Horizontally-Bedded or Non-Domal Salt.* Construction and operation of Class I salt cavern solid waste disposal wells and associated caverns in horizontally-bedded or non-domal salt is prohibited until such time at which this section is amended to provide for authorization of such facilities and activities, and specific rules for such facilities and activities are promulgated.

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 18, 1992.

TRD-9203950

Mary Ruth Holder  
Director, Legal Division  
Texas Water Commission

Earliest possible date of adoption: April 24, 1992

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

### ◆ ◆ ◆ Subchapter C. General Standards and Methods

#### • 31 TAC §§331.42, 331.43, 331.41-331.47

The amendments are proposed under the Texas Water Code, §5.103, and §27.019, which provides the Texas Water Commission with the authority to adopt rules reasonably required for the performance of its powers and duties under the Texas Water Code and other laws of the state.

#### §331.42. Area of Review.

(a) The area of review is the area surrounding an injection well or a group of injection wells, for which the permit application must detail according to §331.121 of this title (relating to Class I Wells), the local geologic and hydrologic conditions, all co-use of the surface and subsurface, evaluation of artificial penetrations of the subsurface for possible corrective action, and possible pressure effects and waste fate calculations. [pressure data are calculated and artificial penetrations are evaluated for possible corrective action.]

(b) The area of review is:

(1) (No change.)

(2) for salt cavern Class I wells, the greater of the two following areas:

(A) an area determined by a radius of 2 1/2 miles from the proposed or existing salt cavern;

(B) the greatest horizontal-plane cross sectional area of the salt stock between land surface and a depth of 1,000 feet below the projected floor of the proposed or existing salt cavern. [for Class III in situ uranium, Frasch sulfur, and other Class III permit areas, an area extending 1/4 mile beyond the permit area boundary, and such additional surrounding area as may be required by the commission;]

(3) for Class III in situ uranium, Frasch sulfur, and other Class III permit areas, an area extending 1/4 mile beyond the permit area boundary, and such additional surrounding area as may be required by the commission; [for other Class III wells and Class V wells, an area determined by a radius of at least 1/4 mile from the proposed or existing wellbore.]

(4) for other Class III wells and Class V wells, an area determined by a radius of at least 1/4 mile from the proposed or existing wellbore.

(c)-(d) (No change.)

#### §331.43. Mechanical Integrity Standards.

(a) An injection well has mechanical integrity if there is no [significant] leak in the casing, tubing, [or] packer, or wellhead that results in fluid movement outside the injection zone, or results in waste fluids entering the annular space, except as provided by §331.62(d) of this title (relating to Construction Standards), and if there is no measurable [significant] fluid movement through vertical channels adjacent to the injection wellbore.

(b) Except as provided by subsection (d) [(c)] of this section, the following tests shall be used to evaluate the mechanical integrity of an injection well:

(1) monitoring of annulus pressure, or pressure test with liquid or gas, or radioactive tracer survey, or (for Class III uranium solution mining wells only) single point resistivity survey in conjunction with a pressure test to detect any leaks in casing, tubing, [or] packer, or wellhead; and

(2) temperature log, or noise log, or radioactive tracer survey, or cement bond log, or oxygen activation log, or (for Class III uranium solution mining wells

only) cement records where other tests are not suitable.

(c) A salt cavern has integrity if it:

(1) has no overhangs, anomalies, or irregularities; which would prevent optimum cavern filling or cause the cavern to no longer hold pressure;

(2) has no pressure interference or fluid flow between other caverns or formations. Except as authorized by subsection (d) of this section, the tests shall consist of cavern pressure and sonar tests. [The executive director may approve in writing the use of tests to evaluate mechanical integrity other than those listed in subsection (b) of this section.]

(d) The executive director may approve in writing the use of tests to evaluate mechanical integrity other than those listed in subsection (b) of this section. [Methods and standards generally accepted in the industry shall be applied in conducting and evaluating the tests required by this section.]

(e) Methods and standards generally accepted in the industry shall be applied in conducting and evaluating the tests required by this section.

**§331.45. Certification of Construction and Completion.** The executive director will certify construction and completion for an injection well or project which is constructed and completed in compliance with the requirements of the permit. In making a determination whether to make such certification, the following shall be considered:

(1) for Class I wells, other than salt cavern disposal wells:

(A) (No change.)

(B) logging, coring, and well testing [program] data on the well, including comparisons with predicted data in the permit application;

(C)-(I) (No change.)

(J) actual as-built specifications of the well's surface support and monitoring equipment; and

(K) conformity of the constructed well system with the plans and specifications of the permit application;

(2) for salt cavern Class I wells:

(A) actual as-built drilling and completion data on the well;

(B) logging, coring, and testing program data on the well and salt pilot hole;

(C) a demonstration of mechanical integrity of the well;

(D) the anticipated maximum wellhead and casing seat pressures and flow rates at which the well will operate during cavern development, cavern dewatering, and cavern waste filling;

(E) results of the injection zone and confining zone testing program as required in §331.62 of this title (relating to Class I wells);

(F) the injection and production procedures for cavern development, cavern dewatering, and cavern waste filling;

(G) the compatibility of injected materials with fluids and minerals in the injection zone and the confining zone, and with the materials of well construction;

(H) land subsidence monitoring data and groundwater quality monitoring data, including determinations of baseline conditions for such monitoring throughout the area of review;

(I) the status of corrective action required for defective wells in the area of review;

(J) actual as-built specifications of the well's surface support and monitoring equipment; and

(K) conformity of the constructed well system with the plans and specifications of the permit application.

(3) for Class III wells:

(A) logging and testing data on the well;

(B) a satisfactory demonstration of mechanical integrity for all new wells, excluding monitor wells;

(C) anticipated operating data;

(D) the results of the formation testing program;

(E) the injection procedures; and

(F) the status of corrective action required for defective wells in the area of review. [for Class III wells:

[(A) logging and testing data on the well;

[(B) a satisfactory demonstration of mechanical integrity for all new wells, excluding monitor wells;

[(C) anticipated operating data;

[(D) the results of the formation testing program;

[(E) the injection procedures; and

[(F) the status of corrective action required for defective wells in the area of review.]

**§331.46. Plugging and Abandonment Standards.**

(a) For Class I wells, other than salt cavern wells, prior to closing the well, the owner or operator shall observe and record the pressure decay for a time specified by the executive director. The executive director shall analyze the pressure decay and the transient pressure observations conducted pursuant to §331.64 [§331.121] of this title (relating to Class I Wells) and determine whether the injection activity has conformed with predicted values.

(b) For Class I wells, prior to well closure appropriate mechanical integrity testing shall be conducted to ensure the integrity of that portion of the long string casing and cement that will be left in the ground after closure. Testing methods may include:

(1) (No change.)

(2) radioactive tracer surveys for wells other than salt cavern wells;

(3) noise logs, temperature logs, pipe evaluation logs, [or] cement bond logs, or oxygen activation logs; and

(4) (No change.)

(c) For Class I wells, other than salt cavern wells, prior to well closure the well shall be flushed with a nonhazardous buffer fluid.

(d) Prior to abandoning Class I and III wells the well shall be plugged [with cement] in a manner which will not allow the movement of fluids through the well, out of the injection zone either into or between underground sources of drinking water (USDWs) or freshwater aquifers. Well plugs shall consist of cement or other materials approved in writing by the executive director, which provide protection equivalent to or greater than that provided by cement.

(e) (No change.)

(f) Placement of the [cement] plugs in the wellbore shall be accomplished by an approved method that may include one of the following:

(1) the balance plug method [the type and number of plugs to be used];

(2)-(4) (No change.)

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

(i) The plugging and abandonment plan shall, in the case of a Class III production zone which underlies or is in an exempted aquifer, also demonstrate that no movement of contaminants that will cause pollution from the production zone into a USDW or freshwater aquifer will occur. The commission shall prescribe aquifer cleanup and monitoring where deemed necessary and feasible to insure that no migration of contaminants that will cause pollution from the production zone into a USDW or freshwater aquifer will occur.

(j) -(k) (No change.)

(l) Each owner of a Class I hazardous waste injection well, and the owner of the surface or subsurface property on or in which a Class I hazardous waste injection well is located, must record, within 60 days after approval by the executive director of the plugging and abandonment operations, a notation on the deed to the facility property or on some other instrument which is normally examined during title search that will, in perpetuity, provide any potential purchaser of the property the following information:

(1) (No change.)

(2) the name of the state agency or local authority with which the plat was filed, as well as the Austin address of the underground injection control (UIC) staff [Unit] of TWC to which it was submitted;

(3) the type and volume of waste injected, the injection interval or intervals, and for salt cavern wells, the cavern radius into which it was injected, and the period over which injection occurred.

(m) Within 30 days after completion of plugging, the permittee shall file with the executive director a plugging report on forms provided by the commission.

The report shall be certified as accurate by the owner or operator and by the person who performed the closure operation (if other than the owner or operator). Such report shall consist of a statement that the well was closed in accordance with the closure plan previously submitted and approved by the executive director.

(n) For salt cavern wells, prior to sealing the cavern and plugging the well, the owner or operator shall complete any pre-closure monitoring of the cavern and its contents required by rule or permit.

**§331.47. Pond Lining.** All holding ponds, emergency overflow ponds, emergency storage ponds, or other impoundments associated with, [or part of the surface facilities associated with,] underground injection wells or their associated surface facilities shall be lined with [clay or an artificial liner as approved by the executive director and as required by permit, and] a minimum of four feet of compacted clay and an artificial geomembrane. All ponds shall be continuously monitored for leaks and be designed to control run-off and run-on. Groundwater monitoring of shallow groundwater may be required by the executive director or by permit. All ponds, shall in addition, conform to any applicable requirements of Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste).

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

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Mary Ruth Holder  
Director, Legal Division  
Texas Water Commission

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

◆ ◆ ◆  
**Subchapter D. Standards for  
Class I Wells Other than  
Salt Cavern Solid Waste  
Disposal Wells**

• 31 TAC §§331.61-335.65, 331.67,  
331.68

The amendments are proposed under the Texas Water Code, §5.103, and §27.019, which provides the Texas Water Commission with the authority to adopt rules reasonably required for the performance of its powers and duties under the Texas Water Code and other laws of the state.

**§331.61. Applicability.** The sections of this subchapter apply to all new Class I injection wells, other than salt cavern

wells, and to all existing Class I wells authorized by rule to the extent required by §331.9 of this title (relating to Injection Authorized by Rule).

**§331.62. Construction Standards.**

(a) (No change.)

(b) Casing and cementing for new wells only. All Class I wells shall be cased and all casings which extend to the surface shall be cemented to the surface to prevent the movement of fluids into or between underground sources of drinking water (USDWs) or freshwater aquifers, and to prevent potential leaks of fluids from the well. Cementing shall be by the pump and plug or other method approved by the commission, and cement circulated shall be of a volume equivalent to at least 120% of the calculated volume needed to fill the annular space between the hole and casing and between casing strings to the surface of the ground. Circulation of cement may be accomplished by staging. The executive director may approve an alternative method of cementing in cases where the cement cannot be recirculated to the surface, provided the owner or operator can demonstrate by using logs that the cement is continuous or does not allow any fluid movement behind the well casings. The casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well, including the post closure care. Surface casing shall be set to a minimum subsurface depth, as determined by the executive director, which extends into the confining bed below the lowest formation containing a USDW or freshwater aquifer. At least one long string casing, using a sufficient number of centralizers, shall extend to the injection zone. In determining and specifying casing and cementing requirements, the following factors shall be considered:

(1)-(10) (No change.)

(11) cement and cement additives which, at a minimum must be of sufficient quality and quantity to maintain integrity over the design life of the well.

(c)-(d) (No change.)

(e) Logs and tests.

(1) Integrity testing. Appropriate logs and other tests shall be conducted during the drilling and construction of Class I wells. All logs and tests shall be interpreted by the service company which processed the logs or conducted the test; or by other qualified persons. A minimum of the following logs and tests shall be conducted:

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

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

(4) **Injectivity tests.** After completion of the well, injectivity tests shall be performed to determine the well capacity and reservoir characteristics. Surveys shall be performed to establish preferred injection zones. Prior to performing injectivity tests, the bottom hole pressure, bottom hole temperature, and static fluid level shall be determined, and a representative sample of formation fluid shall be obtained for chemical analysis. Information concerning the fracture pressure and other physical and chemical characteristics of the injection and confining zones shall be determined or calculated.

(5) **Construction supervision.** All phases of well construction and all phases of any well workover shall be supervised by a person who is knowledgeable and experienced in practical drilling engineering and who is familiar with the special conditions and requirements of injection well construction.

(6) The executive director shall have the opportunity to witness all logging and testing by this subchapter. The owner or operator shall submit a schedule of such activities to the executive director at least 30 days prior to conducting the first test.]

(f) (No change.)

(g) Surface facilities.

(1)-(2) (No change.)

(3) To protect the ground surface from spills and releases, the wellhead will have secondary containment in the form of a diked, impermeable pad or sump.

(h) **Construction supervision.** All phases of well construction and all phases of any well workover shall be supervised by a person who is knowledgeable and experienced in practical drilling engineering and who is familiar with the special conditions and requirements of injection well construction.

#### §331.63. *Operating Requirements.*

(a) **General operating requirements.** [Injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone, initiate new fractures or propagate existing fractures in the confining zone, or cause movement of fluid out of the injection zone that may pollute USDWs, and fresh or surface water.]

(1) Injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new

fractures or propagate existing fractures in the injection zone, initiate new fractures or propagate existing fractures in the confining zone, or cause movement of fluid out of the injection zone that may pollute underground sources of drinking water (USDWs), and fresh or surface water.

(2) Injection between the outermost casing protecting USDWs, and fresh or surface water and the wellbore is prohibited.

[(b) Injection between the outermost casing protecting USDWs, and fresh or surface water and the wellbore is prohibited.]

(3) The annulus between the tubing and long string casing shall be filled with a fluid approved by the commission. The annulus pressure shall be at least 100 psi greater than the injection tubing pressure, to detect well malfunctions, unless the executive director determines that such a requirement might harm the integrity of the well.

[(c) The tubing-long string casing annulus shall be filled with a fluid approved by the commission. A positive pressure greater than the injection tubing pressure shall be maintained on the annulus to detect well malfunctions, unless the executive director determines that such a requirement might harm the integrity of the well.]

(4) Monthly average and maximum instantaneous rates of injection, and annual and monthly volumes of injected fluids shall not exceed limits specified by the commission.

[(d) Monthly average and maximum instantaneous rates of injection, and annual and monthly volumes of injected fluids shall not exceed limits specified by the commission.

[(e) All gauges, pressure sensing, and recording devices shall be tested and calibrated quarterly.

[(f) Any chemical or physical characteristic of the injected fluids shall be maintained within specified permit limits for the protection of the injection well, associated facilities, and injection zone and to ensure proper operation of the facility.]

(5) Any chemical or physical characteristic of the injected fluids shall be maintained within specified permit limits for the protection of the injection well, associated facilities, and injection zone and to ensure proper operation of the facility.

(6) If an automatic alarm or shutdown is triggered, the owner or operator shall immediately investigate and identify as expeditiously as possible the cause of the alarm or shutoff. If, upon

such investigation, the well appears to be lacking mechanical integrity, or if monitoring required under §331.64(c) of this title (relating to Monitoring and Testing Requirements) otherwise indicates that the well may be lacking mechanical integrity, the owner or operator shall:

(A) immediately cease injection of waste fluids unless authorized by the executive director to continue or resume injection:

(B) take all necessary steps to determine the presence or absence of a leak; and

(C) notify the executive director within 24 hours after the alarm or shutdown.

(7) If the loss of mechanical integrity is discovered pursuant to paragraph (1) of this section or during periodic mechanical integrity testing, the owner or operator shall:

(A) immediately cease injection of waste fluids:

(B) take all steps reasonably necessary to determine whether there may have been a release of hazardous wastes or hazardous waste constituents into any unauthorized zone:

(C) notify the executive director within 24 hours after loss of mechanical integrity is discovered:

(D) notify the executive director when injection can be expected to resume; and

(E) restore and demonstrate mechanical integrity to the satisfaction of the executive director prior to resuming injection of waste fluids.

(8) Whenever the owner or operator obtains evidence that there may have been a release of injected wastes into an unauthorized zone:

(A) the owner or operator shall immediately cease injection of waste fluids, and:

(i) notify the executive director within 24 hours of obtaining such evidence;

(ii) take all necessary steps to identify and characterize the extent of any release;

(iii) propose a remediation plan for executive director review and approval;

(iv) comply with any remediation plan specified by the executive director;

(v) implement any remediation plan approved by the executive director; and

(vi) where such release is into a USDW or freshwater aquifer currently serving as a water supply, place a notice in a newspaper of general circulation;

(B) the executive director may allow the operator to resume injection prior to completing cleanup action if the owner or operator demonstrates that the injection operation will not endanger USDWs or freshwater aquifers.

(b) Workovers.

(1) The permittee shall notify the executive director before commencing any workover operation or corrective maintenance which involves taking the injection well out of service. The notification shall be in writing and shall include plans for the proposed work. The executive director may grant an exception of the prior written notification when immediate action is required. Approval by the executive director shall be obtained before the permittee may begin any workover operation or corrective maintenance that involves taking the well out of service. Pressure control equipment shall be installed and maintained during workovers which involve the removal of tubing.

[(g) The permittee shall notify the executive director before commencing any workover operation or corrective maintenance which involves taking the injection well out of service. The notification shall be in writing and shall include plans for the proposed work. The executive director may grant an exception of the prior written notification when immediate action is required. Approval by the executive director shall be obtained before the permittee may begin any workover operation or corrective maintenance that involves taking the well out of service. Pressure control equipment shall be installed and maintained during workovers which involve the removal of tubing.]

(2) A casing inspection log and a casing pressure test shall be run during any workover which involved removal of the injection tubing from the well.

(3) Mechanical integrity shall be demonstrated following any major operations which involve removal of the injection tubing, recompletions, or unseating of the packer.

(4) For workovers or testing operations on hazardous waste disposal wells, all hazardous fluids shall be flushed from the wellbore with a non-hazardous fluid before conducting any portion of the operations which would result in the exposure of the hazardous wastes to the environment or the public.

[(h) Mechanical integrity shall be demonstrated following any major operations which involve removal of the injection tubing, recompletions, or unseating of the packer.

[(i) For workovers or testing operations on hazardous waste disposal wells, all hazardous fluids shall be flushed from the wellbore with a non-hazardous fluid before conducting any portion of the operations which would result in the exposure of the hazardous wastes to the environment or the public.]

(c) Temporary cessation of operations.

(1) An owner or operator of a Class I well who ceases injection operations temporarily, may keep the well open provided he:

(A) has received written authorization from the executive director; and

(B) has described actions or procedures, satisfactory to the executive director, that the owner or operator will take to ensure that the well will not endanger USDWs, and fresh or surface water during the period of temporary disuse. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells, including mechanical integrity, unless waived by the executive director.

[(j) An owner or operator of a Class I well who ceases injection operations temporarily, may keep the well open provided he:

[(1) has received authorization from the executive director; and

[(2) has described actions or procedures, satisfactory to the executive director, that the owner or operator will take to ensure that the well will not endanger USDWs, and fresh or surface water during the period of temporary disuse. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells, including mechanical integrity, unless waived by the executive director.

[(k) The owner or operator of a well that has ceased operations for more

than two years shall notify the executive director 30 days prior to resuming operation of the well.]

(2) The owner or operator of a well that has ceased operations for more than two years shall notify the executive director, in writing, 30 days prior to resuming operation of the well.

§331.64. Monitoring and Testing Requirements.

(a) Injection fluids shall be sampled and analyzed in accordance with the approved written waste analysis plan required by 40 Code of Federal Regulations 146.68(a) [with a frequency sufficient to yield representative data of their characteristics].

(b) Pressure gauges shall be installed and maintained in proper operating conditions at all times on the injection tubing and on the annulus between the tubing and long string casing, [tubing-long string casing annulus] and/or annulus between the tubing and liner, [tubing-liner annulus] at the wellhead.

(c) (No change.)

(d) The owner or operator shall maintain mechanical integrity of the injection well at all times that the well is in service. Mechanical integrity must be demonstrated within 12-month intervals, or within extended intervals not to exceed 15 months upon approval of the executive director, during the operating life of the well. A temperature log, noise log, or other approved log shall be required by the executive director at least once every five years to test for fluid movement along the borehole, and a casing inspection, casing evaluation, or other approved log may be required by the executive director to determine the condition of the casing.

(e)-(g) (No change.)

(h) The owner or operator shall satisfy any other monitoring and testing requirements which the executive director determines to be necessary [including, but not limited to, monitoring for seismic activity].

(i) All gauges, pressure sensing and recording devices shall be tested and calibrated quarterly.

(j) The executive director shall have the opportunity to witness all logging and testing. The owner or operator shall submit a schedule, in writing, of such activities to the executive director at least seven days prior to conducting the tests.

(k) The owner or operator shall submit information demonstrating to the satisfaction of the executive director that

the waste stream and its anticipated reaction products will not alter the permeability, thickness, or other relevant characteristics of the confining or injection zones such that they would no longer meet the requirements specified in §331.121 of this title (relating to Class I Wells).

**§331.65. Reporting Requirements.**

(a) Pre-operation reports[.] for new wells only.

(1) Completion report. Within 90 days after the completion of the well, the permittee shall submit a completion report to the executive director addressing the considerations and standards in §331.45(1) of this title (relating to Certification of Construction and Completion) and §331.62 of this title (relating to Construction Standards), and including a surveyor's plat showing the exact location and giving the latitude and longitude of the well. The report will also include a certification that a notation on the deed to the facility property or on some other instrument which is normally examined during title search has been made stating the surveyed location of the well, the well permit number, and its permitted waste streams. The permittee shall integrate the data obtained into adjusted formation pressure increase calculations, fluid front calculations, and updated cross-sections of the injection zone and include these items in the completion report. The permittee shall also include a well data form provided by the executive director.

(2) Local authorities. The permittee shall provide written notice to the executive director in a manner specified by the executive director that a copy of the permit has been properly filed with the health and pollution control authorities of the county, city, and town where the well is located. [Well data report. Within 90 days after the completion of the well, the permittee shall submit to the executive director a well data report on forms provided by the executive director.]

(3) Start-up date and time. The permittee shall notify the executive director in writing of the anticipated well start-up date. Compliance with all pre-operation terms of the permit must occur prior to beginning injection operations. The permittee shall notify the executive director at least 24 hours prior to beginning drilling operations. [Local authorities. The permittee shall provide written notice to the executive director in a manner specified by the executive director that a copy of the permit has been properly filed with the health and pollution control authorities of the county, city, and town where the well is located.]

(4) Certification of construction and completion. Prior to beginning operations, the permittee shall obtain

written certification from the executive director which states that the construction and completion of the well is in compliance with the applicable provisions of the disposal well permit. To obtain certification, the permittee shall submit to the executive director the following reports prepared and sealed by a professional engineer with current registration pursuant to the Texas Engineering Practice Act:

(A) final construction, "as-built" plans and specifications, reservoir data, and an evaluation of the considerations set out in §331.45(1) of this title (relating to Certification of Construction and Completion);

(B) construction of the well and associated facilities has been completed in accordance with the provisions of the disposal well permit and with the design and construction specifications of the permittee's application;

(C) actual reservoir data obtained will not result in the need for a change in the operating parameters specified in the permit. [Start-up date and time. The permittee shall notify the executive director in writing of the anticipated well start-up date. Compliance with all pre-operation terms of the permit must occur prior to beginning injection operations. The permittee shall notify the executive director at least 24 hours prior to beginning drilling operations.]

[(5) Certification of construction and completion. Prior to beginning operations, the permittee shall obtain written certification from the executive director which states that the construction and completion of the well is in compliance with the applicable provisions of the disposal well permit. To obtain certification, the permittee shall submit to the executive director the following reports prepared and sealed by a professional engineer with current registration pursuant to the Texas Engineering Practice Act.

[(A) Final construction, "as-built" plans and specifications, reservoir data, and an evaluation of the considerations set out in §331.45(1) of this title (relating to Certification of Construction and Completion).

[(B) Construction of the well and associated facilities has been completed in accordance with the provisions of the disposal well permit and with the design and construction specifications of the permittee's application.

[(C) Actual reservoir data obtained will not result in a change in the operating parameters specified in the permit.]

(b) Operating reports.

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

[(4) Mechanical integrity and other reports. The permittee shall submit within 30 days after test completion, a report including both data and interpretation on the results of:

[(A) periodic tests of mechanical integrity; and

[(B) any other test of the injection well or injection zone if required by the executive director.]

(4) Completed workover report. Within 30 days after the completion of the workover, a report shall be filed with the executive director including the reason for well workover and the details of all work performed.

(5) Bottom hole pressure report. During major workovers, the bottom hole pressure shall be determined either by direct measurement by conventional techniques or by calculation using specific gravity of fluid in the wellbore and the static fluid level.

(6) Mechanical integrity and other reports. The permittee shall submit within 30 days after test completion, a report including both data and interpretation on the results of:

(A) periodic tests of mechanical integrity; and

(B) any other test of the injection well or injection zone if required by the executive director. [Emergency report of leak or other failure. The permittee shall notify the Underground Injection Control (UIC) Unit of the Austin office of the commission within 24 hours of any significant change in monitoring parameters or of any other observations which could reasonably be attributed to a leak or other failure of the well equipment or injection zone integrity.]

(7) Emergency report of leak or other failure. The permittee shall notify the Underground Injection Control (UIC) staff of the Austin office and the local district office of the commission within 24 hours of any significant change in monitoring parameters or of any other observations which could reasonably be attributed to a leak or other failure of the well equipment or injection zone integrity.



(c) Workover reports.

(1) Completed workover report. Within 30 days after the completion of the workover, a report shall be filed with the executive director including the reason for well workover and the details of all work performed.

(2) Bottom hole pressure report. During major workovers, the bottom hole pressure shall be determined either by direct measurement by conventional techniques or by calculation using specific gravity of fluid in the wellbore and the static fluid level.]

§331.67. Record-Keeping Requirements.

(a) The permittee shall keep complete and accurate records of:

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

(b) All records shall be promptly made available on location for review upon request from a representative of the commission.

(c) The permittee shall retain, on location, for a period of five years following abandonment, records of all information resulting from any monitoring activities, including the chemical and physical characteristics of injected fluids, or other records required by the permit. The executive director may require a permittee to submit copies of the records at any time prior to conclusion of the retention period.

§331.68. Post-Closure Care.

(a) The owner or operator of a Class I hazardous well shall prepare, maintain, and comply with a plan for post-closure care that meets the requirements of subsection (b) of this section, and is acceptable to the executive director.

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

(b) The owner or operator shall:

(1)-(2) (No change.)

(3) submit a survey plat to the local zoning authority approved [designated] by the executive director. The plat shall indicate the location of the well relative to permanently surveyed benchmarks. A copy of the plat shall be submitted to the Underground Injection Control (UIC) Unit of the Austin office of TWC.

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

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

Issued in Austin, Texas on March 18, 1992.

TRD-9203952

Mary Ruth Holder  
Director, Legal Division  
Texas Water Commission

Earliest possible date of adoption: April 24, 1992

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



## Subchapter G. Consideration Prior to Permit Issuance

### • 31 TAC §331.121

The amendment is proposed under the authority of the Texas Water Code, §5.103 and §27.019, which provide the Texas Water Commission with the authority to adopt rules reasonably required for the performance of its powers and duties under the Texas Water Code and other laws of the state.

#### §331.121. Class I Wells.

(a) The commission shall consider the following before issuing a Class I injection well permit:

(1)-(2) (No change.)

(A) (No change.)

(B) a tabulation of all wells within the area of review which penetrate the injection zone or confining zone, and for salt cavern wells also the caprock. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the executive director may require;

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

(E) maps [and], cross-sections and description of the [detailing the] geologic structure of the local area;

(F) maps, [and] cross-sections, and description of [illustrating] the regional geologic setting;

(G) proposed operating data:

(i) average and maximum injection rate and volume of the fluid to be injected over the anticipated life of the injection well;

(ii) average and maximum injection pressure;

(iii) source of the injection fluids; [and,]

(iv) an analysis of the chemical and physical characteristics of injection fluids [and any additional analyses which the executive director may reasonably require];

(v) for salt cavern waste disposal, the bulk waste density, permeability, porosity, and compaction rate, as well as the individual physical characteristics of the wastes and transporting media; and

(vi) any additional analyses which the executive director may reasonably require;

(H) (No change.)

(I) proposed stimulation program, if needed;

(J)-(K) (No change.)

(L) contingency plans to cope with all shut-ins, cavern failures, or well failures so as to prevent migration of fluids into any USDW or freshwater aquifer;

(M)-(O) (No change.)

(P) delineation of all faults within the area of review, 2 1/2 miles from the proposed or existing wellbore or the area within the cone of influence, whichever is greater,] together with a demonstration, unless previously demonstrated to the commission or to the United States Environmental Protection Agency, that the fault is not sufficiently transmissive or vertically extensive to allow migration of hazardous constituents out of the injection zone.

(3)-(5) (No change.)

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

(d) The commission shall also consider the following additional criteria before issuing a salt cavern Class I injection well permit:

(1) geologic suitability of the location:

(A) a complete geologic characterization of the salt dome, including the geometry of the salt stock and its movement and salt loss rate. Well logs, seismic surveys, gravity surveys and any other appropriate geophysical methods necessary to characterize the salt dome are to be utilized:

(B) any unusual features such as depressions or lineations within or surrounding the salt, that might affect

the cavern opening operation and maintenance, or closure of the cavern; and

(C) the petrology of the caprock, salt stock, and deformed strata:

(2) establishment of a pre-development baseline for subsidence and groundwater monitoring, over the area of review;

(3) characterization of the predicted impact of the proposed operations on the salt stock, specifically the extent of the disturbed zone;

(4) demonstration of adequate separation between the outer limits of the injection zone and any other activities in the domal area. The thickness of the disturbed zone, as well as any additional safety factors will be taken into consideration;

(5) the commission will consider the presence of salt cavern storage activities, sulfur mining, salt mining, brine production, oil and gas activity, and any other commercial activity which may adversely affect or be affected by waste disposal in a salt cavern.

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

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Mary Ruth Holder  
Director, Legal Division  
Texas Water Commission

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



## Subchapter J. Standards for Class I Salt Cavern Solid Waste Disposal Wells

### • 31 TAC §§331.161-331.171

The new sections are proposed under the the Texas Water Code, §5.103 and §27.019, which provides the Texas Water Commission with the authority to adopt rules reasonably required for the performance of its powers and duties under the Texas Water Code and other laws of the state.

**§331.161. Applicability.** The sections of this subchapter apply to all Class I salt cavern solid waste disposal wells and their associated salt caverns located in the salt stocks of salt domes, and not to such facilities in horizontally-bedded or non-domal salt. As provided by §331.14 of this title

(relating to Prohibition of Class I Salt Cavern Solid Waste Disposal Wells and Associated Caverns in Horizontally-Bedded or Non-Domal Salt), salt cavern solid waste disposal wells and associated caverns in horizontally-bedded or non-domal salt are prohibited until such time at which §331.14 and this subchapter are amended to allow the subject facilities, and any necessary specific rules for such facilities in horizontally-bedded or non-domal salt are added by amendment to this subchapter or promulgated as a new subchapter.

**§331.162. Performance Standard.** The operator and permittee shall assure for construction, operation, maintenance, monitoring, closure, and post-closure of a Class I salt cavern solid waste disposal well and associated cavern, the continuous attainment of a performance standard of no escape of hazardous constituents from the injection zone. The provisions of this chapter, as well as any permit or order issued by the commission, shall be construed as minimum operating requirements. To qualify for a permit or to otherwise operate a Class I salt cavern solid waste disposal well and associated cavern, permit applicants and facility operators must demonstrate that this performance standard will be satisfied even if it is necessary to go beyond the minimum operating requirements described in this chapter.

### §331.163. Well Construction Standards.

(a) Plans and specifications. Except as specifically required in the terms of the disposal well permit, drilling and completion of the well shall be done in accordance with all permit application plans and specifications. Any proposed changes to the plans and specifications must be certified in writing by the executive director that said changes provide protection standards equivalent to or greater than the original design criteria.

(b) Casing and cementing.

(1) All Class I salt cavern disposal wells shall be cased and all casings which extend to the surface shall be cemented to the surface to prevent the movement of fluids into or between underground sources of drinking water (USDWs) or freshwater aquifers, and to prevent potential leaks of fluids from the well. Cementing shall be by the pump and plug or other method approved by the commission, and cement circulated shall be of a volume equivalent to at least 120% of the calculated volume needed to fill the annular space between the hole and casing and between casing strings to the surface of the ground. Circulation of cement may be accomplished by staging. The executive director may approve an alternative method of

cementing in cases where the cement cannot be recirculated to the surface, provided the owner or operator can demonstrate by using logs that the cement is continuous or does not allow any fluid movement behind the well casings. Casing and cement used in the construction of each newly drilled well shall be designed for the life expectancy of the well, including the post closure care.

(A) Surface casing shall be set to a minimum subsurface depth, as determined by the executive director, which extends into a confining bed below the lowest formation containing a USDW or freshwater aquifer.

(B) At least one string of intermediate casing, using a sufficient number of centralizers, shall extend at least 100 feet into the salt stock.

(C) At least one long string casing, using a sufficient number of centralizers, shall extend into the salt stock, to the following depths, whichever is greater:

(i) 500 feet into the salt stock; or

(ii) 500 feet below any rock type of recognizable thickness as determined by logging, which is different from salt, and that is hydraulically connected to formations outside the salt stock. For the purposes of this rule, all rock types of recognizable thickness on logs which are different from salt shall be assumed to be in hydraulic connection unless demonstrated otherwise.

(2) In determining and specifying casing and cementing requirements, the following factors shall be considered:

(A) depth of lowermost USDW or freshwater aquifer;

(B) depth to the injection zone;

(C) injection pressure, external pressure, internal pressure, and axial loading;

(D) hole size;

(E) size and grade of all casing strings (wall thickness, diameter, nomi-

nal weight, length, joint specification, and construction material);

(F) the maximum burst and collapse pressures, and tensile stresses which may be experienced at any point along the length of the casings at any time during the construction, operation, and closure of the well;

(G) corrosive effects of injected materials, formation fluids, and temperatures;

(H) lithology of injection and confining zones;

(I) types and grades of cement; and

(J) quantity and chemical composition of the injected fluid;

(K) cement and cement additives which must, at a minimum, be of sufficient quality and quantity to maintain integrity over the design life of the well.

(c) Injection tubing. Except for circulation of drilling fluids during well construction, all injection activities for salt cavern construction and waste disposal in a salt cavern shall be performed through removable injection tubing installed inside of the cemented long string casing and extending from the wellhead at ground surface to the salt borehole or salt cavern below the long string casing seat.

(1) All injection activities during cavern construction shall be performed with the annulus between the tubing and long string casing filled with a corrosion inhibiting fluid sufficient to protect the bond between salt, cement, and the long string casing seat.

(2) All injection of waste into a salt cavern shall be performed through removable injection tubing with a packer to seal the annulus between the tubing and long string casing near the bottom of the long string casing.

(d) Well annulus system factors for consideration. All elements of the design of the well's annulus system, including tubing and packer, shall be approved by permit or by the executive director's certification that any proposed modifications to the plans and specifications in the permit application will provide protection equivalent to or greater than the original plans and specifications. In determining and specifying requirements for a tubing and packer system, the following factors shall be considered:

(1) depth of setting;

(2) characteristics of injection fluid;

(3) injection pressure;

(4) annular pressure;

(5) rate, temperature, and volume of injected fluid;

(6) size of casing; and

(7) tensile, burst, and collapse strengths of the tubing.

(e) Logs and tests.

(1) Geophysical logging. Appropriate logs and other tests shall be conducted during the drilling and construction phases of the well including drilling into the salt. All logs and tests shall be interpreted by the service company which processed the logs or conducted the test; or by other qualified persons. A minimum of the following logs and tests shall be conducted:

(A) deviation checks on all holes, conducted at sufficiently frequent intervals to assure that avenues for fluid migration in the form of diverging holes are not created during drilling;

(B) a spontaneous potential and resistivity log for all formations overlying the caprock;

(C) from the ground surface or from the base of conductor casing to the total investigated depth including all core hole or pilot hole:

(i) natural gamma ray log;

(ii) compensated density and neutron porosity logs;

(iii) acoustic or sonic log;

(iv) inclination (directional) survey; and

(v) caliper log (open hole);

(D) from the ground surface or from the base of conductor casing to the lowermost casing seat:

(i) cement bond with variable density log;

(ii) temperature log (cased hole); and

(iii) casing inspection log;

(E) fracture detector log from the base of the surface casing to the total investigated depth including all core hole or pilot hole.

(2) Pressure tests.

(A) After installation and cementing of casings, and prior to drilling out the cemented casing shoe, surface casing shall be pressure tested to 1,000 psi for 30 minutes, and the intermediate and long string casing shall be tested to 1,500 psi for 30 minutes, unless otherwise specified by the executive director.

(B) After drilling out the cemented long string casing shoe, and prior to drilling more than 100 feet of core hole or pilot hole below the long string casing shoe, the bond between the salt, cement, and casing shall be tested at a pressure of 0.8 psi per foot of depth.

(C) The pilot hole and/or core hole shall be tested between the long string casing shoe and the total investigated depth, at a casing seat pressure of 0.8 psi per foot of depth.

(3) Coring.

(A) Full-hole cores shall be taken beginning at the top of the caprock, or if caprock is not encountered, from the top of the salt stock, to a total investigated depth of 1,000 feet below the intended cavern floor. Cores shall be analyzed at sufficient frequency to provide representative data for the caprock, confining zone and the injection zone, including permeability, porosity, bulk density, compressive strength (uniaxial), shear strength (triaxial), water content, and compatibility with permitted waste material.

(B) In situ permeability, lithostatic gradients, and fracture pressure gradients shall be determined in the core hole for the salt, within the cavern injection interval.

(C) Prior to commencement of injection for cavern construction, the pilot hole or core hole shall be filled with salt-saturated cement from total investigated depth back to the designed depth of the salt cavern floor.

(D) Upon satisfactory completion of all coring requirements of this subsection and all reports and certification requirements of subsection (i) of this section, for at least one salt cavern disposal well in a multi-cavern waste disposal project, the executive director may modify or waive provisions in subparagraphs (A), (B), and (C) of this paragraph.

(4) Well integrity testing. The mechanical integrity of a well must be dem-

onstrated prior to initiation of injection activities. A mechanical integrity test shall consist of:

(A) a pressure test with liquid or gas;

(B) a temperature, noise log, or oxygen activation log;

(C) a casing inspection log, if required by the executive director; and

(D) any other test required by the executive director.

(F) Compatibility. All well materials must be compatible with formations and fluids with which the materials may be expected to come into contact. A well shall be deemed to have compatibility as long as the materials used in the construction of the well meet or exceed standards developed for such materials by the American Petroleum Institute (API), the American Society for Testing Materials (ASTM), or comparable standards acceptable to the executive director.

(g) Surface facilities.

(1) The injection pump system shall be designed to assure that the surface injection pressure limitations authorized by the well permit shall not be exceeded.

(2) Instrumentation shall be installed to continuously monitor changes in annulus pressure and annulus fluid volume for the purpose of detecting well malfunctions.

(3) Surface facilities, while allowing for pressure release, shall be designed to prevent the release of unauthorized cavern contents to the atmosphere.

(4) To protect the ground surface from spills and releases, the wellhead will have secondary containment in the form of a diked, impermeable pad or sump.

(h) Construction supervision. All phases of well construction and all phases of any well workover shall be supervised by a professional engineer, with current registration pursuant to the Texas Engineering Practice Act, who is knowledgeable and experienced in practical drilling engineering and who is familiar with the special conditions and requirements of injection well construction.

(i) Certification of completion of the well construction stage. Prior to beginning cavern construction, the permittee shall obtain written certification from the executive director which states that the well construction is in compliance with the applicable provisions of the permit. To obtain certification, the permittee shall submit

to the executive director within 90 days of completion of well construction, including all logging, coring, and testing of the pilot hole, the following reports and certifications prepared and sealed by a professional engineer with current registration pursuant to the Texas Engineering Practice Act:

(1) final construction, "as-built" plans and specifications, reservoir data, and an evaluation of the considerations set out in §331.45(1) of this title (relating to Certification of Construction and Completion);

(2) certification that construction of the well has been completed in accordance with the provisions of the disposal well permit and with the design and construction specifications of the permittee's application;

(3) certification that actual reservoir data obtained will not result in the need for a change in the operating parameters specified in the permit.

#### §331.164. Cavern Construction Standards.

(a) Plans and specifications. Except as specifically required in the terms of the disposal well permit, construction of the cavern shall be done in accordance with all permit application plans and specifications. Any proposed changes to the plans and specifications must be certified in writing by the executive director that said changes provide protection standards equivalent to or greater than the original design criteria.

(b) Standards for cavern construction by controlled dissolution. The creation of waste storage or disposal caverns within the salt shall be accomplished by the controlled dissolution of the sidewalls of the well bore to a specified maximum diameter, between selected elevations specified in the permit as the top and bottom of the salt cavern injection interval. The enlargement of a portion of the original well bore to serve as the cavern shall be done according to the cavern construction plans which shall be submitted as a part of the permit application. The cavern construction plans shall demonstrate at a minimum, the following:

(1) the minimum distance between the cavern boundaries and the boundaries of the salt formation, as determined by available geologic data, shall not be less than 500 feet;

(2) adjacent caverns shall be separated by a sufficient amount of undisturbed salt for cavern safety and stability;

(3) that cavern dimensions have been designed by a qualified professional engineer and geologist, to ensure the structural integrity of the cavern;

(4) plans for continual monitoring of the volumes of fluids injected and produced during cavern development;

(5) plans for cavern pressure tests, and sonar surveys to determine the cavern dimensions, volume, geometric shape, and characterization of outbursts or other anomalies;

(6) the cavern construction process shall be conducted under the supervision of a qualified professional engineer, with current registration under the Texas Engineering Practices Act, in accordance with accepted practices in the cavern construction industry.

(c) Injection tubing. Except for circulation of drilling fluids during well construction, all injection activities for salt cavern construction and waste disposal in a salt cavern shall be performed through removable injection tubing installed inside of the cemented long string casing and extending from the wellhead at ground surface to the salt borehole or salt cavern below the long string casing seat.

(1) All injection activities during cavern construction shall be performed with the annulus between the tubing and long string casing filled with a corrosion inhibiting fluid sufficient to protect the bond between salt, cement, and the long string casing seat.

(2) All injection of waste into a salt cavern shall be performed through removable injection tubing with a packer to seal the annulus between the tubing and long string casing near the bottom of the long string casing.

(d) Logs and tests.

(1) The permit applicant shall submit, as part of its construction plan, information identifying the tests which it will use to verify cavern dimensions throughout the cavern leaching process. This information shall include at a minimum, the following:

(A) a description of surveys, logs, and tests to be run and analyzed, including any quantitative performance standards appropriate for any such procedure; and

(B) the frequency of such surveys or logs.

(2) Prior to waste filling, the integrity of the cavern shall be tested in accordance with a test method described in the applicant's cavern construction plan, specified by permit or approved by the executive director in accordance with subsection (a) of this section.

(e) Workovers.

(1) The permittee shall notify the executive director before commencing any workover operation or corrective main-

tenance which involves taking the injection well out of service. The notification shall be in writing and shall include plans for the proposed work. The executive director may grant an exception of the prior written notification when immediate action is required. Approval by the executive director shall be obtained before the permittee may begin any workover operation or corrective maintenance that involves taking the well out of service. Pressure control equipment shall be installed and maintained during workovers which involve the removal of tubing.

(2) Well mechanical integrity shall be demonstrated following any major operations which involve removal of the injection tubing, recompletions, or unseating of the packer.

(f) Reports and certification.

(1) Initial cavern integrity report. The operator shall submit a report with the results of all tests regarding cavern integrity, within 30 days of completion of the salt cavern construction stage.

(2) Certification of completion of the cavern construction stage. Within 90 days of completion of cavern construction, including configuration of the well for waste disposal, and prior to beginning waste emplacement, the permittee shall obtain written certification from the executive director which states that the cavern construction is in compliance with the applicable provisions of the permit. To obtain certification, the permittee shall submit to the executive director the following reports and certifications prepared and sealed by a professional engineer with current registration pursuant to the Texas Engineering Practice Act:

(A) final construction, "as-built" plans and specifications, injection and confining zone data, and an evaluation of the considerations set out in §331.45(1) of this title (relating to Certification of Construction and Completion);

(B) certification that the construction of the cavern has been completed in accordance with the provisions of the disposal well permit and with the design and construction specifications of the permittee's application;

(C) certification that actual confining and injection zone data obtained will not result in need for a change in the operating parameters specified in the permit.

§331.165. Waste Disposal Operating Requirements.

(a) General operating requirements.

(1) Injection pressure at the wellhead shall not exceed a maximum, which shall be calculated, so as to assure that the pressure in the cavern during injection does not disrupt the bond between the salt, cement and the casing seat, initiate new fractures or propagate existing fractures in the cavern or the confining zone, or cause movement of fluid out of the injection zone that may endanger underground sources of drinking water (USDWs), and fresh or surface water.

(2) Injection between the outermost casing protecting USDWs, and fresh or surface water and the wellbore is prohibited.

(3) The annulus between the tubing and long string casing shall be filled with a fluid approved by the commission. The annulus pressure shall be at least 100 psi greater than the injection tubing pressure, to detect well malfunctions, unless the executive director determines that such a requirement might harm the integrity of the well.

(4) Chemical and physical characteristics of all injected materials and cavern contents, including but not limited to, bulk density and compressive strength of solidified waste, shall protect and be compatible with the injection well, associated facilities, and injection zone, and shall ensure proper operation of the facility to meet the performance standard of §331.162 of this title (relating to Performance Standards). In addition, after cavern construction is certified and a cavern is authorized to receive wastes under §331.164(f) of this title (relating to Cavern Construction Standards), all injected materials and cavern contents shall minimize further dissolution of the cavern walls.

(5) The wastestream shall be stabilized, prior to injection, to minimize the generation of gases in the cavern.

(6) All injection of waste into a salt cavern shall be performed through removable injection tubing with a packer to seal the annulus between the tubing and long string casing near the bottom of the long string casing.

(7) Unauthorized releases of cavern contents to the atmosphere are prohibited.

(8) The cavern will be operated as close to lithostatic pressure as possible to minimize the extent of the disturbed zone.

(9) If an automatic alarm or shutdown is triggered, the owner or operator shall immediately investigate and identify as expeditiously as possible the cause of the alarm or shutoff. If, upon such investigation, the well appears to be lacking mechanical integrity, or if monitoring required under §331.64(c) of this title (relating to

Monitoring and Testing Requirements) otherwise indicates that the well be lacking mechanical integrity, the owner or operator shall:

(A) immediately cease injection of waste fluids unless authorized by the executive director to continue or resume injection;

(B) take all necessary steps to determine the presence or absence of a leak; and

(C) notify the executive director within 24 hours after the alarm or shutdown.

(10) If the loss of mechanical integrity is discovered pursuant to paragraph (1) of this subsection or during periodic mechanical integrity testing, the owner or operator shall:

(A) immediately cease injection of waste fluids;

(B) take all steps reasonably necessary to determine whether there may have been a release of hazardous wastes or hazardous waste constituents into any unauthorized zone;

(C) notify the executive director within 24 hours after loss of mechanical integrity is discovered;

(D) notify the executive director when injection can be expected to resume; and

(E) restore and demonstrate mechanical integrity to the satisfaction of the executive director prior to resuming injection of waste fluids.

(11) Whenever the owner or operator obtains evidence that there may have been a release of injected wastes into an unauthorized zone:

(A) the owner or operator shall immediately cease injection of waste fluids and:

(i) notify the executive director within 24 hours of obtaining such evidence;

(ii) take all necessary steps to identify and characterize the extent of any release;

(iii) propose a remediation plan for executive director review and approval;

(iv) comply with any remediation plan specified by the executive director;

(v) implement any remediation plan approved by the executive director; and

(vi) where such release is into a USDW or freshwater aquifer currently serving as a water supply, place a notice in a newspaper of general circulation;

(B) the executive director may allow the operator to resume injection prior to completing cleanup action if the owner or operator demonstrates that the injection operation will not endanger USDWs or freshwater aquifers.

(12) Cavern contents shall not interfere with the set-up of any stabilized waste injected as a slurry, and shall not significantly erode or leach already solidified wastes.

(13) Waste emplacement must be performed in such a manner as to leave as solid a waste mass with as little entrapped gases or fluids as possible, so that any compaction of wastes does not disrupt the integrity of the cavern.

(14) A solid waste disposal cavern shall be operated in a manner which will not generate high temperatures that will result in nonattainment of the performance standard of §331.162 of this title (relating to Performance Standards).

(b) Workovers.

(1) The permittee shall notify the executive director before commencing any workover operation or corrective maintenance which involves taking the injection well out of service. The notification shall be in writing and shall include plans for the proposed work. The executive director may grant an exception of the prior written notification when immediate action is required. Approval by the executive director shall be obtained before the permittee may begin any workover operation or corrective maintenance that involves taking the well out of service. Pressure control equipment shall be installed and maintained during workovers which involve the removal of tubing.

(2) Mechanical integrity of the well shall be demonstrated following any major operations which involve removal of the injection tubing, recompletions, or unseating of the packer.

(c) Temporary cessation of operations.

(1) An owner or operator of a Class I salt cavern solid waste disposal well who ceases injection operations temporarily, may keep the well open provided he:

(A) has received written authorization from the executive director; and

(B) has described actions or procedures, satisfactory to the executive director, that the owner or operator will take to ensure that the well will not endanger USDWs, and fresh or surface water during the period of temporary disuse. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells, including mechanical integrity, and monitoring, unless waived by the executive director.

(2) The owner or operator of a well that has ceased operations for more than two years shall notify the executive director, in writing, 30 days prior to resuming operation of the well.

§331.166. *Monitoring and Testing Requirements.*

(a) Waste analysis plan. All material injected into or produced from the cavern shall be sampled and analyzed in accordance with the approved written waste analysis plan required by 40 Code of Federal Regulations §146.68(a).

(b) Pressure gauges. Pressure gauges shall be installed and maintained in proper operating conditions at all times on injection tubings and on the annulus between the tubing and long string casing, and/or annulus between the tubing and liner, at the wellhead.

(c) Continuous recording devices. Continuous recording devices shall be installed and used, and maintained in proper operating condition at all times to record injection tubing pressures, injection flow rates, injection fluid temperatures, injection fluid density, volume and composition of displaced fluids and gases, injection volumes, tubing-long string casing annulus pressure and volume, and any other data specified by the permit. The instruments shall be housed in weatherproof enclosures. The owner or operator shall also install and use:

(1) automatic alarm and automatic shutoff systems, designed to sound and shut-in the well when pressures and flow rates or other parameters approved by the executive director exceed a range and/or gradient specified in the permit; or

(2) automatic alarms designed to sound when the pressures, flow rates or other parameters approved by the executive director exceed a rate and/or gradient specified in the permit, in cases where the owner or operator certifies that a trained operator will be on location and able to immediately respond to alarms at all times when the well is operating.

(d) Testing and calibration of monitoring instruments. All gauges and pressure sensing and recording devices shall be tested and calibrated quarterly.

(e) Well mechanical integrity. The owner or operator shall maintain mechanical integrity of the injection well at all times that the well is in service. Mechanical integrity of the well must be demonstrated:

(1) within 12-month intervals, or within extended intervals not to exceed 15 months upon approval of the executive director, during the operating life of the well;

(2) by a temperature log, noise log, or other approved log required by the executive director at least once every five years to test for fluid movement along the borehole; and

(3) a casing inspection, casing evaluation, or other approved log may be required by the executive director to determine the condition of the casing.

(f) Cavern integrity. The integrity of the cavern must be demonstrated by:

(1) pressure tests that determine if pressure interference or fluid flow exists between other caverns or formations, within 12-month intervals, or within extended intervals not to exceed 15 months upon approval of the executive director;

(2) a sonar test, or other test approved by the executive director, to determine the geometric shape of the cavern, at least once every five years.

(g) Corrosion monitoring.

(1) Corrosion monitoring of well materials shall be conducted quarterly. Test materials shall be the same as those used in the injection tubing, packer, and long string casing, and will be continuously exposed to the waste fluids with the exception of when the well is taken out of service.

(2) Corrosion monitoring may be waived by the executive director if the injection well owner or operator satisfactorily demonstrates, prior to authorization to conduct injection operations, that the waste will not be corrosive to the well materials with which the waste is expected to come into contact throughout the life of the well. The demonstration shall include a description of the methodology used to make that determination.

(h) Ambient monitoring.

(1) Based on a site-specific assessment of the potential for fluid movement from the well or injection zone and on the potential value of monitoring wells to detect such movement, the executive director shall require the owner or operator to develop a monitoring program.

(2) At a minimum, the executive director shall require subsidence and groundwater quality monitoring over the area of review.

(3) Any wells within the area of review selected for the observation of water quality, formation pressure, or any other parameter, shall be monitored at a frequency sufficient to protect underground sources of drinking water, USDWs, and fresh or surface water.

(i) Hydrogeologic compatibility determination. The owner or operator shall submit information demonstrating to the satisfaction of the executive director that the waste stream and its anticipated reaction products will not alter the permeability, thickness, or other relevant characteristics of the confining or injection zones such that they would no longer meet the requirements specified in §331.121 of this title (relating to Class I Wells).

(j) Other monitoring and testing. Any other monitoring and testing requirements which the executive director determines to be necessary.

(k) Notification of scheduled logging and testing. The executive director or his designated representative shall have the opportunity to witness all logging and testing. The owner or operator shall submit a written schedule of such activities to the executive director at least seven days prior to conducting tests.

#### §331.167. Reporting Requirements.

##### (a) Pre-operation reports.

(1) Well completion report. Within 90 days after the completion of the well, the permittee shall submit a well completion report to the executive director addressing the considerations and standards in §331.45(1) of this title (relating to Certification of Construction and Completion) and §331.62 of this title (relating to Construction Standards), and including a completed copy of the commission's well data form, and a surveyors plat showing the exact location and giving the latitude and longitude of the well. The report will also include a certification that a notation on the deed to the facility property or on some other instrument which is normally examined during title search has been made stating the surveyed location of the well, and the well permit number. The permittee shall integrate the data obtained into adjusted injection zone fluid transport calculations and updated cross-sections of the injection zone and include these items in the completion report.

(2) Cavern completion report. Within 90 days after the completion of the cavern, the permittee shall submit a cavern completion report to the executive director

addressing the considerations and standards in §331.45(1) of this title (relating to Certification of Construction and Completion) and §331.62 of this title (relating to Construction Standards), and including a surveyor's plat showing the exact location and giving the latitude and longitude of the cavern. The report will also include a certification that a notation on the deed to the facility property or on some other instrument which is normally examined during title search has been made stating the surveyed location of the cavern, the well permit number, the depth of the cavern floor and ceiling, the cavern diameter, the dates of operation, and its permitted waste streams. The permittee shall integrate the data obtained into adjusted injection zone waste transport calculations, waste front calculations and updated cross-sections of the injection zone and include these items in the completion report.

(3) Local authorities. The permittee shall provide written notice to the executive director in a manner specified by the executive director that a copy of the permit has been properly filed with the health and pollution control authorities of the county, city, and town where the well is located.

(4) Start-up date and time. The permittee shall notify the executive director in writing of the anticipated well construction and cavern construction start-up dates. Compliance with all pre-operation terms of the permit must occur prior to beginning injection operations. The permittee shall notify the executive director at least 24 hours prior to beginning drilling and cavern construction operations.

(5) Certification of construction and completion. Prior to beginning operations, the permittee shall obtain written certification from the executive director which states that the constructions and completions of the well and cavern are in compliance with the applicable provisions of the salt cavern solid waste disposal well permit. To obtain certification, the permittee shall submit to the executive director the following reports and certifications prepared and sealed by a professional engineer with current registration pursuant to the Texas Engineering Practice Act:

(A) final construction, as-built plans and specifications, reservoir data, and an evaluation of the considerations set out in §331.45(1) of this title (relating to Certification of Construction and Completion);

(B) certification that the construction of the well, cavern, and associated facilities has been completed in accordance with the provisions of the disposal well

permit and with the design and construction specifications of the permittee's application;

(C) certification that actual data obtained on the confining and injection zones will not result in a need for a change in the operating parameters specified in the permit.

##### (b) Operating reports.

(1) Injection operation quarterly report. For non-commercial facilities only, within 20 days after the last day of the months of March, June, September, and December, the permittee shall submit to the executive director a quarterly report of injection operation on forms supplied by the executive director. These forms will comply with the reporting requirements of 40 Code of Federal Regulations, §146.69(a). The executive director may require more frequent reporting.

(2) Injection operation monthly report. For commercial facilities only.

(A) The permittee shall submit to the commission within 10 days after the last day of each month a report describing chemical characteristics of new waste streams received for injection. The report shall be on forms provided by or acceptable to the commission.

(B) The permittee shall submit within 30 days after the last day of each month a report to the commission including the following information for wastes received and injected during the month:

(i) names and locations of the companies and plants generating the wastes;

(ii) chemical and physical characteristics and volume of waste received from each company including pH;

(iii) names of companies transporting the wastes; and

(iv) a log of injection operations for each injection episode including, but not limited to, time of injection, injection rate, injection pressures, injection fluid volume, injection fluid pH, and injection fluid density.

(C) The permittee shall submit to the commission within 20 days of the last day of each month a report of injection operations on forms provided by the commission. These forms will comply with the reporting requirements of 40 Code of Federal Regulations, §146.69(a). The executive director may require more frequent reporting.

(3) Injection zone annual report. For all facilities, the permittee shall submit

annually with the December report of injection operation an updated graphic or other acceptable report and description of the effects of the well and cavern on the area of review, as required by §331.145(i) of this title (relating to Monitoring Requirements). To the extent such information is reasonably available the report shall also include:

(A) locations of newly constructed or newly discovered wells within the area of review if such wells were not included in the technical report accompanying the permit application or in later reports;

(B) a tabulation of data as required by §331.121(2)(B) of this title (relating to Class I Wells) for all such wells within 1/2 mile of the injection well and for all other wells within the area of review that penetrate the injection zone or confining zone; and

(C) for non-commercial facilities only, a current injection fluid analysis.

(4) Workover reports. Within 30 days after the completion of the workover, a report shall be filed with the executive director including the reason for well workover and the details of all work performed and interpretations of all logs and data collected.

(5) Well mechanical integrity, cavern integrity, and other reports. The permittee shall submit within 30 days after test completion, a report including both data and interpretation on the results of:

(A) periodic tests of well and cavern integrity; and

(B) any other test of the injection well or cavern if required by the executive director.

(6) Emergency report of leak or other failure. The permittee shall notify the underground injection control (UIC) staff of the Austin office and the local district office of the commission, within 24 hours of any significant change in monitoring parameters or of any other observations which could reasonably be attributed to a leak or other failure of the well equipment or cavern integrity.

#### §331.168. Additional Requirements and Conditions.

(a) A permit for a Class I salt cavern solid waste disposal well shall include expressly or by reference the following conditions.

(1) A sign shall be posted at the well site which shall show the name of the company, company well number, commis-

sion permit number, the depth of the cavern floor and ceiling, and the cavern diameter. The sign and identification shall be in the English language, clearly legible and shall be in numbers and letters at least one inch high.

(2) An all-weather road shall be installed and maintained to allow access to the injection well and related facilities.

(3) The wellhead and associated facilities shall be painted, if appropriate, and maintained in good working order without detectable leaks.

(4) Secondary containment of the wellhead shall consist of a diked, impermeable pad or sump.

(5) The commission may prescribe additional requirements for Class I salt cavern solid waste disposal wells in order to protect underground sources of drinking water, and fresh or surface water from pollution.

(6) The obligation to implement the plugging and abandonment plan and the post-closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.

(b) Permit requirements for owners or operators of disposal wells which inject wastes which have the potential to react with the injection formation to generate gases or liquids shall include, but not be limited to:

(1) conditions limiting the temperature, pH, or acidity of the injected wastes; and

(2) procedures necessary to assure that pressure imbalances which might cause a backflow, blowout, or fracturing of the salt do not occur.

#### §331.169. Record-Keeping Requirements.

(a) The permittee shall keep complete and accurate records of, but not limited to:

(1) all monitoring required by the permit, including:

(A) continuous records of surface injection pressures;

(B) continuous records of the pressures and volumes of the annulus between the tubing and long string;

(C) continuous records of injection and production flow rates;

(D) monthly total volume of injected and produced materials;

(E) continuous records of cavern gases chemistry and pressures;

(F) continuous records of cavern fill volume and chemistry; and

(G) continuous records of cavern fluid volume;

(2) all periodic well tests, including, but not limited to:

(A) analyses of injected and produced materials;

(B) cavern pressure;

(C) injection tubing and annulus pressures;

(D) cavern integrity;

(E) cavern geometry;

(F) well mechanical integrity; and

(G) casing inspection surveys;

(3) all shut-in periods and times that emergency measures were used for handling injection fluid;

(4) any additional information on conditions that might reasonably affect the operation of the injection well.

(b) All records shall be made available promptly on location for review upon request from a representative of the commission.

(c) The permittee shall retain on location, for a period of five years following abandonment, records of all information resulting from any monitoring activities, including the chemical and physical characteristics of injected fluids, or other records required by the permit. The executive director may require a permittee to submit copies of the records at any time prior to conclusion of the retention period.

#### §331.170. Plugging and Abandonment (Closure of Cavern and Well).

(a) For salt cavern wells, prior to sealing the cavern and plugging the well, the owner or operator shall complete any monitoring of the cavern and its contents required by rule or permit.

(b) Redundant seals or plugs, comprised of different compositions and sealing properties, shall be used to provide



for immediate as well as long-term containment.

§331.171. *Post-Closure Care.*

(a) The owner or operator of waste disposal well shall prepare, maintain, and comply with a plan for post-closure care that meets the requirements of subsection (b) of this section, and that is acceptable to the executive director.

(1) The owner or operator shall submit the plan as a part of the permit application and, upon approval by the executive director, such plan shall be a condition of any permit issued.

(2) The owner or operator shall submit any proposed significant revision to the plan and obtain any necessary permit amendment, as appropriate over the life of the well, but no later than the date of the plugging and abandonment report required under §305.46 of this title (relating to Plugging and Abandonment Standards).

(3) The plan shall assure financial responsibility as required in §305.153 of this title (relating to Financial Responsibility). The amount of the funds available shall be no less than the amount identified in §331.150(a)(4)(F) of this title (relating to Post-Closure Care).

(4) The plan shall include the following information:

(A) the pressure in the injection zone before injection began;

(B) the anticipated pressure in the injection zone at the time of closure;

(C) the predicted time until pressure in the injection interval reaches equilibrium with the surrounding salt stock;

(D) predicted position of the waste front at closure (cavern sealing and well plugging);

(E) the status of any corrective action required under §331.44 of this title (relating to Corrective Action Standards);

(F) the estimated cost of proposed post-closure care.

(5) At the request of the owner or operator, or on his own initiative, the executive director may modify the post-closure plan after submission of the plugging and abandonment report following the procedures in §331.46 of this title (relating to Plugging and Abandonment Standards).

(b) The owner or operator shall:

(1) continue and complete any corrective action required under §331.44 of this title (relating to Corrective Action Standards);

(2) continue to conduct any groundwater monitoring and subsidence monitoring required under the permit until pressure in the injection interval reaches equilibrium with the salt stock. The executive director may extend the period of post-closure monitoring if he determines that the well may endanger a underground source of drinking water or freshwater aquifer;

(3) submit a survey plat to the local zoning authority designated by the executive director. The plat shall indicate the location of the well relative to permanently surveyed benchmarks, the depth of the cavern ceiling and floor, and the cavern diameter. A copy of the plat shall be submitted to the underground injection control (UIC) staff of the Austin office of the TWC;

(4) provide appropriate notification and information to such state and local authorities as have cognizance over drilling activities to enable such state and local authorities to impose appropriate conditions on subsequent drilling activities that may penetrate the well's confining or injection zone;

(5) retain for a period of five years following well plugging and abandonment records reflecting the nature, composition, and volume of all injected materials. The executive director shall require the owner or operator to deliver the records to the executive director at the conclusion of the retention period, and all records shall thereafter be retained at a location designated by the executive director for that purpose.

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 18, 1992.

TRD-9203954      Mary Ruth Holder  
Director, Legal Division  
Texas Water Commission

Earliest possible date of adoption: April 24, 1992

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



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part XI. Texas Juvenile Probation Commission

#### Chapter 345. Texas Juvenile Probation Commission

##### • 37 TAC §345.1, §345.2

The Texas Juvenile Probation Commission proposes new §345.1 and §345.2 concerning the allocation, program description, and requirements for its Community Corrections line item. The Community Corrections line item is administered by TJPC pursuant to the Texas Human Resources Code, Chapter 141, and according to its rules for juvenile probation services and juvenile detention, published in 37 TAC Chapters 341 and 343.

In its appropriation to TJPC for the 1992-1993 biennium, the 72nd Texas Legislature established performance targets for the first time. TJPC's performance targets include the rate of successful probation completions, the rate of TYC commitments, the rate of successful intensive supervision probation completions, and the rate of successful completions of direct diversion placements.

The Community Corrections Program embodies the strategies and tactics that TJPC believes juvenile boards should follow to meet the performance targets. Because TJPC believes the juvenile boards are best equipped and positioned to develop and implement programs to achieve the performance targets, the means of accomplishing the strategies and tactics are left to the juvenile boards.

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

Mr. Bonnell 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 successful juvenile probation completions, successful intensive supervision juvenile probation completions, successful completions of direct diversion placements, and diversion from the Texas Youth Commission. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section.

Comments on the proposal may be submitted to Keith Rudeseal, Texas Juvenile Probation Commission, P.O. Box 13547, Austin, Texas 78711.

The new sections are proposed under the Texas Human Resources Code, §§141.001, 141.041, and 141.042, which provides the Texas Juvenile Probation Commission with the authority to improve the effectiveness of juvenile probation services and provide alternatives to commitment of juveniles by providing financial aid to juvenile boards to

establish and improve probation services, and to adopt rules for these purposes.

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

**Commitment performance target**—The maximum number of juveniles a juvenile board or boards which operate a department should recommend annually to the juvenile courts for commitment to TYC, excluding juveniles committed for offenses included in the Texas Family Code §53.045 (sentenced offender), for Type A violent offenses, as that term is defined in 37 Texas Administrative Code, §81.112, and for recommitments.

**Community corrections assistance funds**—The Community Corrections a line item appropriated to TJPC by the legislature.

**Department**—A juvenile probation department organized in one or more counties and supervised by one or more juvenile boards.

**Ideal criteria for commitment**—A set of criteria that define appropriate recommendations to the juvenile court for commitments of juveniles to TYC: no direct commitment for a misdemeanor offense; no revocation of misdemeanor probation except for a subsequent felony offense; and no direct commitment for a felony of the third degree without prior probation, except for a commitment for kidnapping, injury to a child, injury to an elderly individual, places weapons prohibited, or aggravated assault.

**Juvenile age population**—The number of children 10 years of age or older and under 17 years of age who live in the counties served by each juvenile board or boards that operate a department, according to the 1990 United States Census.

**Juvenile board**—A body established by law to provide juvenile probation services to a county or counties. As used in this chapter, the term also includes two or more juvenile boards which operate a single juvenile probation department.

**Juvenile court**—A court designated under the Family Code, §51.04, or by other law, to exercise jurisdiction over proceedings under Title 3 of the Texas Family Code.

**Rate of successful completions of direct diversion placements performance target**—The number of successful discharges from placement divided by all discharges.

**Rate of successful intensive supervision probation completions performance target**—The number of successful discharges from intensive supervision programs divided by all discharges.

**Rate of successful probation completions performance target**—The number of successful terminations of court-ordered probation, divided by all court-ordered probation terminations.

**TJPC**—Texas Juvenile Probation Commission.  
**TYC**—Texas Youth Commission.

**§345.2. Purpose.**

(a) This rule establishes the allocation of Community Corrections Assistance Funds to the juvenile boards.

(b) TJPC provides funding through a weighted population formula using the juvenile age population. From the total appropriation:

(1) TJPC pays each juvenile board that operates a department a base rate equal to \$10 for each person in the juvenile age population not to exceed \$75,000;

(2) TJPC sets aside \$300,000 for diversion placements made by juvenile courts from juvenile boards with juvenile age populations of less than 2,000;

(3) TJPC reserves \$1,000,000 to fund innovative and creative programs to be developed by the juvenile boards, and approved for funding by TJPC; and to provide reward funds for juvenile boards that have commitment rates that are consistently below the state's commitment rate;

(4) TJPC reserves \$100,000 for evaluation and research projects to be conducted by TJPC; and

(5) TJPC pays its proportional share of \$681,000 to each juvenile board with more than 100,000 persons in its juvenile age population; and TJPC allocates the remainder of the Community Corrections Assistance Fund according to each juvenile boards' percentage of the state's juvenile age population.

(c) Each juvenile board must develop a Community Corrections plan that sets out the residential and non-residential programs and services it will develop with these funds to meet or exceed its performance targets for successful probation and intensive supervision probation completions, successful completions of direct diversion placements, and recommendations for TYC commitments. The plan must include, but is not limited to, a description of:

(1) the juvenile board's existing diversionary programs;

(2) the internal and external variables which may impact the juvenile boards's ability to meet performance targets;

(3) the programs and services the juvenile board will provide, which include a description of the target population, and the resources needed to accomplish the plan;

(4) what internal procedures the juvenile board will use to measure the num-

ber and rate of recommendations for commitments to TYC; the rate of successful completions of direct diversion placements; the rate of successful intensive supervision probation completions; and the rate of successful probation completions;

(5) the policies and procedures the juvenile board will implement or enhance to meet or exceed performance targets for recommendations for commitments to TYC; and for the rates of successful completions of direct diversion placements, of intensive supervision probation completions, and of probation completions;

(6) the juvenile board's budget for each program area that will use Community Corrections Assistance Funds; and

(7) the juvenile board's five year goal statement for community corrections program services.

(d) TJPC must receive the juvenile board's Community Corrections Plan by June 1 of each year.

(e) By July 1 of each year, TJPC will notify each juvenile board that has submitted a plan of any need for modification. TJPC will notify each juvenile board that has submitted an acceptable plan of the plan's acceptance by August 1 of each year.

(f) TJPC will conduct an annual performance review to assess the extent of each juvenile board's successful compliance with performance targets. Any juvenile board that does not meet planned goals will receive technical assistance from TJPC. If the TJPC staff determines a juvenile board has failed to reach its performance targets, and finds there are no mitigating factors to excuse the failure, the staff will recommend that the TJPC board reduce the juvenile board's Community Corrections Assistance Funds allocation. After hearing from the staff and the juvenile board, the TJPC board will decide the amount of the reduction, if any.

(g) TJPC sets the rate of successful completions of direct diversion placements performance target at 60% for each juvenile board. TJPC sets the rate of successful intensive supervision probation completions performance target at 65% for each juvenile board. TJPC sets the rate of successful probation completions performance target at 84% for each juvenile board.

(h) TJPC determines the commitment performance target for each juvenile board based on the board's average number of commitments to TYC for the years 1988-1991. The commitment performance target begins at a 10% reduction of this average, but the reduction may increase, depending on the juvenile board's past performance, measured in three ways:

(1) if 75% or less of a juvenile board's commitments for 1991 were within the ideal criteria for commitment, then two percentage points are added to the juvenile board's percent reduction;

(2) if a juvenile board's actual average number of commitments in the years 1988-1991 is greater than the number derived when the whole state's average number of commitments for 1988-1991 is multiplied by the juvenile board's percent of the state's juvenile age population, then two percentage points are added to the juvenile board's percent reduction; and

(3) if a juvenile board's average number of commitments for the years 1988-1991 is more than 3.0% of its average number of referrals for those years, then one and one-half percentage points are added to the juvenile board's percent reduction.

(i) The following expenditures are allowable.

(1) Community Corrections Assistance Funds may be expended only for direct services for juveniles. These are limited only to:

(A) staff services including salaries and fringe benefits for staff employed by the juvenile board or boards to perform activities directly related to improving the rate of successful probation and intensive supervision probation completions, improving the rate of successful completions of direct diversion placements, and reducing the rate of TYC commitments, reimbursement for travel expenses incurred by employees during the performance of their duties, operating expenses, staff training costs, and audit costs;

(B) non-residential services, including professional diagnostic and treatment services, medical and dental services, vocational and educational services, transportation and meals, clothing and personal hygiene supplies, and other non-residential services related to increasing the rate of successful probation and intensive supervision probation completions, increasing the rate of successful completions of direct diversion placements, and reducing the rate of TYC commitments, as approved by TJPC; and

(C) residential services provided by the juvenile board or purchased at rates that do not exceed those established for levels of care by the Health and Human Services Coordinating Council.

(2) Community Corrections Assistance Funds may not be used for capital expenditures.

(3) Community Corrections Assistance Funds may not be used to supplant existing services. A reduction in local funding from the preceding fiscal year may result in some reduction in Community Corrections Assistance Funds.

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 17, 1992.

TRD-9203888

Bernard Licarione, Ph.D.  
Executive Director  
Texas Juvenile Probation  
Commission

Earliest possible date of adoption: April 24, 1992

For further information, please call: (512) 443-2001

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 85. General Licensing Procedures

##### Subchapter U. Day Care Licensing Procedures

###### • 40 TAC §85. 2012

The Texas Department of Human Services (DHS) proposes an amendment to §85. 2012, concerning issuance of provisional license, in its General Licensing Procedures chapter. The purpose of the amendment is to allow for the issuance of a child care license to a new owner to be effective no later than the date the new owner assumes the responsibility for the operation of the facility. The amendment then allows the new owner to operate within the law.

Burton F. Raiford, interim commissioner, has determined that for the first five-year period the section is in effect there will be an indeterminate savings in travel cost because of the elimination of the inspection visit before issuance of the license.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new owner of a facility will be paid from the first day of operation for care of DHS children. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of this proposal may be directed to David Beard at (512) 450-3262 in the Licensing Department. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-035, Texas Department of Human Services E-503, P.O. Box 149030, Austin,

Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 42, which authorizes the department to administer general child-placing and child care licensing programs.

#### §85.2012. Issuance of Provisional License.

(a) The department must issue a provisional license when one of the following situations exists:

(1) the facility is not currently operating but meets the appropriate minimum standards except those with which compliance cannot be determined in the absence of children;

(2) the facility has changed location [relocated] and has made changes in the type of child care services it offers; [provides; or]

(3) a change in ownership of the facility [exists that] results in changes in policy and procedures or in the staff who have direct contact with the children. This license may be issued provided the following requirements have been met.

(A) The application has been properly completed.

(B) The applicant has submitted verification that a member of the staff has completed a course in first aid and has a current certificate for the completion of a course in cardiopulmonary resuscitation for infants and children.

(C) The facility has current, approved inspection reports from fire and sanitation authorities and a current, approved gas leak test, where applicable.

(b) A provisional license is issued to a previously unlicensed facility after a licensing investigation determines compliance with the law and minimum standards. [if:]

(1) a non-operating facility meets the appropriate minimum standards, except for those with which compliance cannot be determined in the absence of children in care;

(2) an operating facility is meeting all applicable minimum standards;

(3) the \$35 application fee and \$35 provisional license fee are paid.]

(c) [A provisional license is issued to a facility after a licensing investigation, if the facility is in compliance with the law and minimum standards. The provisional

license fee may be refunded if the department does not issue the license.]

[(d)] If a facility does not provide care for children during [not related to the caregiver, or if it begins operation so late in] the provisional licensing period, or begins operation so late in this period that continuing compliance cannot be determined, the department allows the provisional license to expire without issuance of a nonexpiring license. Application for new provisional license must be submitted. [that there is not time to determine continuing compliance with standards, the department allows the provisional license to expire. Licensing staff may accept a new application without the facility having to

close. A new application fee will not be required. The facility must pay a \$35 provisional license fee before a new provisional license is issued.]

(d) When transfer of ownership does not result in change of policy and procedures or staff who have direct contact with the children, or a change of location does not result in a change in the type of child care service offered, a nonexpiring license is issued. This license may be issued upon presentation of documentation specified in subsection (a)(3) of this section.

(e) No licenses are issued if applicable fees have not been paid. The provi-

sional license fee may be refunded if the department does not issue a license.

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

Issued in Austin, Texas, on March 18, 1992.

TRD-9203946

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

Proposed date of adoption: May 12, 1992

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

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# 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 III. Texas Board of Chiropractic Examiners

#### Chapter 75. Rules of Practice

- 22 TAC §§75.2-75.4

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed repeal §§75.2-75.4, submitted by the Texas Board of Chiropractic Examiners has been automatically withdrawn, effective March 16, 1992. The repeal §§75.2-75.4 as proposed appeared in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5047).

TRD-9203885



#### Chapter 76. Delegation of Authority

- 22 TAC §76.1

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed new §76.1, submitted by the Texas Board of Chiropractic Examiners has been automatically withdrawn, effective March 16, 1992. The new §76.1 as proposed appeared in the September 13, 1991 issue of the *Texas Register* (16 TexReg 5048).

TRD-9203884



## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 145. Long-Term Care

##### Subchapter K. Grading System for Nursing and Custodial Care Homes

- 25 TAC §§145.161-145.174

The Texas Department of Health (department) withdraws the proposed repeal of exist-

ing §§145.161-145.174, concerning the grading system for nursing and custodial care homes, which was published in the December 17, 1991, issue of the *Texas Register* (16 TexReg 7308).

Issued in Austin, Texas, on March 17, 1992

TRD-9203932

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

Filed: March 17, 1992

Effective date: March 17, 1992

For further information, please call: (512) 458-7296



##### Subchapter K. Grading System for Nursing Facilities

- 25 TAC §§145.161-145.171

The Texas Department of Health (department) withdraws proposed new §§145.161-145.171 concerning the grading system for nursing facilities, which were published in the December 17, 1991, issue of the *Texas Register* (16 TexReg 7308).

Issued in Austin, Texas, on March 17, 1992.

TRD-9203933

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

Filed: March 17, 1992

Effective date: March 17, 1992

For further information, please call: (512) 458-7296



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part VIII. Commission on Fire Protection Personnel Standards and Education

#### Chapter 233. Standards for Certification

- 37 TAC §233.113

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed repeal §233.113, submitted by the Commission on Fire Protection Personnel Standards and Education has been automatically withdrawn, effective March 16, 1992. The repeal §233.113 as proposed appeared in the September 13, 1991 issue of the *Texas Register* (16 TexReg 5059).

TRD-9203882



Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed new §233.113, submitted by the Commission on Fire Protection Personnel Standards and Education has been automatically withdrawn, effective March 16, 1992. The new §233.113 as proposed appeared in the September 13, 1991 issue of the *Texas Register* (16 TexReg 5059).

TRD-9203883



#### Chapter 241. Examinations for Certification

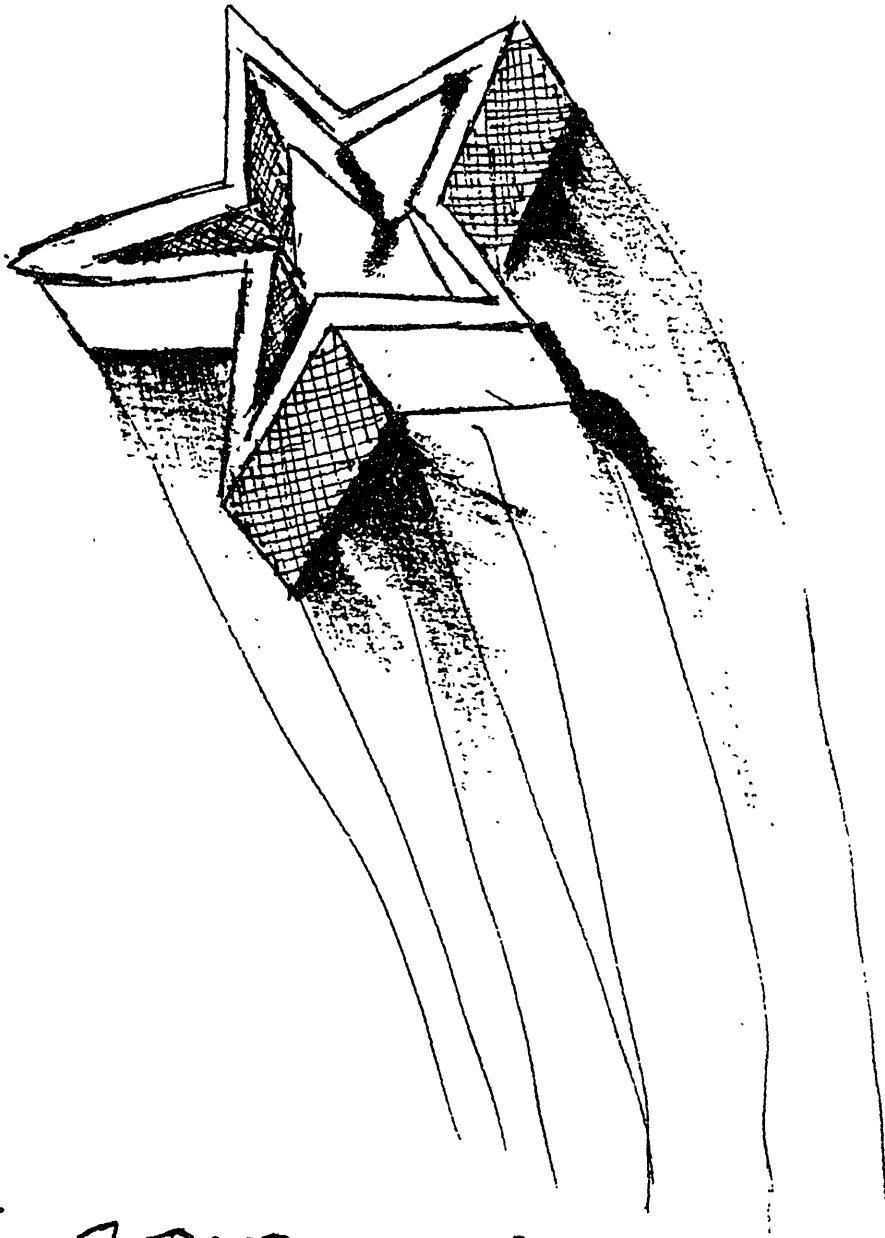
- 37 TAC §241.3

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amended §241.3, submitted by the Commission on Fire Protection Personnel Standards and Education has been automatically withdrawn, effective March 16, 1992. The amended §241.3 as proposed appeared in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5060).

TRD-9203881



TEXAS



THE LONE STAR STATE

Name: Brian Ritchey

Grade: 7

School: Clear Lake Intermediate, Clear Creek ISD

# Adopted Sections

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

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

## TITLE 10. COMMUNITY DEVELOPMENT Part V. Texas Department of Commerce Chapter 165. Allocation of Private Activity Bonds

### • 10 TAC §§165.1-165.8

The Texas Department of Commerce (TDOC) adopts the repeal of §§165.1-165.8, concerning allocation of private activity bonds, without changes to the proposed text as published in the November 29, 1991, issue of the *Texas Register* (16 TexReg 6893).

These sections are being repealed as a result of the passage of Senate Bill 1070, §49 which transferred, to the Bond Review Board, the powers, duties, and obligations of the Texas Department of Commerce, relating to the allocation and reservation system for private activity bonds.

These sections relating to the allocation and reservation system for private activity bonds are obsolete as they relate to the Texas Department of Commerce. The department has been relieved of its powers for allocation and reservation of private activity bonds by Senate Bill 1070, §49.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 5190.9A and Senate Bill 1070, §49, 72nd Legislature, which provide that the Texas Department of Commerce will no longer have administrative responsibility for the private activity allocation and reservation system. This responsibility has been given to the Bond Review Board.

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 12, 1992.

TRD-9203919 Cathy Bonner  
Executive Director  
Texas Department of  
Commerce

Effective date: April 7, 1992

Proposal publication date: November 29, 1991

For further information, please call: (512) 320-9666

## TITLE 28. INSURANCE Part I. Texas Department of Insurance Chapter 5. Property and Casualty Insurance

### Subchapter A. Automobile Insurance

#### • 28 TAC §5.401

The State Board of Insurance of the Texas Department of Insurance adopts new §5.401 to provide protection to applicants for private passenger automobile liability insurance who have not had such insurance prior to application. The new section is adopted with minor changes to the proposed text as published in the January 7, 1991, issue of the *Texas Register* (17 TexReg 94). A previous rule regarding denial of insurance coverage to applicants who lacked prior insurance, 28 TAC §5.7015 (hereinafter referred to as the "original rule"), which was adopted by the board on an emergency basis, was enjoined pursuant to a lawsuit filed by certain insurers by a state district court judge on October 4, 1991. The same rule was proposed on October 25, 1991, and had been set to go before the board for adoption when the insurance company plaintiffs in the above-referenced lawsuit, certain other insurers, the Texas Department of Insurance, and the Office of Public Insurance Counsel agreed to the provisions contained herein. This rule was then proposed for adoption, and the board tabled the original rule. Along with this agreement, the board agreed to send out a call for data concerning loss experience on "no prior" insureds. This data call is not a part of this rulemaking.

The adoption of the rule is necessary to redress arbitrary and unfair practices used against applicants for private passenger automobile liability insurance who lack prior insurance and to support greater compliance with the Texas Motor Vehicle Safety-Responsibility Act (Texas Civil Statutes, Article 6701h.). These arbitrary and unfair practices were identified and highlighted by recent legislation strengthening the Texas Motor Vehicle Safety-Responsibility Act. The board found that many uninsured motorists seeking liability insurance were being denied coverage or charged high rates for liability insurance because they lacked such insurance at the time of application. Some of the applicants had not needed or had not been legally required to have liability insurance, because, for example, they had been overseas either in the armed services or for other employment,

had driven company cars or had not used a motor vehicle for transportation for some period prior to their applications. Others lacked prior insurance because they could not afford it, having been out of work or otherwise impoverished. The Board has received no credible data, to date, showing that applicants lacking prior insurance present greater claims risks or have worse driving records than applicants possessing prior insurance. The board also determined that "no prior" applicants who had purchased liability insurance from county mutual or other higher rated or nonstandard insurance companies or the state-created Texas Automobile Insurance Plan (Assigned Risk Plan), which provides automobile liability insurance for those denied coverage in the voluntary market, were subsequently treated as higher risk insureds because of their previous carrier and were denied coverage, upon policy renewal, at lower rates. The board has received no credible data, to date, showing that applicants previously insured by county mutual or other higher rated or nonstandard insurance companies or the Assigned Risk Plan present greater claims risks or have worse driving records than applicants from other insurance companies. The board also found that "no prior" applicants were not being informed of less expensive liability coverage in the Assigned Risk Plan when they were quoted coverage by private insurers and agents, and as a consequence the "no prior" applicants were paying rates above those available through the Assigned Risk Plan for liability insurance. The new section is intended to remedy all the above inequities. Certain minor changes to the rule as proposed were made by the State Board of Insurance for purposes of clarification. References in subsection (a) and subsection (b) to "groups" were changed to "group of companies"; in subsection (b) the pronoun "their" was changed to "the applicant's" and the phrase "they apply" was changed to "the applicant applies." The phrase ", and the" prior to the words "quote equals or exceeds the premium available" in subsection (d) was changed to "which". Also in subsection (d) the words "the approximate cost of" were added before the word "coverage" pursuant to recommendations of the staff of the Department of Insurance and verbal comments of the Independent Insurance Agents of Texas. In addition, references to the "Assigned Risk Pool" in subsection (c) and subsection (d) were changed to "Assigned Risk Plan" because of comments filed by the Texas Automobile Insurance Plan.

The new section provides four specific protections to "no-prior" applicants for private passenger automobile liability insurance. The

first provision (subsection (a) of the new section) provides a 120-day period suspending all insurers' underwriting or other criteria that make an applicant's lack of prior insurance the basis for declining coverage or charging higher rates to such applicant. This provision will allow all applicants to be underwritten on the same basis, that is, on their driving records and other underwriting criteria, and to receive such liability coverage at the lowest applicable rates of the insurance companies or group of companies to which they apply. The second provision (subsection (b)) will permit those individuals whose lack of insurance at the time of application may have been used by the insurer as an underwriting factor to receive the benefit of subsection (a). This is accomplished by permitting those individuals, at renewal of their current automobile insurance policies, to be re-underwritten without regard to the now-suspended "no prior insurance" criteria and to receive the lowest applicable rates of the insurance companies or group of insurance companies to which they apply. Subsection (b), which has a 180-day duration, is intended to cover the typical policy period of six months in order to provide protection to a substantial majority of those recently insured and rated by a company using the now-suspended "no prior insurance" criteria. The third provision (subsection (c)) protects all applicants from an arbitrary practice utilized by some insurance companies of charging higher rates to applicants solely because they were previously insured through a county mutual insurance company, the state-created Assigned Risk Plan, or other carrier usually associated with higher rated or nonstandard business. This provision requires that applicants for liability insurance be underwritten without regard to their prior insurance carrier. Subsection (c) is a permanent rule. The fourth provision (subsection (d)) provides for the disclosure of comparative rating information to certain applicants who might benefit from automobile liability insurance coverage through the Assigned Risk Plan. Subsection (d) requires all insurers and agents to disclose the approximate cost of automobile liability insurance coverage available in the Assigned Risk Plan to all applicants lacking prior insurance who have no more than one accident and one violation in the three years preceding their application, where such cost is equal to or less than the cost of coverage in the voluntary market being quoted to such applicants. Subsection (d) is also a permanent rule. The fifth provision (subsection (e)) declares that the provisions of the new section are severable from each other and provides that if any provision of the new section is held to be invalid then such invalidity shall not affect the other provisions. Subsection (e) is intended to maintain the separate enforceability of each provision of the new section in the event any one provision is held to be invalid.

Written comments on the proposed rule were received from an insurer, Allstate Insurance Company, which was one of the insurers which agreed to this proposed rule. Despite the comments made by Allstate in the letter described below, Allstate's representative at the hearing on the rule assured the board that the company was not withdrawing its Decem-

ber 20, 1991, agreement supporting the rule. Allstate's written comments were basically in support of the rule, but the company raised questions concerning, and made suggestions regarding, restricting the rule's coverage. Other written comments were received from an insurance consumer, James H. Mallett, who supported the rule but who suggested changes which would expand the rule. The Texas Automobile Insurance Plan did not oppose the rule, but suggested correcting the references to the Assigned Risk Plan. Verbal comments were offered at the hearing by a representative of the Independent Insurance Agents of Texas who did not oppose the rule but questioned whether, under subsection (d), an agent must provide the cost of coverage in the Assigned Risk Plan. In addition, Allstate, Mr. Mallett, and the Office of Public Insurance Counsel offered verbal comments at the hearing. Each entity's comments are summarized below, together with the board's responses.

Written comments of Allstate Insurance Company and response by board.

**Comment:** Allstate asserts the intent of the language in subsection (a) is to restrict the underwriting of risks based on an applicant's failure to comply with compulsory liability requirements.

**Response:** The board disagrees. The rule is intended to apply to all applicants with no prior insurance regardless of the reason for the lack of insurance. During the hearings considering the original rule, testimony was provided which indicated that applicants, whether in compliance with the compulsory liability insurance law or not, were being discriminated against because such applicants had no prior insurance. The board asserts that this practice is unfair regardless of whether or not the applicants being discriminated against had violated the compulsory liability insurance law and subsection (a) is intended to apply to stop that unfair practice for all "no prior" applicants for the 120-day period specified.

**Comment:** Allstate asserts that the statement in the proposed rule's preamble in support of the rule purports to broaden the scope of the rule to apply to charging of higher rates.

**Response:** The board disagrees. The rule is and was always intended to apply to underwriting practices by which an applicant was charged a higher rate solely because the applicant had no prior insurance. The intended application of the rule is evidenced by the specific requirement in subsection (a) that stipulates that the insurer shall make automobile liability insurance coverage available at the insurance company's or group of companies' "lowest applicable rate."

**Comment:** Allstate asserts that it provided data which indicate the loss experience of "no priors" was worse than those who complied with the compulsory liability law.

**Response:** The board has reviewed the data submitted previously by Allstate and notes that Allstate's December 10, 1991, letter submitted in connection with the Board's consideration of the original rule contains data on page 9 thereof showing little or no difference in loss experience between "priors" and "no priors" in Allstate's Texas county mutual company. The board has received no creditable data to justify an additional charge to an applicant who has no prior insurance.

**Comment:** Allstate's agreement to subsection (a) was based upon an understanding that the agency would be collecting its own data.

**Response:** The board does plan to collect sufficient data to enable staff to determine the appropriateness of the higher rates charged to applicants with no prior insurance. The call for data will not be a part of this rulemaking.

**Comment:** Allstate requests clarification that the prohibition against use of "no priors" is an underwriting rule for regulated companies.

**Response:** The board disagrees. The prohibition against use of "no priors" in underwriting as set forth in subsection (a) is intended to apply, as the rule itself states, to "each insurer writing automobile liability insurance coverage in Texas". The rule applies to "regulated companies" and is also intended to apply to non-rate regulated companies such as county mutual insurance companies, as Allstate and the other insurers who negotiated the language of this proposed rule were aware.

**Comment:** Allstate suggests that the provisions of subsection (c), the permanent restriction against the use of a prior nonstandard carrier as an underwriting criterion, be made temporary. In the alternative, a statement should be added to clarify that if data show that consideration of the previous carrier is justifiably an underwriting criterion, the restriction will be removed.

**Response:** The board rejects both of these suggestions. It is not necessary to amend the rule as suggested by Allstate. Allstate or any other insurer may petition the State Board of Insurance at any time to request repeal of this provision or approval of a surcharge that would be assessed based on the applicant's prior carrier. As discussed further below, the agency has received no credible data indicating that discrimination in underwriting on the basis of prior insurance carrier status is fair.

**Comment:** The State Board of Insurance has not benefitted from the presentation of any data regarding the higher losses Allstate asserts are produced by prior nonstandard insureds. Allstate claims that its studies, as illustrated in charts attached to its comments, support the premise that "clean drivers" are not necessarily "good drivers". Allstate states that its studies show that the loss experience for "clean drivers" in its nonstandard company, Allstate Indemnity, is worse than for "clean drivers" in its preferred company, Allstate Insurance. Allstate further claims that its studies show that the frequency of property damage liability claims for clean nonstandard drivers is approximately 11.7%, while for clean standard drivers the frequency is 7.6%. Allstate concludes from this data that nonstandard drivers have more accidents.

**Response:** Allstate or any insurer has the burden of presenting data which justifies the underwriting practice prohibited by subsection (c). The board should not be asked to approve or continue an underwriting guideline without justification. The data provided by Allstate to support its comment is questionable for the following reasons: It excludes Texas data; It excludes data from nine other states or metropolitan areas (several of them populous) including New York, New Jersey, Massachusetts and the District of Columbia; No definitions have been provided for "good" and "clean" drivers; There is no indication that all other risk or selection factors have been excluded



which might contribute to higher losses in Allstate Indemnity over Allstate Insurance; and The data provided is not sufficiently comprehensive to enable the Board to suggest the data is applicable industry-wide.

**Comment:** Allstate requests clarification that the rule applies only to the writing of automobile liability insurance policies in compliance with the increased compulsory insurance requirements contained in House Bill 2. Since the stated objective of the rule is to facilitate compliance with such requirements, the board may consider tailoring the rule to serve that objective.

**Response:** The board disagrees. The rule was not intended to be restricted to automobile liability insurance policies written in compliance with the increased compulsory insurance requirements. The objective Allstate asserts as the sole objective of the rule is only one of the rule's objectives. However, the rule is also intended to redress injustices and abuses practiced against all applicants with no prior insurance which the passage of House Bill 2 highlighted for the board.

**Oral Comments of Allstate Insurance Company, made by the counsel for Allstate and response by the board.**

**Comment:** The counsel stated that he was authorized to state to the board the following: "Allstate was a party to the agreed compliance with the rule prior to its formal effectiveness. We are in no way diminishing that agreement or intending to depart from it or get out of it or change it in any fashion. We are going to comply with the voluntary agreement and, of course, with the promulgated rule." After further conversation with the board, he went on to say: "By making these comments it was not intended to imply that we're going to reopen any litigation or depart in any fashion from the agreement that we have openly made on the record, and I so state on the record here today."

**Response:** The Chair and a Member stated that they had understood Allstate's written comments to indicate that it did not plan to abide by the December 20, 1991, agreement and that they were pleased that he clarified that the written comments of Allstate were not intended to indicate lack of support for the proposed rule or a desire to withdraw Allstate's agreement to voluntarily comply with the rule. A member stated that he saw nothing wrong with Allstate commenting in writing on the rule.

**Written comments of an insurance consumer, and response by the board.**

**Comment:** Wants insureds written during the period from December 20, 1991 (when the proposed rule was recommended for adoption to the board by certain insurers, the staff and the Office of Public Insurance Counsel), and January 20, 1992, when the insurers which recommended adoption of the rule began voluntary compliance with subsection (a) thereof, to be converted to lower rates. It is not fair for people who fell outside the period of the rule to pay higher rates.

**Response:** Subsection (b) of the rule is intended to extend the benefits of subsection (a) upon renewal of six-month policies of insurance sold to previous no prior applicants who applied for coverage before January 20, 1992, and who were placed in higher rated or nonstandard companies because of their lack of prior insurance. Insurers

who negotiated the proposed rule with staff and Office of Public Insurance Counsel argued that cancelling and rewriting these policies during their term would be too costly and burdensome. Because of the agreement entered into on December 20, 1991, the board has not extended the scope of the rule in conjunction with this comment. However, the Board encourages companies to re-evaluate such policies and to re-write them at lower rates wherever possible.

**Comment:** The insurance consumer noted a number of ways companies were not abiding by the spirit of the December 20, 1991, agreement, including the creation of a tiered county mutuals by one insurance company group following what he asserts is a general trend by Texas insurers to place drivers in county mutuals which are not rate-regulated.

**Response:** The board determined that these comments went to the enforcement of the rule rather than to the merit of the rule itself. The board accordingly took these comments under advisement.

**Comment:** One insurance company sent out a field bulletin to its agents dated January 6, 1992, attached to an individual's letter of January 14, 1992, which states applicants with no prior insurance are to be written in the group's standard company. The individual asserts that under the proposed rule "no prior" applicants with clear driving records should be written instead in the group's premium company, which has the lowest rates in the group, because the rule says "no prior" applicants are to be written at the lowest applicable rate within a group of companies.

**Response:** The board agrees that the intent of the rule is that "no prior" applicants are to be underwritten without regard to their lack of prior insurance at the lowest applicable rate within a group of companies. Therefore, an applicant who would qualify for coverage in a premium company under its underwriting standards if its "no prior" underwriting standard were disregarded should be charged a premium no higher than the premium for such coverage in that company.

**Comment:** One group of companies is writing collision and comprehensive insurance in its county mutual while writing liability coverage in its standard company. The individual argues that discrimination in pricing of all types of auto insurance between priors and no priors is an unfair trade practice and no distinction should be made between liability insurance and collision and comprehensive insurance.

**Response:** The rule is applicable by its terms to liability insurance, according to the agreement entered into with industry on December 20, 1991. However, nothing in the rule prevents companies from writing collision and comprehensive along with liability at their lowest applicable rates without reference to lack of prior insurance, and the board encourages insurers to do so. In addition, the board has directed staff to collect data in the data call on property damage which should shed light on whether discrimination in pricing of collision and comprehensive insurance between "priors" and "no priors" is justified by a difference in loss experience between the two groups.

**Comment:** The individual expresses concern that some agents may have been misinformed by the Independent Insurance Agents of Texas regarding their obligations under subsection (d) of the rule

by being told that "all the rule requires you to do is tell the applicant that the assigned risk plan is available." The individual asserts that subsection (d) appears to him to require an agent to "inform the applicant of coverage available; i. e., what kind it is and that it is equal to, or lower in premium than that quoted ... by the agent."

**Response:** The intent of the rule as proposed was to have agents not only say that coverage under the state-created Assigned Risk Plan is available but also to inform applicants of the premium cost for such coverage. The language of subsection (d) has been clarified accordingly.

**Verbal Comments of an individual insurance consumer and response by the board.**

**Comment:** Some companies have changed their marketing and underwriting guidelines even after agreeing to the compromise in this rule. He suggests that subsection (b) be amended by adding the following sentence: "The underwriting criteria to be used shall be that criterion in place at the time the applicant's original policy was written excluding any no prior guidelines." This addition will ensure those customers affected will not continue to be penalized by any guidelines developed subsequent to the compromise date of December 20, 1991.

**Response:** The board rejects this suggestion because the proposed language adds an additional element that was not a part of the original agreement. However, any reported evasions of the rule will be investigated by the Department of Insurance.

**Written Comments of the Texas Automobile Insurance Plan and response by the board.**

**Comment:** The text of the proposed rule in subsections (c) and (d) referred to the "assigned risk pool." The Texas Automobile Insurance Plan is not a "pool." There is no pooling of the obligation incurred by any insurer receiving an assignment through the plan. When an insurer receives an assignment, it becomes solely responsible for fulfilling the policy obligations and there is no sharing of these losses as would be the case in a pooling arrangement. The plan requests that the wording of the rule be changed to delete the reference to "pool" and insert in its stead the word "plan."

**Response:** The board agrees and the rule has been changed accordingly.

**Verbal Comments of Office of Public Insurance Counsel and response by the board.**

**Comment:** The Office of Public Insurance Counsel (OPIC) supports the proposed changes to the rules as clarifying the intent and not changing the original agreement. In particular, OPIC believes the addition of "cost of coverage" is necessary because some agents had been informed that they did not have to provide the cost of coverage in the Assigned Risk Plan. OPIC remains concerned, however, that despite agreement on this rule, companies are adopting other underwriting criteria, such as use of credit reports, to deny coverage. OPIC also wants to work with the board to ensure that the data call is sufficient to allow a decision to be made in the summer about possible extension of subsection (a) and subsection (b) of the rule. It is important in the data call to get data on "no priors" as quickly as possible.

**Response:** The board shares OPIC's concern about the various underwriting practices, and will

consider whether or not an additional data call on underwriting practices is necessary and appropriate.

Verbal Comments of the Independent Insurance Agents of Texas (IIAT) and Response by the board.

**Comment:** The IIAT did not understand from the text of the proposed rule that agents were to quote to applicants the actual cost of coverage in the Assigned Risk Plan; therefore, the addition of the language "cost of" before "coverage" in subsection (d) would constitute a substantive change to the original rule. However, the IIAT agreed that if the board added the word "approximate" to the phrase "cost of coverage" it would have no objection to the changes in wording of subsection (d).

**Response:** The addition of "cost of coverage" is not a substantive change to the rule, which implicitly required agents and insurers to quote the cost of coverage in the Assigned Risk Plan. The requirement presents no onerous burden to agents, as the cost of coverage on Assigned Risk Plan business may be calculated easily. However, the board agrees that it is appropriate to require that the price quote be on the approximate cost of coverage, and the rule's wording was changed accordingly.

The new section is adopted under the Insurance Code, Article 5.10, which authorizes the State Board of Insurance to make and enforce rules and regulations not inconsistent with the provisions of Subchapter A (Motor Vehicle or Automobile Insurance) of Chapter 5 of the Insurance Code; the Insurance Code, Article 5.01, which gives the board sole and exclusive authority to determine and prescribe just, reasonable, and adequate rates and rating plans and classification of risks for motor vehicle insurers; the Insurance Code, Article 5.09, which prohibits discrimination or distinctions in favor of an insured having a like hazard, in the charge of premiums for insurance; the Insurance Code, Article 1.04, which provides the board with the authority to determine policy and rules in accordance with the laws of this state; the Insurance Code, Article 21.49-2B, §12, which authorizes the board to adopt rules relating to the cancellation and nonrenewal of personal automobile insurance policies; and the Insurance Code, Article 21.49-2, which authorizes the board to prescribe, adopt, promulgate, and enforce reasonable rules and regulations as to the cancellation, nonrenewal, and in certain cases, declination, of certain policies of insurance, including those issued through the Texas Automobile Insurance Plan. Subsection (d) of the new section is additionally proposed under the Insurance Code, Article 21.07, §13, which provides the board with the authority to establish reasonable rules and regulations for the licensing of agents; the Insurance Code, Article 21.07-3, §21, which provides the board with the authority to establish reasonable rules and regulations for the licensing of managing general agents; and the Insurance Code, Article 21.14 which provides the board with the authority to license local recording agents and solicitors. The new section affects Subchapter A of Chapter 5 of the Insurance Code, including Articles 5.10, 5.01 and 5.09, Chapter 1 of the Insurance Code, including Article 1.04, Subchapter E of

Chapter 21 of the Insurance Code, including Articles 21.49-2B, §12 and 21.49-2, and affects Subchapter A of Chapter 21 of the Insurance Code, including Article 21.07, §13, Article 21.07-3, §21, and Article 21.14, all as heretofore specified and discussed. The new section amends Title 28 of the Texas Administrative Code, Chapter 5, Property and Casualty Insurance, Subchapter A, Automobile Insurance, by adding a new §5.401 thereto.

*§5.401. Temporary and Permanent Requirements Regarding Underwriting Treatment of and Disclosure to Applicants for Private Passenger Automobile Liability Insurance.*

(a) For 120 days from the effective date of this rule, each insurer writing private passenger automobile insurance in Texas shall make available automobile liability insurance coverage to applicants with no prior insurance subject to each insurer's underwriting criteria without consideration of the applicants' lack of prior insurance at each company's or group of companies' lowest applicable rate.

(b) For 180 days from the effective date of this rule, each previous "no-prior insurance" applicant who was written in a higher-rated insurance company will be re-underwritten on the applicant's renewal date subject to the underwriting criteria of each company to which the applicant applies at each company's or group of companies' lowest applicable rate.

(c) Applicants for automobile liability insurance currently or previously insured in a higher-rated insurance company or through the Texas Automobile Insurance Plan (the Assigned Risk Plan) will be underwritten without consideration of the applicant's prior insurance carrier.

(d) Insurers or agents who make a quote to an applicant with no prior insurance having no more than one accident and one violation within the past three years which quote equals or exceeds the premium available through the Assigned Risk Plan must inform the applicant of the approximate cost of coverage available through the Assigned Risk Plan.

(e) If any provision of this §5.401 or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of said provisions which can be given effect without the invalid provision or application. To this end all provisions of this §5.401 are declared to be severable.

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 18, 1992.

TRD-9203955 Linda K. von Quintus-Dorn

Chief Clerk  
Texas Department of  
Insurance

Effective date: April 8, 1992

Proposal publication date: January 7, 1992

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

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 72. Memoranda of Understanding with Other State Agencies

##### Memorandum of Agreement Concerning the Texas Department on Aging Options for Independent Living Program

###### • 40 TAC §72.2001

The Texas Department of Human Services (DHS) adopts an amendment to §72.2001, without changes to the proposed text as published in the February 11, 1992, issue of the *Texas Register* (17 TexReg 1220).

Justification for the amendment is improved coordination of services and less duplication of effort.

The amendment will function by renewing the memorandum of agreement that concerns TDoA's Options for Independent Living Program.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on March 17, 1992.

TRD-9203927

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

Effective date: April 15, 1992

Proposal publication date: February 11, 1992

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

# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

**Emergency meetings and agendas.** Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

## Texas Department of Agriculture

**Tuesday, April 7, 1992, 7 p.m.** The Southern Rolling Plains Cotton Producers Board of the Texas Department of Agriculture will meet at the Miles Co-operative Gin, 1 1/2 Miles Northwest of Miles. According to the agenda summary, the board will read and approve minutes; hear treasurer's report; report of activities; committee reports; reports from special guests with discussion and action on proposals; and discuss and act on old and new business.

**Contact:** Sid Long, P.O. Box 30036, San Angelo, Texas 76903, (915) 453-2383.

**Filed:** March 18, 1992, 3:02 p.m.

TRD-9203991

**Thursday, May 14, 1992, 10 a.m.** The Texas Rice Producers Board of the Texas Department of Agriculture will meet at the Fort Bend County Extension Office, 1416 Band Road, Rosenberg. According to the complete agenda, the board will discuss approval of minutes of last meeting; assess revenue/expenses for current fiscal year and take appropriate budgeting action; project revenue and expense budget for 1992-1993 and possibly take action; and discuss other business.

**Contact:** Curtis Leonhardt, 6699 Rookin, Houston, Texas 77074, (713) 270-6699.

**Filed:** March 17, 1992, 11:57 a.m.

TRD-9203890

## Texas Board of Architectural Examiners

**Friday, March 27, 1992, 9 a.m.** The Texas Board of Architectural Examiners will meet at 8213 Shoal Creek Boulevard, Suite 107, Austin. According to the agenda summary, the board will call the meeting to order; recognize guests; take roll call; hear chairman's opening remarks; consider/act on the following categories: discuss approval of

minutes; consent on director's report; committee matters; personal appearances; examinations; disciplinary matters; legislative matters; renewals; rules and regulations; reciprocity; plan next scheduled meeting; and board member recognition and tribute.

**Contact:** Robert H. Norris, 8213 Shoal Creek Boulevard #107, Austin, Texas 78758, (512) 458-1363.

**Filed:** March 17, 1992, 2:11 p.m.

TRD-9203915

## Texas Commission on the Arts

**Wednesday, April 8, 1992, 8 a.m.** The Literature-Peer Review Panel of the Texas Commission on the Arts will meet at the E. O. Thompson Building, 920 Colorado Street, 10th Floor Conference Room, Austin. According to the complete agenda, the panel will make introductions; grants deliberations and voting; and policy review.

**Contact:** Connie Ree Green, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

**Filed:** March 18, 1992, 8:50 a.m.

TRD-9203942

**Tuesday-Wednesday, April 8-9, 1992, 5 p.m. and 8 a.m. respectively.** The Dance-Peer Review Panel of the Texas Commission on the Arts will meet at the E. O. Thompson Building, 920 Colorado Street, 10th Floor Conference Room, Austin. According to the complete agenda, the panel will make introductions; grants deliberations and voting; and policy review.

**Contact:** Connie Ree Green, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

**Filed:** March 18, 1992, 8:50 a.m.

TRD-9203941

**Thursday, April 10, 1992, 8 a.m.** The Media-Peer Review Panel of the Texas

Commission on the Arts will meet at the E. O. Thompson Building, 920 Colorado Street, 8th Floor Conference Room, Austin. According to the complete agenda, the panel will make introductions; grants deliberations and voting; and policy review.

**Contact:** Connie Ree Green, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

**Filed:** March 18, 1992, 8:48 a.m.

TRD-9203938

**Tuesday-Wednesday, April 14-15, 1992, 8 a.m.** The Music-Peer Review Panel of the Texas Commission on the Arts will meet at the E. O. Thompson Building, 920 Colorado Street, 10th Floor Conference Room, Austin. According to the complete agenda, the panel will make introductions; grants deliberations and voting; and policy review.

**Contact:** Connie Ree Green, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

**Filed:** March 18, 1992, 8:48 a.m.

TRD-9203937

**Thursday-Friday, April 16-17, 1992, 8 a.m.** The Community Arts-Peer Review Panel of the Texas Commission on the Arts will meet at the E. O. Thompson Building, 920 Colorado Street, 10th Floor Conference Room, Austin. According to the complete agenda, the panel will make introductions; grants deliberations and voting; and policy review.

**Contact:** Connie Ree Green, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

**Filed:** March 18, 1992, 8:49 a.m.

TRD-9203939

**Tuesday-Wednesday, April 21-22, 1992, 8 a.m.** The Theatre-Peer Review Panel of the Texas Commission on the Arts will meet at the E. O. Thompson Building, 920 Colorado Street, 10th Floor Conference Room, Austin. According to the complete agenda, the panel will According to the complete

agenda, the panel will make introductions; grants deliberations and voting; and policy review.

**Contact:** Connie Ree Green, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

**Filed:** March 18, 1992, 8:48 a.m.

TRD-9203936

**Thursday-Friday, April 23-24, 1992, 8 a.m.** The Visual Arts-Peer Review Panel of the Texas Commission on the Arts will meet at the E. O. Thompson Building, 920 Colorado Street, 10th Floor Conference Room, Austin. According to the complete agenda, the panel will make introductions; grants deliberations and voting; and policy review.

**Contact:** Connie Ree Green, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

**Filed:** March 18, 1992, 8:50 a.m.

TRD-9203940

## Texas Department of Criminal Justice

**Friday, March 27, 1992, 10 a.m.** The Judicial Advisory Council of the Texas Department of Criminal Justice (CJAD) will meet at 8100 Cameron Road, Suite 600, Building B, Austin. According to the complete agenda, the council will call the meeting to order; introduce guests; discuss approval of minutes; presentation of TDCJ-CJAD Director, Judge Gist, JAC Chairman; remarks-Dimitria D. Pope, TDCJ-CJAD Director; overview of TDCJ-Dick Lewis; performance rewards program update, John Newton, Program Administrator, Judge Gist, JAC Chairman; plans and grants update, Lynn Walker, Program Administrator; policy discussions, officer training; George Pryor and Nancy Bartlett; Senate Bill 1-Ethics Legislation, Todd Jermstad, legal counsel; House Bill 2009-strategic planning, Dimitria Pope, TDCJ-CJAD Director; discuss other administrative business; plan date and site selection of next meeting; and adjourn.

**Contact:** Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

**Filed:** March 18, 1992, 10:45 a.m.

TRD-9203962

## Texas School for the Deaf

**Friday, March 27, 1992, 8:30 a.m.** The Governing Board Policy Committee of the Texas School for the Deaf will meet at 1102 South Congress Avenue, Temporary Build-

ing Three, Conference Room, Austin. According to the agenda summary, the committee will review and discuss policy amendments-business and support services, personnel, instruction, students; policy review-personnel, students; policy deletion-business and support services; and policy adoption-personnel.

**Contact:** Sally M. Custer, 1102 South Congress Avenue, Austin, Texas 78764, (512) 440-5335.

**Filed:** March 18, 1992, 2:54 p.m.

TRD-9203988

**Friday, March 27, 1992, 10 a.m.** The Governing Board of the Texas School for the Deaf will meet at 601 Airport, Large Conference Room, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of minutes of February 7, 1992; business for information purposes; business requiring board action; meet in executive session; hear comments by board members; and adjourn.

**Contact:** Sally M. Custer, 1102 South Congress Avenue, Austin, Texas 78764, (512) 440-5335.

**Filed:** March 18, 1992, 2:53 p.m.

TRD-9203987

## Texas Education Agency

**Monday, March 30, 1992, 2 p.m.** The State Board of Education (SBOE) Committee of the Whole 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 hold a public hearing to accept testimony concerning the proposed changes to the student assessment program. Individuals wishing to give testimony are limited to a four-minute presentation. Each presenter will be required to give his/her name, organizational affiliation, if any, address, telephone number, indicates whether testimony will be for or against the proposed changes to the student assessment program, and supply 25 copies of the written testimony. Individuals wishing to give testimony should contact Janice Boyd at (512) 463-9593 by 5 p.m. on Friday, March 27. Copies of the changes proposed to the student assessment program are available on request.

**Contact:** Janice Boyd, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9593.

**Filed:** March 19, 1992, 9:51 a.m.

TRD-9204014

**Wednesday-Thursday, April 1-2, 1992, 1 p.m. and 8:30 a.m. respectively.** The Texas Successful Schools Award System

Advisory Committee of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 6-101, Austin. According to the agenda summary, the committee will discuss approval of minutes; review final criteria for awards and recognitions; discuss school notification procedures: final award and recognition criteria; eligibility/ineligibility; finalize application form; discuss decision rules for use of application; update on plans for award ceremony; discuss planning for next year's award cycle; schedule next meeting and address other business related to the Texas Successful Schools Award System.

**Contact:** Linda Hargrove, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9524.

**Filed:** March 19, 1992, 9:51 a.m.

TRD-9204015

## Employees Retirement System of Texas

**Thursday, March 26, 1992, 8:30 a.m.** The Board of Trustees of the Employees Retirement System of Texas will meet at the ERS Auditorium, ERS Building, 18th and Brazos Streets, Austin. According to the agenda summary, the board will discuss approval of minutes; vendor selection for administration of managed care plan under Texas Employees Uniform Group Insurance Program for FY 1993; investment consideration of system's assets; appeals of contested cases; final adoption of trustee rule amendments relating to the Texas Employees Uniform Group Insurance Program; amendments to TexFlex Employee Benefits (Cafeteria) Plan/Trustee Rule amendments relating to flexible benefits (Cafeteria Plan) program; status of Uniform Group Insurance Program Strategic Plan implementation; Group Benefits Advisory Committee report; hear executive director's report; set date of next trustee meeting; and adjourn.

**Contact:** William S. Nail, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3336.

**Filed:** March 17, 1992, 4:02 p.m.

TRD-9203925

## Governor's Health Policy Task Force

**Tuesday, March 31, 1992, 5 p.m.** The Governor's Health Policy Task Force will hold a public hearing at the Dallas City Council Chambers, 1500 Marilla, Dallas. According to the complete agenda, the task force will be taking public testimony from persons wishing to address the members

with regard to health care issues. Persons requesting interpreter services for the hearing impaired, please contact this office.

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

Filed: March 18, 1992, 3:50 p.m.

TRD-9203998

## Texas Department of Health

**Saturday, March 28, 1992, 9 a.m.** The Educational Sub-Committee of the Midwifery Board of the Texas Department of Health will meet at the Texas Department of Health, First Floor, Moreton Building, 1100 West 49th Street, Austin. According to the complete agenda, the committee will hear public comments on education; consider and possibly act on: review of conference call; clarification of education in the law; standards of practice; subject matter-MANA core competencies; sites for education (Kentucky model; didactic; and clinical); evaluation tools for judging programs and instructors; and present midwives in 1993 ("Grandmothering" and continuing education requirements).

Contact: Joey Alexander, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700.

Filed: March 17, 1992, 4:12 p.m.

TRD-9203926

## Texas High-Speed Rail Authority

**Friday, March 27, 1992, 1 p.m.** The Board of Directors of the Texas High-Speed Rail Authority will meet at the John H. Reagan Building, Room 101, 15th and Congress, Austin. According to the agenda summary, the board will discuss approval of minutes; meet in executive session; discuss communications protocol; report on THSRC activities; environmental consultant contract; strategic plan; executive director's report; and citizen communications.

Contact: Allan Rutter, 823 Congress Avenue, Suite 1502, Austin, Texas 78701, (512) 478-5484.

Filed: March 19, 1992, 8:53 a.m.

TRD-9204002

## Texas Department of Human Services

**Thursday, March 26, 1992, 9:30 a.m.** The Family Violence Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, Fourth

Floor, West Tower, Conference Room 4W, Austin. According to the complete agenda, the committee will call the meeting to order; welcome and make introductions; discuss approval of minutes; announcements; subcommittee meetings; reports; discuss old and new business; and adjourn.

Contact: Anne Heiligenstein, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3365.

Filed: March 17, 1992, 1:35 p.m.

TRD-9203891

**Friday, March 27, 1992, 9 a.m.** The Social Work Certification Advisory Council of the Texas Department of Human Services will meet at 701 West 51st Street, Second Floor, West Tower, Classroom One, Austin. According to the complete agenda, the council will welcome and introduce new members; discuss by-laws; election of officers; staff report and feedback on advisory committee request; discuss proposed rule changes; discuss sunset review; and goals and objectives.

Contact: Michael Doughty, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3248.

Filed: March 18, 1992, 12:03 p.m.

TRD-9203967

## Texas Department of Insurance

**Wednesday, March 25, 1992, 8:30 a.m.** The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the agenda summary, the board will review and discuss pending board orders: personnel; solvency; litigation; planning calendar commissioner's orders; consider TDI Strategic Plan for 1992-1998; consider hearing officer's proposal for decision in Docket Number 1721 concerning application of the Victorian Owners Association, Inc., and Leisure Services, Inc. as agent for the Victorian Renters Pool for review of the action of the TCPIA; consider hearings officer proposal for decision in Docket Number 1848; motion to dismiss; application of Charles Sims for hearing regarding Workers' Compensation experience rating modifier; consider request from State Farm to allow a company representative to either be appointed to the committee overseeing the statistical agent audit conducted under Docket Number 1800 or be allowed ex officio attendance and participation.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: March 17, 1992, 2:40 p.m.

TRD-9203916

## Texas National Guard Armory Board

**Friday, March 27, 1992, 1 p.m.** The Texas National Guard Armory Board will meet at the Westin Paso Del Norte Hotel, Angus Room, 101 South El Paso Street, El Paso. According to the agenda summary, the board will discuss approval of the minutes of previous meeting; discuss administrative matters; construction/renovation/maintenance update; property/leases; and establish date of next meeting.

Contact: Sandra Hille, P.O. Box 5426, Austin, Texas 78763, (512) 451-6394.

Filed: March 18, 1992, 2:08 p.m.

TRD-9203972

## Public Utility Commission of Texas

**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 450N, Austin. According to the complete agenda, the division will hold a joint prehearing conference in Docket Number 10999-application of Houston Lighting and Power Company to amend certificate of convenience and necessity for proposed transmission line within Harris County.

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

Filed: March 18, 1992, 3:08 p.m.

TRD-9203994

**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 450N, Austin. According to the complete agenda, the division will hold a joint prehearing conference in Docket Number 11000-application of Houston Lighting and Power Company to amend certificate of convenience and necessity for the Dupont Project Generating Unit.

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

Filed: March 18, 1992, 3:09 p.m.

TRD-9203995

**Thursday, April 2, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in

Docket Number 10984-application of Kerrville Telephone Company to revise Tariff Section 10, Sheet Number 4.

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

Filed: March 18, 1992, 3:09 p.m.

TRD-9203996

Thursday, April 2, 1992, 10 a.m. (Rescheduled from Wednesday, March 25, 1992, at 10 a.m.). The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 9728-application of Texas-New Mexico Power Company for a certificate of convenience and necessity for a transmission line within Galveston County.

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

Filed: March 17, 1992, 3:13 p.m.

TRD-9203920

Wednesday, May 13, 1992, 10 a.m. (rescheduled from April 13, 1992, 10 a.m.). The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 10655-application of Southwestern Bell Telephone Company for approval of digiline service.

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

Filed: March 18, 1992, 3:09 p.m.

TRD-9203997

### Texas National Research Laboratory Commission

Thursday, March 19, 1992, 2 p.m. The Texas National Research Laboratory Commission met at the Ellis County Courthouse, District Courtroom, 101 Main Street, Second Floor, Waxahachie. According to the emergency revised agenda summary, the commission convened meeting and took roll call of members; chairman's welcome; met in executive session; reconvened and heard public comment; discussed approval of minutes; discussed administrative reports; standing committee meetings and reports: finance and audit committee; personnel, procurement, and minority affairs committee; research and education committee; site acquisition and development; reconvened as a full commission; heard public comment; and adjourned. The emergency status was

necessary as a correction to the statute citation for executive session was being made, and no changes to the agenda or executive session subject matter were required.

Contact: Karen L. Chrestay, 1801 North Hampton Road, #400, DeSoto, Texas 75115, (214) 709-3800.

Filed: March 18, 1992, 2:24 p.m.

TRD-9203983

### Texas County and District Retirement System

Friday, March 27, 1992, 9 a.m. The Board of Trustees of the Texas County and District Retirement System will meet at the Hyatt Regency, Town Lake, Austin. According to the revised agenda summary, the board chairman will open meeting; discuss approval of the minutes of December 13, 1991, regular board meeting will be read; consider and pass on applications for service and disability retirement benefits; consider application for TCDRS participation; consider merger of Cameron County Tax Appraisal District plan into TCDRS; discuss resolution of Gulf War Military Service; discuss approval for participation of El Paso County Enhanced 911 Emergency Communications District and discuss legislative amendment; review and act on reports from director, actuary, and investment counsel; and set date for June meeting.

Contact: J. Robert Brown, 400 West 14th Street, Austin, Texas 78701, (512) 476-6651.

Filed: March 18, 1992, 4 p.m.

TRD-9203999

### Interagency Council on Sex Offender Treatment

Friday, March 27, 1992, 10 a.m. The Board of the Interagency Council on Sex Offender Treatment will meet at 1100 West 49th Street, #M418, Austin. According to the complete agenda, the board will convene by Chair Judy Briscoe; discuss adoption of minutes; hear executive director's report: status of new headquarters; registry program status; status of agency budget, and other informative data; discuss and approve operating budget to Governor's Office of Budget and Planning; discuss and approve agency Strategic Plan, Phase II; Sam Houston State University Conference Steering Committee report: Chair Glen Kercher, Ph.D.; hear public comment; and adjourn. The Steering Committee for the Sam Houston State University Conference will meet prior to the council board meeting at 9 a.m. on March 27, in Room M-418.

Contact: D. Michelle Yoscak, 9111 Jollyville Road, #202, Austin, Texas 78759, (512) 343-8520.

Filed: March 17, 1992, 3:58 p.m.

TRD-9203924

### The Texas A&M University System

Thursday, March 26, 1992, 8:30 a.m. The Board of Regents of the Texas A&M University System will meet at the Board of Regents Meeting Room, College Station. According to the agenda summary, the board will review and discuss emeritus titles; sale of land; budget and fiscal transfers, salary increases and new positions; appointments; promotions; terminations; gifts, grants, loans and bequests; appropriation from AUF; tenure; appointment of interim provost and vice president; appointment of dean; disposition and acquisition of real estate; naming of facilities; selection of architects/engineers; construction matters for the system parts; adoption of resolutions; revision of revolving bank accounts-designate funds-depository banks; authority for laboratory fees; increased field trip fees; approval of fee changes; transfer of funds; adoption of policy; dedication of real property proceeds; license agreements; nonexclusive licenses; establishment of institutes; infrastructure for the George Bush Presidential Library; correction and approval of minutes; authorization for a Bachelor of Science Degree in Health Sciences, CCSU; approval of a new mission (role and scope) statement; quasi-endowments; create the Center for Distance Learning Research reports from system administration; and approval of honorary degrees.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 18, 1992, 10:44 a.m.

TRD-9203961

### Texas Appraiser Licensing and Certification Board

Thursday-Friday, March 26-27, 1992, 9 a.m. The Texas Appraiser Licensing and Certification Board will meet at the TREC Headquarters, Conference Room 235, Second Floor, 1101 Camino La Costa, Austin. According to the complete agenda, on Thursday, the board will call the meeting to order; discuss and possible action concerning the TALCB strategic plans for 1992-1998; possible executive session to review and discuss the certification/licensing examinations, examination questions and question bank pursuant to Attorney General Opinion H-484; and adjourn. On Friday, the board will call the meeting to

order; consider the minutes of the February 28, 1992 meeting; hear staff reports; discuss the operating budget and other budgetary matters; discussion and possible action concerning TALCB strategic plans for 1992-1998; discussion and possible action concerning the certification/licensing examinations, examination questions, and question bank; discussion and possible action concerning the application, certification/licensing or other board procedures, policies and interpretations; comments and presentations from visitors; selection of date of subsequent meeting; and adjourn.

**Contact:** Renil C. Liner, 1101 Camino La Costa, Austin, Texas 78752, (512) 465-3950.

**Filed:** March 18, 1992, 2:33 p.m.

TRD-9203985

## Texas Southern University

**Tuesday, March 24, 1992, 4 p.m.** The Personnel and Academic Affairs Committee of the Board of Regents of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will review and discuss reports on progress of academic activities and programs; and personnel actions.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** March 19, 1992, 9:39 a.m.

TRD-9204005

**Wednesday, March 25, 1992, 4 p.m.** The Building and Grounds Committee of the Board of Regents of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider construction change orders; payment to architects, contractors and engineers; authorize and ratify contracts and awards; and review of on going construction and current contractual relations.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** March 19, 1992, 9:29 a.m.

TRD-9204009

**Wednesday, March 25, 1992, 5 p.m.** The Development Committee of the Board of Regents of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider reports from the administration on university fund

raising.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** March 19, 1992, 9:28 a.m.

TRD-9204004

**Thursday, March 26, 1992, 4 p.m.** The Finance Committee of the Board of Regents of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider matters relating to financial reporting systems, and budgets; fiscal reports from the administration; and investments and informational items.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** March 19, 1992, 9:29 a.m.

TRD-9204006

**Friday, April 3, 1992, 8:30 a.m.** The Board of Regents of Texas Southern University will meet at Texas Southern University, University Library, Fifth Floor, Houston. According to the complete agenda, the board will consider: minutes; report of the president; report from standing committees; and meet in executive session.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** March 19, 1992, 9:29 a.m.

TRD-9204008

## Texas Tech University

**Thursday, March 26, 1992, 10:30 a.m.** The Academic, Student, and Administrative Affairs Committee of the Board of Regents of Texas Tech University will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will discuss approval of the January 23, 1992 committee meeting minutes; consider: granting of academic tenure; changes in academic rank; granting academic tenure with appointment; designation of horn professors; granting of emeritus status; change computer science section of electrical engineering to Department of Computer Science; plan for instructional telecommunications; residence hall visitation policy; ratify faculty development leaves and commissioning of peace officers; and hear reports.

**Contact:** Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

**Filed:** March 17, 1992, 2:03 p.m.

TRD-9203902

**Thursday, March 26, 1992, 10:30 a.m.** The Finance Committee of the Board of Regents of Texas Tech University will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will discuss approval of the January 23, 1992 committee meeting minutes; consider: budget adjustments for December, January, and February; approve summer academy participant fee; holiday schedule for 1992-1993; approve to (participate) (not to participate) in Texas Employees Uniform Group Insurance Benefits; and hear reports.

**Contact:** Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

**Filed:** March 17, 1992, 2:04 p.m.

TRD-9203903

**Thursday, March 26, 1992, 10:30 a.m.** The Campus and Building Committee of the Board of Regents of Texas Tech University will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will discuss approval of the January 23, 1992, committee meeting minutes; consider: renaming Room Number 132 in the Mechanical Engineering Building the "L. J. Powers Lecture Hall"; naming the new observatory the "Preston F. Gott Skyview Observatory"; authorize president to award a construction contract for addition to grandstand facilities at Dan Law Field; authorize president to appoint project architect and award construction contract for stabilization of Dairy Barn and Silo; authorize president to receive bids for renovation of Coronado Room in University Center; authorize president to receive bids for library addition to law school; and hear reports.

**Contact:** Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

**Filed:** March 17, 1992, 2:04 p.m.

TRD-9203904

**Thursday, March 26, 1992, 10:30 a.m.** The Development and Public Affairs Committee of the Board of Regents of Texas Tech University will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will discuss approval of the January 23, 1992 committee meeting minutes; consider acceptance of gifts-in-kind; and hear reports.

**Contact:** Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

**Filed:** March 17, 1992, 2:04 p.m.

TRD-9203905

**Thursday, March 26, 1992, 10:30 a.m.** The Research Affairs Committee of the Board of Regents of Texas Tech University will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will discuss approval of the January 23, 1992 committee meeting minutes; consider appointment of individuals to Board of Directors of Texas Tech Research Foundation; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: March 17, 1992, 2:05 p.m.

TRD-9203906

**Thursday, March 26, 1992, 10:30 a.m.** The Committee of the Whole of the Board of Regents of Texas Tech University will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will meet in executive session, Vernon's Annotated Civil Statutes, Article 6252-17(e) to consult with president and general counsel regarding pending and contemplated litigation, settlement offers, settlement negotiations and matters confidential pursuant to Code of Professional Responsibility of State Bar of Texas; discuss prospective gifts to the University of Health Sciences Center and contractual negotiations contemplated and those in progress; discuss evaluation and duties of Texas Tech University and Texas Tech University Health Sciences Center officers and employees; and conference with various employees for the purpose of receiving information and asking questions of employees.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: March 17, 1992, 2:05 p.m.

TRD-9203907

**Thursday, March 26, 1992, 10:30 a.m.** The Governmental Affairs Committee of the Board of Regents of Texas Tech University will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will discuss approval of the January 23, 1992 committee meeting minutes; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: March 17, 1992, 2:05 p.m.

TRD-9203908

**Friday, March 27, 1992, 10 a.m.** The Board of Regents of Texas Tech University will meet at the Board Suite, Administration Building, Campus, Lubbock. According to the agenda summary, the board will hear

reports and act on: approval of minutes; academic, student and administrative affairs; finance; campus and building; development and public affairs; research affairs; and committee of the whole.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: March 17, 1992, 2:03 p.m.

TRD-9203901

**Saturday, March 28, 1992, 8 a.m.** The Academic, Student and Administrative Affairs Committee of the Board of Regents of Texas Tech University will meet at Board Suite, Administration Building, Campus, Lubbock. According to the complete agenda, the committee will discuss academic issues and concerns at Texas Tech University; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: March 17, 1992, 2:05 p.m.

TRD-9203909

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### Texas Tech University Health Sciences Center

**Thursday, March 26, 1992, 10:30 a.m.** The Committee of the Whole of the Board of Regents of Texas Tech University Health Sciences Center will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will meet in executive session, Vernon's Annotated Civil Statutes, Article 6252-17(e) to consult with president and general counsel regarding pending and contemplated litigation, settlement offers, settlement negotiations and matters confidential pursuant to Code of Professional Responsibility of State Bar of Texas; discuss prospective gifts to the University and Health Sciences Center and contractual negotiations contemplated and those in progress; discuss evaluation and duties of Texas Tech University and Texas Tech University Health Sciences Center officers and employees; and conference with various employees for the purpose of receiving information and asking questions of employees.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: March 17, 1992, 2:03 p.m.

TRD-9203899

**Thursday, March 26, 1992, 10:30 a.m.** The Governmental Affairs Committee of the Board of Regents of Texas Tech University Health Sciences Center will meet at Room 2B152, Health Sciences Center

Building, Campus, Lubbock. According to the complete agenda, the committee will discuss approval of the January 23, 1992 committee meeting minutes; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: March 17, 1992, 2:03 p.m.

TRD-9203900

**Thursday, March 26, 1992, 10:30 a.m.** The Development and Public Affairs Committee of the Board of Regents of Texas Tech University will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will discuss approval of the January 23, 1992 committee meeting minutes; consider: appointment of members to Board of Directors of Texas Tech Medical Foundation; acceptance of gift-in-kind; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: March 17, 1992, 2:03 p.m.

TRD-9203897

**Thursday, March 26, 1992, 10:30 a.m.** The Research Affairs Committee of the Board of Regents of Texas Tech University will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will discuss approval of the January 23, 1992 committee meeting minutes; consider: appointment of members of Board of Directors of Texas Tech Research Foundation; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: March 17, 1992, 2:03 p.m.

TRD-9203898

**Thursday, March 26, 1992, 10:30 a.m.** The Campus and Building Committee of the Board of Regents of Texas Tech University will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will discuss approval of the January 23, 1992 committee meeting minutes; consider: authorize president to approve schematic designs, proceed with contract documents and bids, and award contract for Phase I relocation of OB/GYN Department to third level, Pod B, of HSC Building; authorize president to establish a project budget, appoint architects and engineers and proceed with plans and specifications to renovate space for HealthNet Department on first level, Pod C, of Health Sciences Center Building, Lubbock; deed of land to University Medical Center Hospital for con-



struction of additional parking lot; and hear reports.

**Contact:** Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

**Filed:** March 17, 1992, 2:02 p.m.

TRD-9203896

**Thursday, March 26, 1992, 10:30 a.m.** The Finance Committee of the Board of Regents of Texas Tech University Health Sciences Center will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will discuss approval of the January 23, 1992, committee meeting minutes; consider: budget adjustments for December, January and February; establish five quasi-endowments; 1992-1993 holiday schedule; approval to (participate) (not to participate) in Texas Employees Uniform Group Insurance Benefits; ratify delegation of officers and/or employees to approve official travel reimbursements from appropriated funds and other funds and to authorize and approve expenditures from appropriated funds and other funds; and hear reports.

**Contact:** Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

**Filed:** March 17, 1992, 2:02 p.m.

TRD-9203895

**Thursday, March 26, 1992, 10:30 a.m.** The Academic, Student, Clinical and Administrative Affairs Committee of the Board of Regents of Texas Tech University will meet at Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the committee will discuss approval of the January 23, 1992, committee meeting minutes; consider: granting of academic tenure; change in academic rank; revise policy regarding establishing rank and awarding tenure; plan for instructional telecommunications; agreement with Coopers and Lybrand to evaluate relationship/contribution with R. E. Thomason Hospital, El Paso; agreement with St. Anthony's Hospital, Amarillo, to sublease space for Family Practice Program; approve Family Practice program agreement with St. Anthony's Hospital, Amarillo, for funding of resident services; ratify commission of peace officers and dual employment; and hear reports.

**Contact:** Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

**Filed:** March 17, 1992, 2:02 p.m.

TRD-9203894

**Friday, March 27, 1992, 9 a.m.** The Board of Regents of Texas Tech University Health Sciences Center will meet at the Board

Suite, Administration Building, Campus, Lubbock. According to the agenda summary, the board will report and act on: minutes; president's report; academic, student, clinical and administrative affairs; finance; campus and building; development and public affairs; research affairs; and committee of the whole.

**Contact:** Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

**Filed:** March 17, 1992, 2:02 p.m.

TRD-9203893

## Texas Department of Transportation

**Wednesday, March 25, 1992, 9:30 a.m.** The Texas Transportation commission of the Texas Department of Transportation will meet at the Dewitt C. Greer Building, 125 East 11th Street, Room 101/101A, First Floor, Austin. According to the agenda summary, the commission will hold public hearings on highway matters in various counties; discuss approval of minutes; execute contract awards, rejections, defaults and/or assignments and routine minute orders; authorize: eminent domain proceedings; right of way leasing; add/cancel rehabilitation projects; consider: allocation of Section 18 funds; various aviation projects; strategic plan; public information program; federal-aid highway and transit planning funds; staff reports/briefings including new federal requirements for removal of illegal signs on Interstate and Primary Highway Systems; meet in executive session with legal counsel and for realty matters; and discuss rulemaking; 43 TAC Chapter 1 and 15.

**Contact:** Myma Klipple, 125 East 11th Street, Austin, Texas 78701, (512) 463-8576.

**Filed:** March 17, 1992, 1:39 p.m.

TRD-9203892

## University of Texas System

**Thursday, April 9, 1992, 10 a.m.** The Board of Regents of the University of Texas System will meet at the U. T. San Antonio, 6900 North Loop 1604 West, San Antonio. According to the complete agenda, the board, pursuant to Vernon's Texas Civil Statutes, Article 6252-17a, Section 3(a)(23) which requires that the name or names of any finalist or finalists for the position of a chief executive officer of an institution of higher education be publicly released 21 days in advance of any final action on the employment of the individual, the Board of Regents announces that: Dr. Ryan

Amacher, Dr. A. Benton Cocanougher, and Dr. Thomas J. LaBelle are the finalist candidates for the position of President of the University of Texas at Arlington. This notice will permit final action at the regular board meeting scheduled for April 9, 1992.

**Contact:** Arthur H. Dilly, P.O. Box N, U. T. Station, Austin, Texas 78713-7328, (512) 499-4402.

**Filed:** March 18, 1992, 11:52 a.m.

TRD-9203966

**Thursday, April 9, 1992, 10 a.m.** The Board of Regents of the University of Texas System will meet at the U. T. San Antonio, 6900 North Loop 1604 West, San Antonio. According to the complete agenda, the board, pursuant to Vernon's Texas Civil Statutes, Article 6252-17a, Section 3(a)(23) which requires that the name or names of any finalist or finalists for the position of a chief executive officer of an institution of higher education be publicly released 21 days in advance of any final action on the employment of the individual, the Board of Regents announces that Dr. William H. Cunningham is the finalist candidate for the position of Chancellor of the U. T. System effective September 1, 1992. This notice will permit final action at the regular board meeting scheduled for April 9, 1992.

**Contact:** Arthur H. Dilly, P.O. Box N, U. T. Station, Austin, Texas 78713-7328, (512) 499-4402.

**Filed:** March 18, 1992, 11:52 a.m.

TRD-9203965

## Texas Water Commission

**Wednesday, March 18, 1992, 10 a.m.** The Texas Water Commission met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission considered various matters within the regulatory jurisdiction of the commission. In addition, the commission considered items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission took various actions, including, but not limited to scheduling an item in the entirety or for particular action at a future date or time. The emergency status was necessary due to unforeseeable circumstances.

**Contact:** Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** March 17, 1992, 3:49 p.m.

TRD-9203923

**Wednesday, March 25, 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 revised agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: March 17, 1992, 4:22 p.m.

TRD-9203929

**Wednesday, March 25, 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 revised agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: March 17, 1992, 4:22 p.m.

TRD-9203930

**Wednesday, March 25, 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 revised agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: March 17, 1992, 5:14 p.m.

TRD-9203935

### Texas Workers' Compensation Insurance Fund

**Wednesday, March 25, 1992, 8:30 a.m.** The Board of Directors of the Texas Workers' Compensation Insurance Fund will meet at the Four Seasons Hotel, 98 San

Jacinto Street, Austin. According to the agenda summary, the board will call the meeting to order; take roll call; review and approve February 26, 1992, minutes; hear staff reports; finance; personnel policies and procedures; marketing; plan of operation; claims; committee structure; public relations; award telephone service contract; and meet in executive session to discuss rate recommendations; claims administration contract negotiations; MIS contract negotiations; telephone service contract report; and reinsurance contract report.

Contact: Alana Foster, 100 Congress Avenue, Suite 300, Austin, Texas 78701, (512) 322-3851.

Filed: March 17, 1992, 2:45 p.m.

TRD-9203917

### Texas Youth Commission

**Thursday, March 26, 1992, 9:30 a.m.** The Board of the Texas Youth Commission will meet at 4900 North Lamar Boulevard, Public Hearing Room, Austin. According to the agenda summary, the board will review the strategic plan; statistical summary/report on student population; update on compliance with Rider 122, General Appropriations Act-consider options for potential budget reductions; selection of architect/engineering firms for construction projects; review of employee grievance reports; review of alleged mistreatment investigations; and meet in executive session.

Contact: Ron Jackson, P.O. Box 4260, Austin, Texas 78765, (512) 483-5000.

Filed: March 18, 1992, 2:35 p.m.

TRD-9203986

### Regional Meetings

Meetings Filed March 17, 1992

**The Brazos River Authority** Visions 2000 Task Force, Board of Director met at the East Room of the Waco Hilton Hotel, 113 University Parks Drive, Waco, March 22, 1992, at 2:30 p.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9203912.

**The Brazos River Authority** Board of Directors met at 4400 Cobbs Drive, Waco, March 23, 1992, at 9 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9203913.

**The Brazos Valley Quality Work Force Planning Committee** will meet at the Blinn Occupation Center, 301 Post Office Street,

Bryan, March 24, 1992, at 11:30 a.m. Information may be obtained from Patty Groff, 301 Post Office Street, Bryan, Texas 77801, (409) 823-4988. TRD-9203910.

**The Deep East Texas Regional Mental Health and Mental Retardation Services** Board of Trustees will meet at the Ward R. Burke Community Room, Administration Facility, 4101 South Medford Drive, Lufkin, March 24, 1992, at 3 p.m. Information may be obtained from Sandy Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9203914.

**The Parmer County Appraisal District** Board of Directors will meet at 305 Third Street, Bovina, April 9, 1992, at 7 p.m. Information may be obtained from Ron Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405. TRD-9203911.

Meetings Filed March 18, 1992

**The Alamo Area Council of Governments** Rural Area Judges will meet at 118 Broadway, Suite 420, San Antonio, March 24, 1992, at 11 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9204000.

**The Bastrop Central Appraisal District** Board of Directors will meet at the Bastrop Central Appraisal District, 1200 Cedar Street, Bastrop, March 26, 1992, at 7:30 p.m. Information may be obtained from Dana Ripley, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9203969.

**The Gregg Appraisal District** Appraisal Review Board will meet at 2010 Gilmer Road, Longview, March 26, 1992, at 9 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (903) 759-0015. TRD-9203974.

**The Golden Crescent Regional Planning Commission** Board of Directors will meet at the GCRPC Board Room, Regional Airport, Building 102, Victoria, March 25, 1992, at 5 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9203984.

**The Johnson County Rural Water Supply Corporation** Board of Directors met at the JCRWSC Office, Highway 171 South, Cleburne, March 23, 1992, at 6 p.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9204001.

**The Liberty County Central Appraisal District** Board of Directors will meet at 315 Main Street, Liberty, March 25, 1992, at 9:30 a.m. Information may be obtained

from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9203964.

**The Lubbock Regional Mental Health and Mental Retardation Center Board of Trustees** met at 3801 Avenue J, Board Room, Lubbock, March 23, 1992, at noon. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 766-0202. TRD-9203982.

**The Northeast Texas Municipal Water District Board of Directors** met at Highway 250 South, Hughes Springs, March 23, 1992, at 10 a.m. Information may be obtained from J. W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9203973.

**The Region VIII Education Service Center Board of Directors** will meet at the Holiday Inn Restaurant, Mt. Pleasant, March 26, 1992, at 6:30 p.m. Information may be obtained from Scott Ferguson, P.O. Box 1894, Mt. Pleasant, Texas 75456-1894, (903) 572-8551. TRD-9203970.

**The San Jacinto River Authority Board of Directors** will meet at the Lake Conroe Office Building Conference Room, Highway 105 West, Conroe, March 25, 1992, at 12:30 p.m. Information may be obtained from James R. Adams, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111. TRD-9203944.

**The West Central Texas Council of Governments Executive Committee** will meet at 1025 East North 10th Street, Abilene, March 25, 1992, at 12:45 p.m. Information may be obtained from Brad Helbert, 1025 East North 10th Street, Abilene, Texas 79601, (915) 672-8544. TRD-9203968.

**The Wise County Appraisal District Appraisal Review Board** will meet at 206 South State Street, Decatur, March 26, 1992, at 9 a.m. Information may be obtained from LaReesea Pittman, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9203971.



### Meetings Filed March 19, 1992

**The Bandera County Appraisal District Board of Directors** will meet at the Appraisal District Office, North End of Ninth Street, Bandera, March 26, 1992, at 5 p.m. Information may be obtained from P.H. Coates IV, North End of Ninth Street, Bandera, Texas 78003, (512) 796-3039. TRD-9204011.

**The Capital Area Planning Council Regional Solid Waste Management Planning Task Force** will meet at the Howard Johnson South Plaza Hotel, 3401 South IH-35, Austin, April 10, 1992, at 9 a.m. Informa-

tion may be obtained from Richard G. Bean, 2520 IH-35 South, Suite 100, Austin, Texas 78704, (512) 443-7653. TRD-9204003.

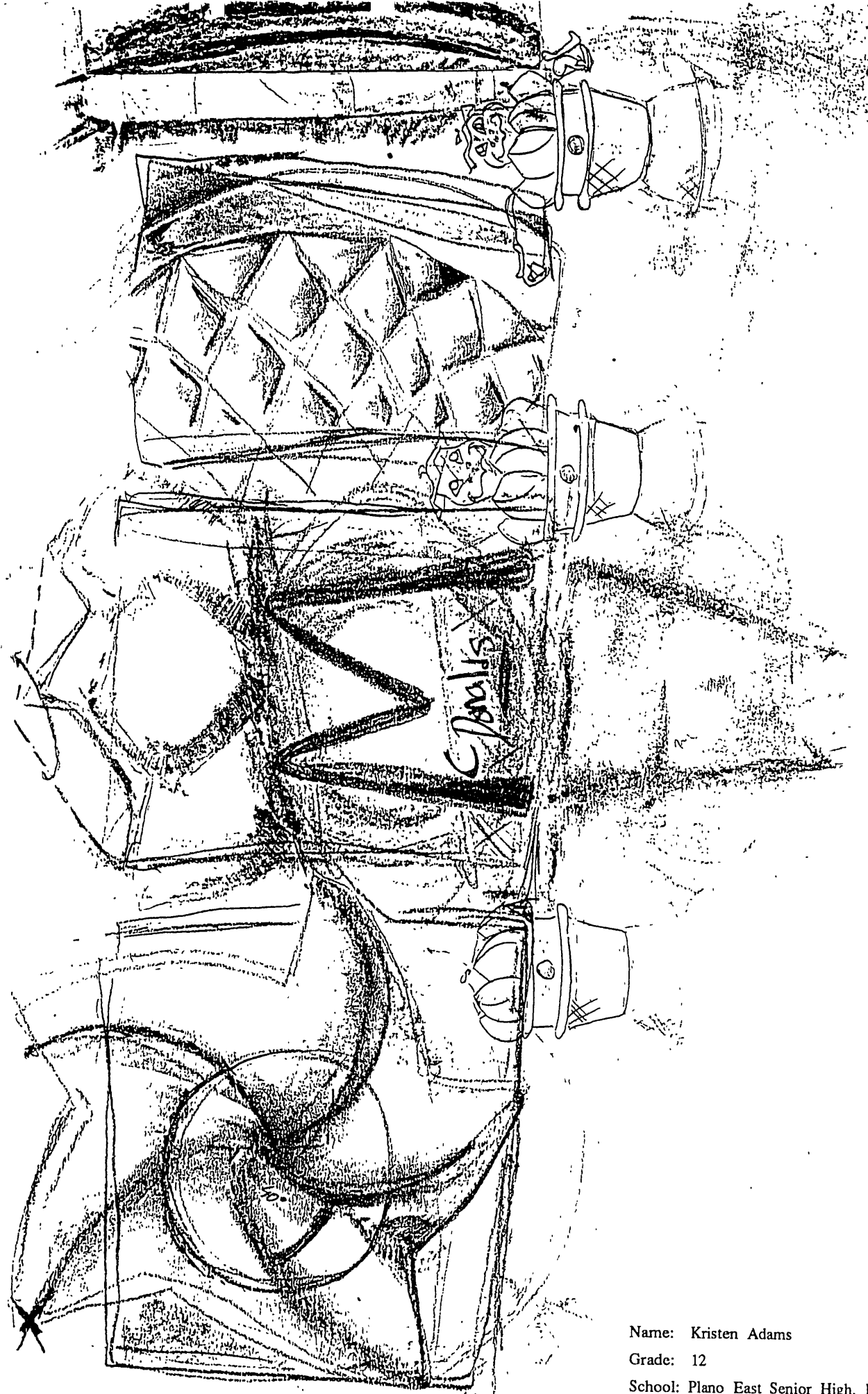
**The Deep East Texas Council of Governments Board of Directors** will meet at the Cape Royale, FM 224, San Jacinto County, Coldspring, March 26, 1992, at 1 p.m. Information may be obtained from Joan Draper, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9204013.

**The Lee County Appraisal District Board of Directors** will meet at 218 East Richmond Street, Giddings, March 25, 1992, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9204010.

**The North Central Texas Council of Governments Executive Board** will meet at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, March 26, 1992, at 12:45 p.m. Information may be obtained from Edwina Shires, P. O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9204012.

**The Upper Leon River Municipal Water District Board of Directors** will meet at the General Office of the Filter Plant, Comanche County, Lake Proctor, March 26, 1992, at 6:30 p.m. Information may be obtained from Gary D. Lacy, P.O. Box 67, Comanche, Texas 76442, (817) 879-2258. TRD-9204016.





Name: Kristen Adams

Grade: 12

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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## Office of the State Auditor Notice of Contract Award

**Contractor:** Pursuant to Texas Civil Statutes, Article 6252-11c, the State Auditor's Office (SAO) announces that the management consultant firm of Jeanneret and Associates, Inc., has been selected to provide services associated with the development of an officewide performance appraisal system for SAO. The business address of Jeanneret & Associates, Inc., is 3223 Smith Street, Suite 212, Houston, Texas, 77006-6685.

**Description of Services:** The consulting service is a continuation of services previously performed by Jeanneret & Associates, Inc., and will entail the development of a plan for the officewide performance appraisal system, the collection of data through task analysis and critical incident groups, the development/revision of appraisal forms and the appraisal manual, and the presentation of project results to SAO administrators.

**Contract Amount:** The total value of this contract is presently estimated to be \$6,300; however, SAO reserves the right to negotiate and execute amendments to obligate additional funds as SAO determines necessary to achieve contract objectives.

**Period of Performance:** The contract will commence March 18, 1992, and is scheduled to terminate August 31, 1992; however, the contract period may be extended if additional time is needed to fully achieve contract objectives. All work products required by the contract will be delivered by the contract termination date.

Issued in Austin, Texas, on March 16, 1992.

TRD-9203873      Lawrence F. Alwin, CPA  
State Auditor  
Office of the State Auditor

Filed: March 17, 1992

For further information, please call: (512) 479-4900

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## Texas Department of Banking Notice of Hearing

The hearing officer of the State Banking Board will conduct a hearing on April 20, 1992, at 9 a.m., at 2601 North Lamar Boulevard, Austin, on the change of domicile application for Trust Management, Inc., Fort Worth.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1337.

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

TRD-9203845      William F. Aldridge  
Director of Corporate Activities  
Texas Department of Banking

Filed: March 16, 1992

For further information, please call: (512) 475-1337

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## Comptroller of Public Accounts Consultant Service Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Comptroller of Public Accounts (CPA) announces a consultant services' request for proposals (RFP) to assist the CPA in determining the direction and scope that this agency should follow in disaster recovery preparation; assist in securing experienced planning expertise and a methodology to accomplish a two-phase comprehensive plan for computer and telecommunication services in the event of a disaster; to secure alternate site services consisting of both hot and cold site contingency services; and to secure a hardware leasing agreement that will allow for recovery of the comptroller's mainframe and peripherals in the event of a disaster. Detailed specifications concerning the program's scope are contained in the RFP.

**Contact Person.** Parties interested in offering services to conduct such an audit should contact Carol Koppelman, Data Services Administration, Comptroller of Public Accounts, 111 East 17th Street, Room 309, Austin, Texas 78774, (512) 463-4124, for a complete copy of the RFP. The RFP will be available on March 24, 1992, after 3 p.m. After this date and time the RFP may be picked up in the previously mentioned office between 8 a.m. and 5 p.m., Monday-Friday.

**Proposer's Conference.** A proposer's conference will be held on April 6, 1992. Details of the conference are in the RFP.

**Closing Date.** Proposals must be received by the CPA no later than 3 p.m., April 27, 1992. Proposals received after this date and time will not be considered. The period of performance is estimated to begin on or about June 1, 1992, and extend through August 31, 1993.

**Award Procedure** Selection of the consultant(s) will be based on the demonstrated competence, experience, knowledge, and qualifications in the areas of service desired and on the reasonableness of the proposed fee. The consultant firm(s) which best meets these criteria will be selected. All responses will be subject to evaluation by a committee of qualified CPA personnel charged with selecting the response which most clearly meets the CPA's need. The staff will make a recommendation to the comptroller, who will make the final selection. The decision of the comptroller is final. Consultant(s) may be asked to provide clarification of its response, which may include making an oral presentation of its response, prior to final selection.

The CPA reserves the right to accept or reject any or all responses submitted. The CPA is under no legal or other

requirements to execute a resulting contract on the basis of this notice nor the distribution of the RFP. Neither this notice nor the RFP commit the CPA to pay for any costs incurred prior to the execution of a contract.

The anticipated Schedule of Events is the following. RFP available-March 24, 1992, Proposers Conference-April 6, 1992, Proposal opening-April 27, 1992, Consultant award-May 22, 1992, Work begins-June 1, 1992.

Issued in Austin, Texas, on March 18, 1992.

TRD-9203922 Charles C. Johnstone  
Senior Legal Counsel  
Comptroller of Public Accounts

Filed: March 17, 1992

For further information, please call: (512) 463-4091



## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04 and 1.05, as amended (Texas Civil Statutes, Articles 5069-1.04 and 1.05).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer <sup>(1)</sup>/Agricultural/ Commercial <sup>(2)</sup> thru \$250,000</u>	<u>Commercial<sup>(2)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	03/23/92-03/29/92	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	04/01/92-04/30/92	10.00%	10.00%

<sup>(1)</sup>Credit for personal, family or household use. <sup>(2)</sup>Credit for business, commercial, investment or other similar purpose.

[graphic]

Issued in Austin, Texas, on March 16, 1992.

TRD-9203945 Al Endsley  
Consumer Credit Commissioner

Filed: March 18, 1992

For further information, please call: (512) 479-1280



## Texas Education Agency Notice of Public Hearings

The State Board of Education Task Force on High School Education will hold a series of public hearings across the state to obtain public input on the development of the board's policy on restructuring high school education.

Those wishing to testify at the public hearings may register at the hearing or by calling the Division of Policy Planning and Evaluation, Texas Education Agency, (512) 463-9701, by 5 p.m. on the date indicated for each hearing. Testifiers will be limited to three minutes and should furnish 15 written copies of their testimony. Testimony will be heard on a first registered-first heard basis.

The Task Force on High School Education will hold public hearings as follows: Wednesday, April 1, 1992; 6:30 p.m. until 9 p.m., King High School Cafeteria, Corpus Christi Independent School District, 5225 Gollihar Drive, Corpus Christi. Those wishing to testify at this public hearing may register by 5 p.m. on Tuesday, March 31, 1992, by telephoning (512) 463-9701, or at the time of the hearing on Wednesday, April 1, 1992; Thursday, April 2, 1992; 6:30 p.m. until 8:30 p.m., Jefferson High School, El Paso Independent School District, 4700 Alameda, El Paso. Those wishing to testify at this public hearing may register by 5 p.m. on Wednesday, April 1, 1992, by telephoning (512) 463-9701, or at the time of the hearing on Thursday, April 2, 1992; Wednesday, April 8, 1992; 6:30 p.m. until 8:30 p.m., Jones High School, Houston Independent School District, 7414 Saint Lo Road, Houston. Those wishing to testify at this public hearing may register by 5 p.m. on Tuesday, April 7, 1992, by telephoning (512) 463-9701, or at the time of the hearing on Wednesday, April 8, 1992; Tuesday, April 21, 1992; 6:30 p.m. until 8:30 p.m., Nikki Rowe Ninth Grade Center, McAllen Independent School District, 2101 North Ware Road, McAllen. Those wishing to testify at this public

hearing may register by 5 p.m. on Monday, April 20, 1992, by telephoning (512) 463-9701, or at the time of the hearing on Tuesday, April 21, 1992; Wednesday, April 22, 1992; 6:30 p.m. until 8:30 p.m., Abilene Independent School District Administration Building, 842 North Mockingbird Lane, Abilene. Those wishing to testify at this public hearing may register by 5 p.m. on Tuesday, April 21, 1992, by telephoning (512) 463-9701, or at the time of the hearing on Wednesday, April 22, 1992; Tuesday, April 28, 1992; 7:30 p.m. until 9 p.m., Plano Senior High School, Lecture Hall, Building B, Plano Independent School District, 2202 Independence Parkway, Plano. Those wishing to testify at this public hearing may register by 5 p.m. on Monday, April 27, 1992, by telephoning (512) 463-9701, or at the time of the hearing on Tuesday, April 28, 1992.

Additional information concerning these public hearings may be obtained from the Division of Policy Planning and Evaluation, Texas Education Agency, 1701 North Congress Avenue, Austin, at (512) 463-9701.

Issued in Austin, Texas, on March 17, 1992.

TRD-9203943 Lionel R Meno  
Commissioner of Education

Filed: March 18, 1992

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

## Texas Department of Health

### Notice of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered J. Scott Littrell, D.P.M. (registrant) of Waco 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 March 16, 1992.

TRD-9203815 Robert A. MacLean, M.D.

Filed: March 16, 1992

For further information, please call: (512) 834-6688

### Notice of Revocation of Certificate of Registration

The Texas Department of Health, having duly filed a complaint pursuant to Texas Regulations for Control of Radiation, Part 13 (25 TAC §289.112), has revoked the following certificate of registration: Allan P. Koeppel, D.D.S., Pasadena, R07274, March 3, 1992.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Ex-

change Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on March 16, 1992.

TRD-9203889 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of Health

Filed: March 17, 1992

For further information, please call: (512) 834-6688

## Texas Higher Education Coordinating Board

### Notice of Meeting

The Family Practice Advisory Committee will meet on Thursday, March 26, 1992 from 1 p.m. till 5 p.m. The meeting will be located in Building 3, Room 109 of the Chevy Chase Complex in Austin. Discussion topics will include participating programs' annual financial reports and annual written reports, Healthfind, performance measures, third-year clerkship funding, and rule revisions for programs. For further information please contact Claudia Siegel at (512) 483-6116.

Issued in Austin, Texas, on March 13, 1992

TRD-9203843 Sharon Jahnsman  
Administrative Secretary  
Texas Higher Education Coordinating Board

Filed: March 16, 1992

For further information, please call: (512) 483-6160

### Notice of Public Hearing

The Performance Based Funding Committee will hold a public hearing on Tuesday, March 31, 1992, beginning at 9:30 a.m. and ending at noon. The hearing will be located at the Nursing School Building, Room 1.102, University of Texas-Health Science Center in San Antonio. The hearing will be held to discuss funding for the health-related institutions. Testimony will be heard and will be limited to 10 minutes. For further information please contact Yvonne Newman at (512) 483-6221.

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

TRD-9203844 Sharon Jahnsman  
Administrative Secretary  
Texas Higher Education Coordinating Board

Filed: March 16, 1992

For further information, please call: (512) 483-6160

## Texas Department of Human Services Cancellation of Consultant Proposal Request

The Texas Department of Human Services (TDHS) published an invitation for consultant proposal request in the March 10, 1992, issue of the *Texas Register* (18 TexReg 1833). The purpose of the proposal was to study the services provided to recipient agencies using a commercial delivery system to deliver United States Department of Agriculture (USDA) donated commodities.

TDHS is withdrawing the invitation for proposal.  
Issued in Austin, Texas, on March 17, 1992.

TRD-9203928 Nancy Murphy  
Agency liaison, Policy and Document  
Support  
Texas Department of Human Services

Filed: March 17, 1992

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



## Notice of Public Hearing

The Texas Department of Human Services (TDHS) will conduct a public hearing to receive comments on the department's proposed reimbursement rates for the Primary Home Care Program. The hearing is held in compliance with 40 TAC §24. 102(j), which requires a public hearing on proposed reimbursement rates for medical assistance programs. The public hearing will be held on April 3, 1992, at 9 a.m., in the department's public hearing room of the John H. Winters Center (701 West 51st Street, Austin, First Floor, East Tower). Interested parties may request to have mailed to them or may pick up a briefing package concerning the proposed reimbursement rates on or after March 20, 1992, by contacting Kathy E. Hall, MC E-601, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3702.

Issued in Austin, Texas, on March 18, 1992.

TRD-9203947 Nancy Murphy  
Agency liaison, Policy and Document  
Support  
Texas Department of Human Services

Filed: March 18, 1992

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



## General Land Office Correction of Errors

The General Land Office adopted 31 TAC §§19.1-19.6, 19.11-19.20, 19. 31-19.39, and 19.51-19.54, concerning prevention of oil spills in coastal waters, response to such spills, and compensation and liability for the response costs and damages incurred. The rules were printed in the February 7, 1992 *Texas Register* (17 TexReg 1109). Due to proofreading errors by the *Texas Register* corrections should be made as follows.

In §19.2 (a)(1), the language "and General Land Office Title 31, Part I Chapter 19, Subchapter A" should be omitted from "...Carpenter's Bayou to Sheldon Road and Goose Creek to Highway 146...".

In §19.2 (a)(1), the reference to "Street Charles Bay" should read "Saint Charles Bay".

In §19.2(a)(15), "...Discharges excluding those of authorized..." should read "... Discharges excluding those authorized..."

In §19.13(1) the word "of" should be omitted from "...Discharges excluding those authorized..."

In §19.13(1), the paragraph should read "the names and addresses of the facility (including street address and directions from the nearest highway), the owner of the facility, the operator of the facility, the person or persons

in charge required by §19.16 of this title (relating to Person in Charge), and the registered agent for service as required by the Oil Spill Prevention and Response Act of 1991;"

In §19.13(4), the paragraph should read "a copy of the applicant's current discharge prevention and response plan required by the Federal Water Pollution Control Act, §311(j) (33 United States Code, §1321), including the spoil prevention containment and countermeasure plan required for the facility by 40 Code of Federal Regulations §112.3, if applicable;"

In §19.14(1), the paragraph should read "the names and addresses of the facility (including street address and directions from the nearest highway), the owner of the facility, the operator of the facility, the person or persons in charge required by §19.16 of this title (relating to Person in Charge), and the registered agent for service as required by the Oil Spill Prevention and Response Act of 1991;"

In §19.20(e), "et seq" should read "et. seq."

In §19.20(h)(2), the paragraph should read "a change in the organization's ownership or full-time personnel, provided that to the extent that such change affects discharge response capability, it shall be reported within 72 hours."

In §1933 (b)(1), a comma was omitted in the first sentence. It should read "It is the duty of the state on-scene coordinator, in cooperation with the federal on-scene coordinator, to assess..."



## Public Utility Commission of Texas Notice of Application For a Temporary Waiver From PUC Substantive Rule 23.45 (f)(1)

Notice is given to the public of the filing of an application by Peoples Telephone Cooperative, Inc. with the Public Utility Commission of Texas for approval of a temporary waiver from Public Utility Commission Substantive Rule 23.45(f)(1).

**Docket Number and Style.** Docket Number 10926. Application of Peoples Telephone Cooperative, Inc. For a Temporary Waiver from the Requirements of Public Utility Commission Substantive Rule 23.45(f)(1).

**The Application.** Peoples Telephone Cooperative, Inc. (Peoples or the Cooperative), filed an application for a temporary waiver of Public Utility Substantive Rule 23.45(f)(1) until August 1992.

Persons who wish to 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 Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on March 17, 1992.

TRD-9203921 Mary Ross McDonald  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 17, 1992

For further information, please call: (512) 458-0100





## Notice of Intent to File Pursuant to PUC Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to PUC Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Webb County, Laredo.

**Tariff Title and Number.** Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Webb County Pursuant to PUC Substantive Rule 23.27(k). Tariff Control Number 11006.

**The Application.** Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Webb County. The geographic service market for this specific service is the Laredo area.

Persons who wish to 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 Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9203858      Mary Ross McDonald  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 16, 1992

For further information, please call: (512) 458-0100

## Railroad Commission of Texas Invitation for Bids

The Railroad Commission of Texas, Surface Mining and Reclamation Division (hereinafter referred to as the commission), is soliciting bids for reclamation of approximately 80 acres at the Alcoa Area 9 Regrade Abandoned Mine Land (AML) site. The site is located in Milam County, 9.5 miles southwest of Rockdale.

As the designated state agency for implementation of the "Surface Mining Control and Reclamation Act of 1977" (30 United States Code, §1201 et seq), the commission will award a unit price contract to the lowest qualified bidder for completion of this work. Sealed bids will be received until 2 p.m., April 24, 1992, at which time the bids will be publicly opened and read at the following address. A mandatory pre-bid conference will be held at the Alcoa Lake Training Center at 10 a.m., April 8, 1992. Construction work items will include: mobilization; earthfill embankment construction; lake L-9 treatment; grading; lime application and incorporation.

Copies of the specifications, drawings, and other contract documents are on file in Austin at the following address. The complete bid package may be obtained from the following mailing address: Alcoa AML Area 9 Regrade Reclamation Project; Surface Mining and Reclamation Division; Railroad Commission of Texas; 1701 North Congress Avenue, Austin, Texas 78701; Attention: Melvin B. Hodgkiss, P.E., Director. All questions concerning the work or bid document must be received by 5 p.m., April 16, 1992.

Issued in Austin, Texas, on March 18, 1992.

TRD-9203948      Nolan Ward  
Hearings Examiner, Legal Division-General  
Law  
Railroad Commission of Texas

Filed: March 18, 1992

For further information, please call: (512) 463-6901

## Notice of Hearing Regarding Proposed Statewide Rule 29

The Railroad Commission of Texas will hold a public hearing on April 3, 1992, beginning at 9 a.m. in Room 1-111 in the William B. Travis Building, 1701 North Congress Avenue, Austin. This hearing will continue each day as may be necessary.

This hearing will be held pursuant to the Administrative Procedure and Texas Register Act, §5(c) to consider oral comments regarding proposed Statewide Rule 29. Written statements and summaries will also be accepted.

The text of proposed Statewide Rule 29 was published in the January 21, 1992, issue of the *Texas Register* (17 TexReg 453). You may also obtain the text of the rule from the Docket Services Section at (512) 463-6848.

For further information, please contact Peggy Gray or Ron Schultz of the commission's legal staff at (512) 463-6766.

Issued in Austin, Texas, on March 16, 1992

TRD-9203833      Nolan F. Ward  
Hearings Examiner, Legal Division-General  
Law Section  
Railroad Commission of Texas

Filed: March 16, 1992

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

## Texas Water Commission Correction of Error

The Texas Water Commission submitted a notice of public hearing, which was published in the March 17, 1992, *Texas Register* (17 TexReg 2048).

Due to an error in the agency's submission, the hearing date was published as April 13, 1992. The correct hearing date is April 20, 1992.

## Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of March 6, 1992-March 13, 1992.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain: the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out

an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

City of Alvarado; the wastewater treatment facilities; are located southwest of Alvarado, approximately 1,000 feet south of the intersection of Interstate Highway 35W and FM Road 3136 adjacent to the North Fork of Chambers Creek in Johnson County; renewal; 10567-01.

Baker Performance Chemical Corporation; the wastewater treatment facility; is to be on the south side of Wallisville Road, approximately 300 feet east of the intersection of Sheldon Road and Wallisville Road in Harris County; new; 13580-01.

Georgia Gulf Corporation; an organic chemical manufacturing facility which produces Cumene, Phenol, and Acetone as the major products; the plant site is at 3503 Pasadena Freeway in the City of Pasadena, Harris County; amendment; 02067.

Mike Lloyd doing business as Mike Lloyd Dairy; a dairy; is on FM Road 219, approximately 2.5 miles south of the intersection of FM Roads 219 and 8, in Erath County; amendment; 03301.

Northwest Independent School District; the wastewater treatment facilities; are approximately 1,500 feet southwest of the intersection of State Highway 114 and FM Road 156, and approximately 2.3 miles due west of the intersection of Interstate Highway 35W and State Highway 114 in Denton County; renewal; 11760-02.

Frances Reid; The Woodcrest MHP Wastewater Treatment facilities; are approximately 0.75 mile east of the intersection of State Highway 64 and State Spur 124, approximately 1.75 miles northwest of the intersection of State Highway 64 and FM Road 848 in Smith County; renewal; 13279-01.

Destara Chemicals, Inc.; operation of a commercial hazardous and non-hazardous industrial solid waste storage and recycling facility; the wastes at this facility are classified as ignitable, toxic, and toxicity characteristic; the facility is located on a six-acre tract of land, approximately .5 mile south of U.S. Highway 290 on the east side of Mathis Road, in an unincorporated portion of Harris County, 1.5 miles southeast of Waller; new; HW50312-01; 45 days.

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

TRD-9203822      Laure J. Lancaster  
Deputy, Chief Clerk  
Texas Water Commission

Filed: March 16, 1992

For further information, please call: (512) 463-7906

## Request for Proposal

This request for proposal (RFP) is filed pursuant to the Professional Services Procurement Act, Texas Civil Statutes, Article 664-4.

The Texas Water Commission (TWC) requests offers from qualified companies/organizations for accounting services to prepare indirect cost allocation plans to determine actual rates for fiscal years 1990 and 1991 and proposed rates for fiscal year 1993. The TWC currently has approved fixed multiple rates for fiscal years 1990, 1991, and 1992.

**Scope of Services.** The successful candidate will be required to develop a detailed cost allocation plan and provide the following services and reports: identify the sources of financial information to be used; classify all divisions; identify all programs administered by the TWC; determine administrative departments; determine allocation bases for allocating services to benefiting divisions; develop allocation data for each allocation base; prepare allocation worksheet based on actual expenditures/budget; summarize cost by benefiting division; collect cost of programs administered by TWC; determine indirect cost rates; formalize plan and present to EPA; assist the TWC in negotiating the cost allocation plan approval with EPA; review draft proposal with appropriate personnel.

Responses must be received no later than 5 p.m., April 22, 1992. Responses received after this date and time will not be considered. We anticipate entering into the contract on or about April 24, 1992. Successful applicant will be notified by telephone and fax.

**Disclosure by Former Employees of a State Agency.** Any individual who responds to this RFP and offers accounting services for the TWC, and who has been employed by the TWC or by another agency at any time during the two years preceding the making of the offer shall disclose in the offer: the other agency, the date of termination of the employment; and the annual rate of compensation for the employment at the time of termination.

The TWC reserves the right to accept or reject any or all offers submitted in response to this request and to negotiate modifications necessary to improve the quality or cost effectiveness of any offer received. TWC is under no legal obligation to enter into a contract with any proposer on the basis of this request and intends any material provided herein only as a means of identifying the scope of services requested.

The accounting services desired relate to a service previously performed by a private firm, David M. Griffith and Associates, Limited and the TWC intends to award the contract for the professional services to the private firm that previously performed the services unless a better offer is submitted.

The applicant should propose a separate plan for each of the following criteria: first, consultant staff will accumulate and analyze all data that is required; the TWC is not expected to provide any staff time to the consultant; second, the TWC will provide staff to perform reconciliation of internal accounting reports to annual financial report and will identify revenues and expenditures by division, program, and cost center. In addition, the TWC requests that a separate plan for establishing a single indirect cost rate be provided for each of the listed criteria.

**Qualifications.** Each company/organization submitting an offer must present evidence or otherwise demonstrate to the satisfaction of TWC that such entity: has the qualifications and experience to prepare and negotiate this type of cost allocation plan; has a thorough understanding of cost allocation issues and preparation of state agency's cost allocation plans; can program and execute such a proposition within a required time frame.

Applicant will be required to provide evidence of the preceding requirements and a proposal which includes: a detailed description of the plan to provide requirements identified in the scope of services; information on proposed staff for providing these services. Proposal requirement will be set forth more fully in a request for proposal for accounting services to be obtained by contacting the individual listed in the section entitled "Obtaining Request for Proposal."

The state assumes no responsibility for expenses incurred in preparing responses to this solicitation.

**Obtaining Request for Proposal.** Copies of the RFP, including proposal guidelines and an explanation of the selection criteria, may be obtained in any of the following manners: by sending a regular or certified letter requesting a copy of the RFP package for accounting services to: Dianna Gordon, Texas Water Commission, 1700 North Congress Avenue, P.O. Box 13087, Austin, Texas 78711-3087; by sending an overnight or expedited delivery letter requesting a copy of the RFP package for accounting services with a prepaid, self-addressed, overnight or expedited delivery return envelope to: Dianna Gordon, 1700 North Congress Avenue, Suite 542, Austin, Texas 78701; by appearing in person with a signed letter of receipt at 1700 North Congress Avenue, Suite 542, Austin, Texas 78701.

Please address your responses to Dianna Gordon, Texas Water Commission, P.O. Box 13087, Austin, Texas 78701, (512) 463-8272.

Issued in Austin, Texas, on March 18, 1992.

TRD-9203949      Mary Ruth Holder  
Director, Legal Division  
Texas Water Commission

Filed: March 18, 1992

For further information, please call: (512) 463-8272

◆      ◆      ◆  
**Texas Workers' Compensation  
Research Center**

**Notice of Public Hearing on Research  
Agenda**

The Texas Workers' Compensation Research Center has scheduled a public hearing to solicit public comment for the proposed research agenda on Friday, March 27, 1992, at 10 a.m. and until oral testimony is completed. Written testimony will be accepted and is encouraged. If you have written testimony or handouts, the Research Center requests that you provide 12 copies for center use. There will not be any visual aid equipment available. The proposed Research Agenda was published in the February 7, 1992, issue of the *Texas Register* (17 TexReg 1146).

The public hearing will take place in Room 3.108 of the Sid Richardson Building at the LBJ School of Public Affairs at the University of Texas at Austin.

Issued in Austin, Texas, on March 6, 1992.

TRD-9203857      June L. Karp  
Director, Legislative Oversight Committee  
Texas Workers' Compensation Research  
Center

Filed: March 16, 1992

For further information, please call: (512) 475-4991  
◆      ◆      ◆

## 1992 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1992 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on February 28, November 6, December 1, and December 29. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 *Friday, January 3	Friday, December 27	Tuesday, December 31
2 *Tuesday, January 7	Tuesday, December 31	Thursday, January 2
3 Friday, January 10	Monday, January 6	Tuesday, January 7
4 Tuesday, January 14	Wednesday, January 8	Thursday, January 9
5 Friday, January 17	Monday, January 13	Tuesday, January 14
6 Tuesday, January 21	Wednesday, January 15	Thursday, January 16
Friday, January 24	1991 ANNUAL INDEX	
7 Tuesday, January 28	Wednesday, January 22	Thursday, January 23
8 Friday, January 31	Monday, January 27	Tuesday, January 28
9 Tuesday, February 4	Wednesday, January 29	Thursday, January 30
10 Friday, February 7	Monday, February 3	Tuesday, February 4
11 Tuesday, February 11	Wednesday, February 5	Thursday, February 6
12 Friday, February 14	Monday, February 10	Tuesday, February 11
13 Tuesday, February 18	Wednesday, February 12	Thursday, February 13
14 *Friday, February 21	Friday, February 14	Tuesday, February 18
15 Tuesday, February 25	Wednesday, February 19	Thursday, February 20
Friday, February 28	NO ISSUE PUBLISHED	
16 Tuesday, March 3	Wednesday, February 26	Thursday, February 27
17 Friday, March 6	Monday, March 2	Tuesday, March 3
18 Tuesday, March 10	Wednesday, March 4	Thursday, March 5
19 Friday, March 13	Monday, March 9	Tuesday, March 10
20 Tuesday, March 17	Wednesday, March 11	Thursday, March 12
21 Friday, March 20	Monday, March 16	Tuesday, March 17
22 Tuesday, March 24	Wednesday, March 18	Thursday, March 19
23 Friday, March 27	Monday, March 23	Tuesday, March 24
24 Tuesday, March 31	Wednesday, March 25	Thursday, March 26
25 Friday, April 3	Monday, March 30	Tuesday, March 31
26 Tuesday, April 7	Wednesday, April 1	Thursday, April 2
27 Friday, April 10	Monday, April 6	Tuesday, April 7
Tuesday, April 14	FIRST QUARTERLY INDEX	
28 Friday, April 17	Monday, April 13	Tuesday, April 14
29 Tuesday, April 21	Wednesday, April 15	Thursday, April 16

30 Friday, April 24	Monday, April 20	Tuesday, April 21
31 Tuesday, April 28	Wednesday, April 22	Thursday, April 23
32 Friday, May 1	Monday, April 27	Tuesday, April 28
33 Tuesday, May 5	Wednesday, April 29	Thursday, April 30
34 Friday, May 8	Monday, May 4	Tuesday, May 5
35 Tuesday, May 12	Wednesday, May 6	Thursday, May 7
36 Friday, May 15	Monday, May 11	Tuesday, May 12
37 Tuesday, May 19	Wednesday, May 13	Thursday, May 14
38 Friday, May 22	Monday, May 18	Tuesday, May 19
39 Tuesday, May 26	Wednesday, May 20	Thursday, May 21
40 *Friday, May 29	Friday, May 22	Tuesday, May 26
41 Tuesday, June 2	Wednesday, May 27	Thursday, May 28
42 Friday, June 5	Monday, June 1	Tuesday, June 2
43 Tuesday, June 9	Wednesday, June 3	Thursday, June 4
44 Friday, June 12	Monday, June 8	Tuesday, June 9
45 Tuesday, June 16	Wednesday, June 10	Thursday, June 11
46 Friday, June 19	Monday, June 15	Tuesday, June 16
47 Tuesday, June 23	Wednesday, June 17	Thursday, June 18
48 Friday, June 26	Monday, June 22	Tuesday, June 23
49 Tuesday, June 30	Wednesday, June 24	Thursday, June 25
50 Friday, July 3	Monday, June 29	Tuesday, June 30
51 Tuesday, July 7	Wednesday, July 1	Thursday, July 2
52 Friday, July 10	Monday, July 6	Tuesday, July 7
Tuesday, July 14	SECOND QUARTERLY INDEX	
53 Friday, July 17	Monday, July 13	Tuesday, July 14
54 Tuesday, July 21	Wednesday, July 15	Thursday, July 16
55 Friday, July 24	Monday, July 20	Tuesday, July 21
56 Tuesday, July 28	Wednesday, July 22	Thursday, July 23
57 Friday, July 31	Monday, July 27	Tuesday, July 28
58 Tuesday, August 4	Wednesday, July 29	Thursday, July 30
59 Friday, August 7	Monday, August 3	Tuesday, August 4
60 Tuesday, August 11	Wednesday, August 5	Thursday, August 6
61 Friday, August 14	Monday, August 10	Tuesday, August 11
62 Tuesday, August 18	Wednesday, August 12	Thursday, August 13
63 Friday, August 21	Monday, August 17	Tuesday, August 18
64 Tuesday, August 25	Wednesday, August 19	Thursday, August 20
65 Friday, August 28	Monday, August 24	Tuesday, August 25
66 Tuesday, September 1	Wednesday, August 26	Thursday, August 27
67 Friday, September 4	Monday, August 31	Tuesday, September 1
68 Tuesday, September 8	Wednesday, September 2	Thursday, September 3
69 *Friday, September 11	Friday, September 4	Tuesday, September 8

70 Tuesday, September 15	Wednesday, September 9	Thursday, September 10
71 Friday, September 18	Monday, September 14	Tuesday, September 15
72 Tuesday, September 22	Wednesday, September 16	Thursday, September 17
73 Friday, September 25	Monday, September 21	Tuesday, September 22
74 Tuesday, September 29	Wednesday, September 23	Thursday, September 24
75 Friday, October 2	Monday, September 28	Tuesday, September 29
76 Tuesday, October 6	Wednesday, September 30	Thursday, October 1
77 Friday, October 9	Monday, October 5	Tuesday, October 6
Tuesday, October 13	THIRD QUARTERLY INDEX	
78 Friday, October 16	Monday, October 12	Tuesday, October 13
79 Tuesday, October 20	Wednesday, October 14	Thursday, October 15
80 Friday, October 23	Monday, October 19	Tuesday, October 20
81 Tuesday, October 27	Wednesday, October 21	Thursday, October 22
82 Friday, October 30	Monday, October 26	Tuesday, October 27
83 Tuesday, November 3	Wednesday, October 28	Thursday, October 29
Friday, November 6	NO ISSUE PUBLISHED	
84 Tuesday, November 10	Wednesday, November 4	Thursday, November 5
85 Friday, November 13	Monday, November 9	Tuesday, November 10
*86 Tuesday, November 17	Tuesday, November 10	Thursday, November 12
87 Friday, November 20	Monday, November 16	Tuesday, November 17
88 Tuesday, November 24	Wednesday, November 18	Thursday, November 19
89 Friday, November 27	Monday, November 23	Tuesday, November 24
Tuesday, December 1	NO ISSUE PUBLISHED	
90 Friday, December 4	Monday, November 30	Tuesday, December 1
91 Tuesday, December 8	Wednesday, December 2	Thursday, December 3
92 Friday, December 11	Monday, December 7	Tuesday, December 8
93 Tuesday, December 15	Wednesday, December 9	Thursday, December 10
94 Friday, December 18	Monday, December 14	Tuesday, December 15
95 Tuesday, December 22	Wednesday, December 16	Thursday, December 17
96 Friday, December 25	Monday, December 21	Tuesday, December 22
Tuesday, December 29	NO ISSUE PUBLISHED	
1 (1993) Friday, January 1	Monday, December 28	Tuesday, December 29

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