

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:

Governor - Appointments, executive orders, and proclamations

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

Secretary of State - opinions based on the election laws

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

Proposed Sections - sections proposed for adoption

Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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

Open Meetings - notices of open meetings

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

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

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

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

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

Texas Administrative Code

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

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

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

Texas Register Art Project

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

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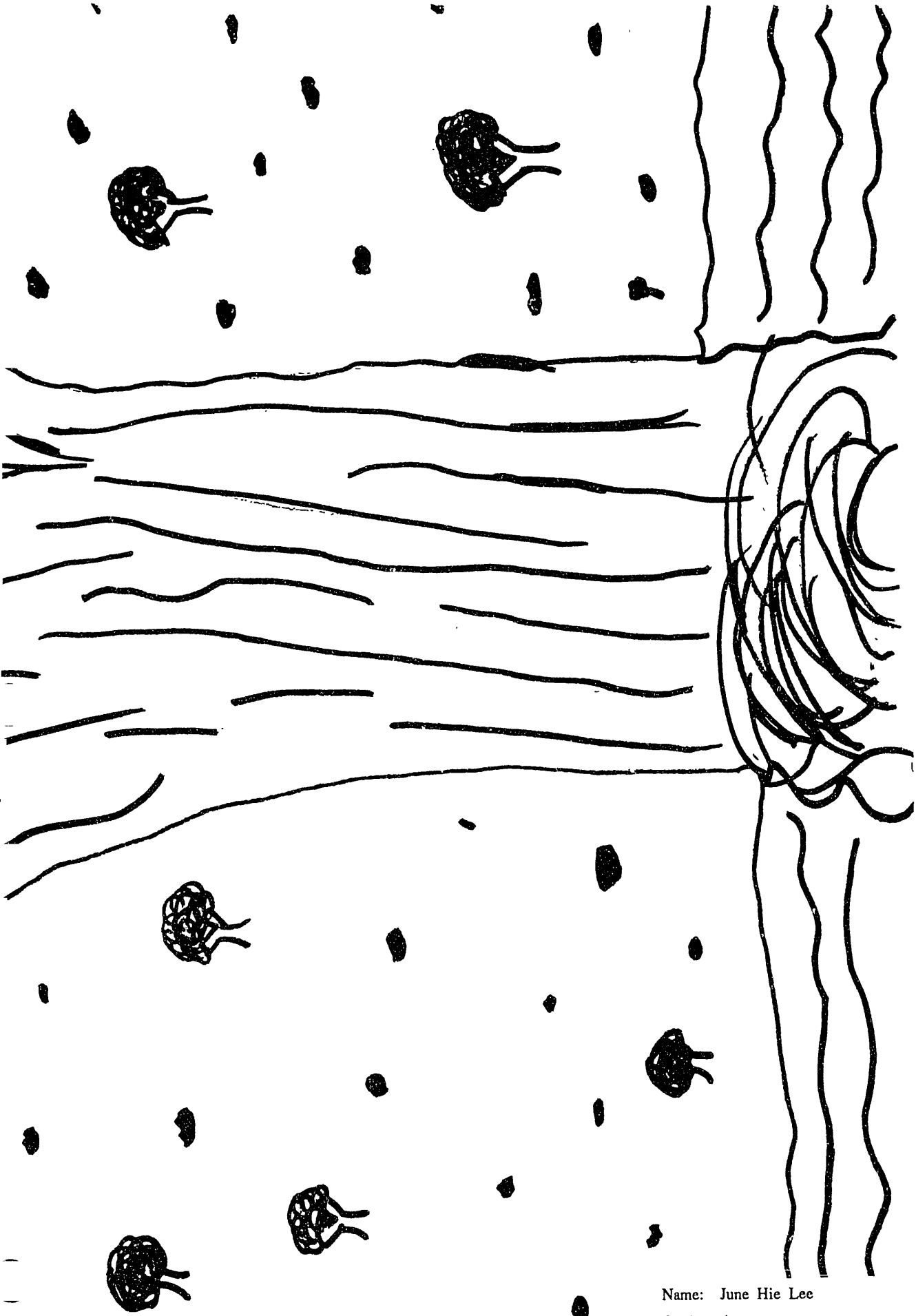
Protect Our Endangered



Lupe
Forbes

Name: Lupe Morales
Grade: 5
School: Forbes Elementary, San Antonio ISD

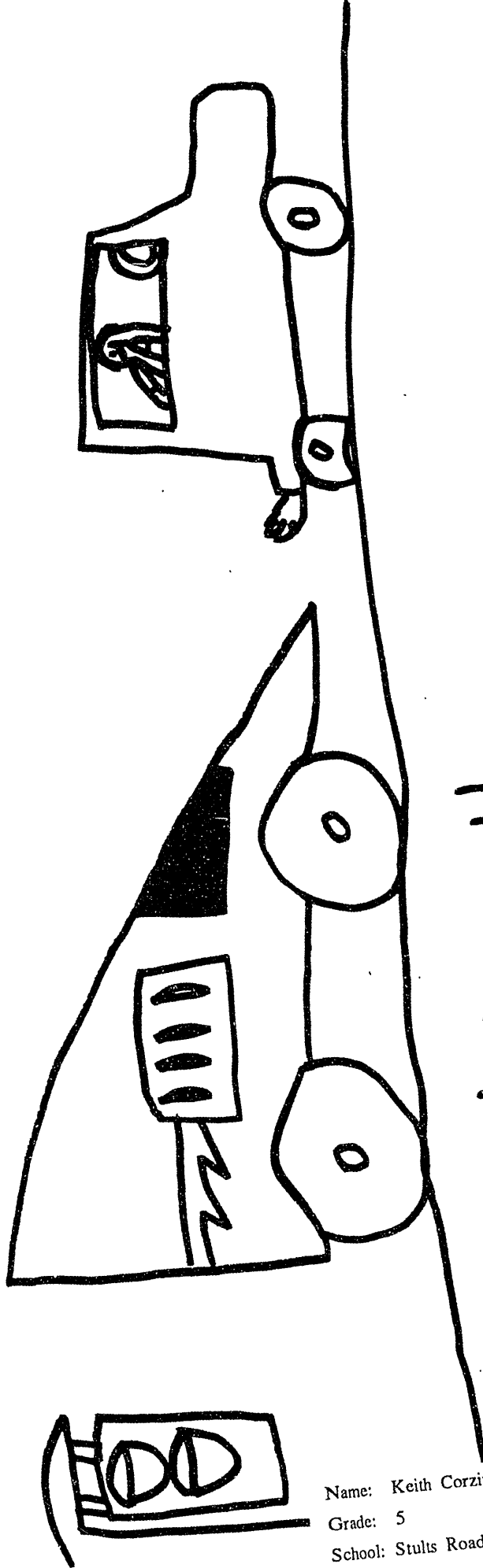
Birds and Animals.



Name: June Hie Lee

Grade: 4

School: Stults Road Elementary, Richardson ISD

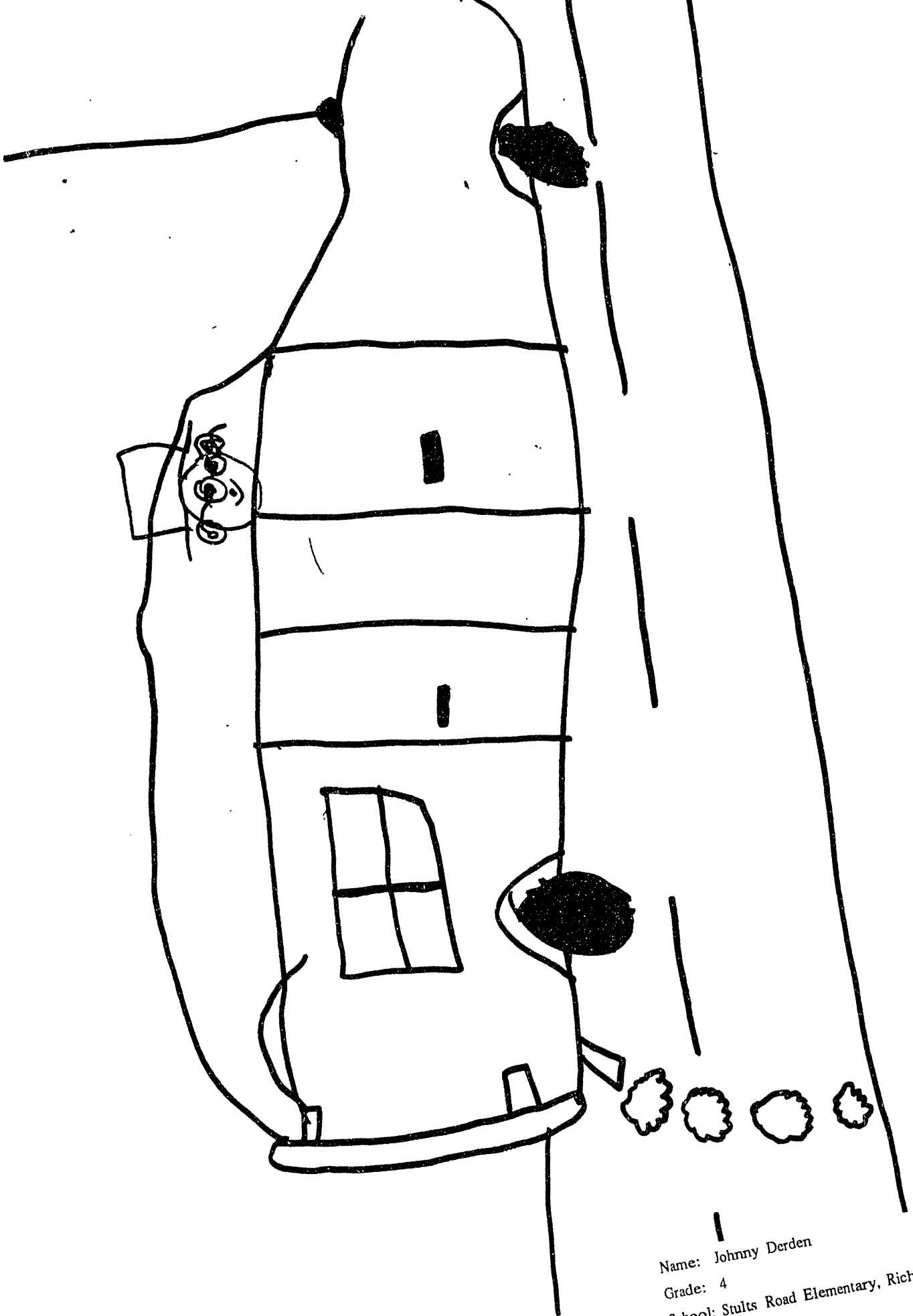


Don't speed!

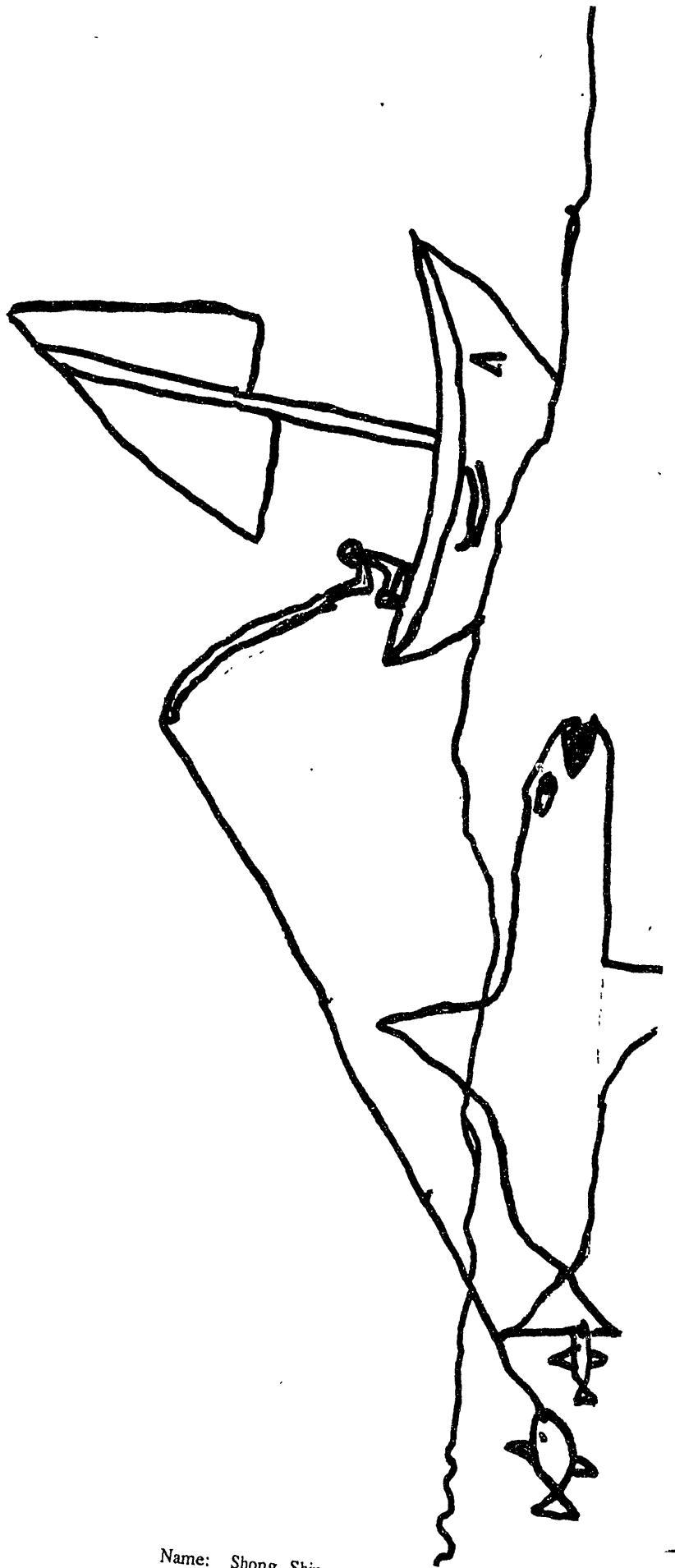
Name: Keith Corzine

Grade: 5

School: Stults Road Elementary, Richardson ISD



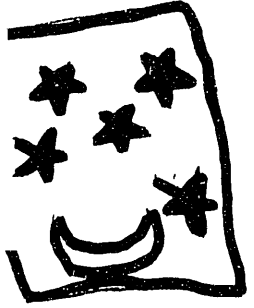
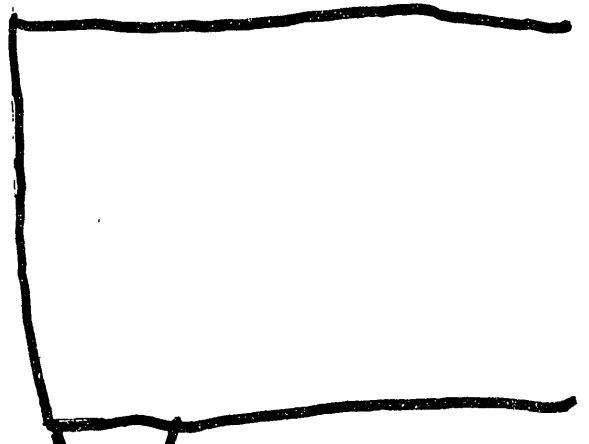
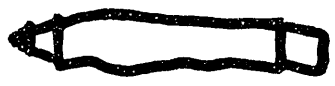
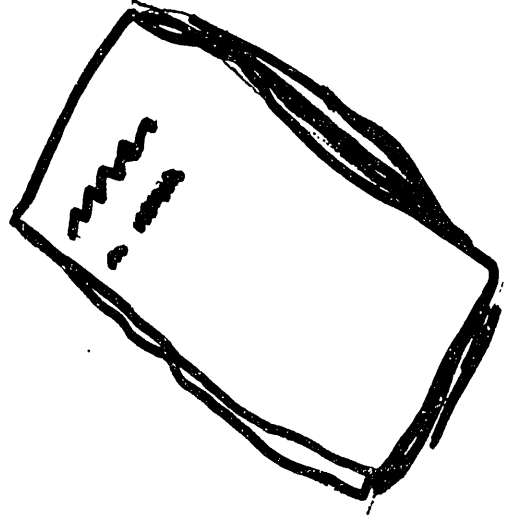
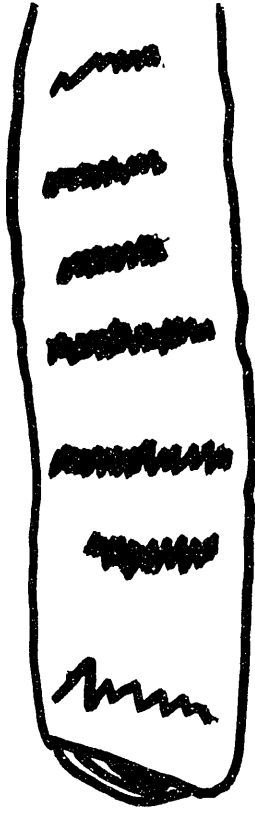
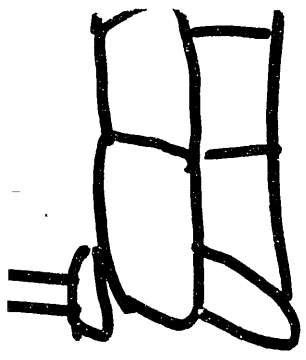
Name: Johnny Derden
Grade: 4
School: Stults Road Elementary, Richardson ISD



Name: Shong Shin

Grade: 4

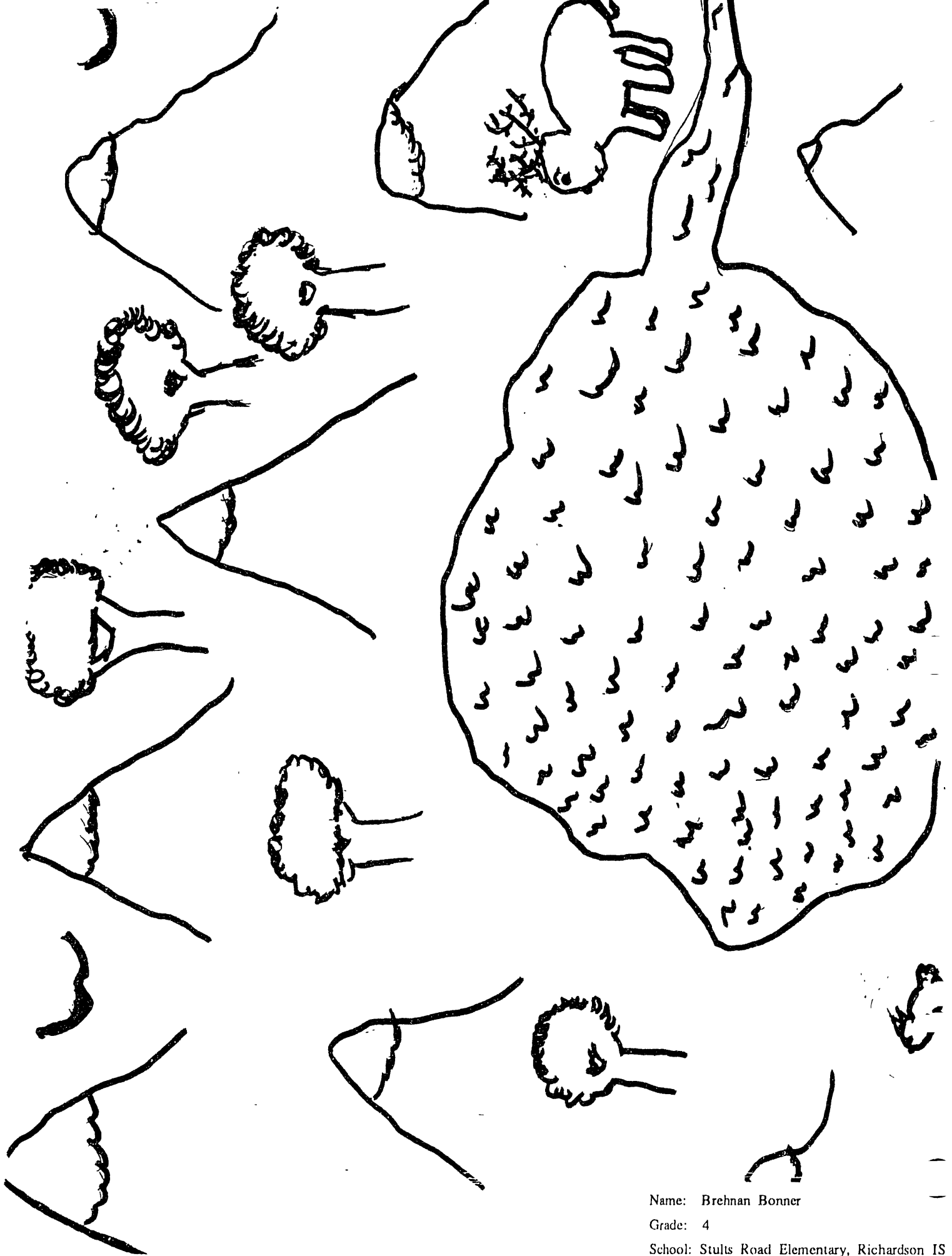
School: Stults Road Elementary, Richardson ISD



Name: Nazli Hurmuzlu

Grade: 4

School: Stults Road Elementary, Richardson ISD



Name: Brehnan Bonner

Grade: 4

School: Stults Road Elementary, Richardson IS

Attorney General

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

Request for Opinions

(RQ-285). Request from George Pierce, Chairman, Committee on Urban Affairs, Texas House of Representatives, Austin, concerning whether persons in Texas may legally make telephone calls to bookmakers in Mexico for the purpose of wagering.

(RQ-286). Request from Barry H. Macha, Criminal District Attorney, Wichita County, Wichita Falls, concerning the scope of the authority of a Commissioners' Court over county budgets and agenda.

(RQ-287). Request from Gonzalo Barrientos, Chairman, Committee on Nominations, Texas State Senate, Austin, concerning whether a home rule city may, consistent with Article III, §53 of the Constitution, create a "sick leave pool" of sick leave contributed by employees for use by employees who have exhausted their sick leave.

(RQ-288). Request from Dan Roberts, Chairman, Texas Department on Aging, Austin, concerning the validity of a rider to the current appropriation to the Texas Department on Aging which requires the Texas Department on Aging, under certain circumstances, to use the service standards, systems, billing, audit procedures and provider bases used by the Department of Human Services.

(RQ-289). Request from Benny M. Mathis, Jr., Executive Director, Structural Pest Control Board, Austin, concerning whether the Texas Structural Pest Control Act, Texas Civil Statutes, Article 135b-6, authorizes the imposition of initial licensing fees on certified noncommercial applicators.

(RQ-290). Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether a deputy constable may serve as an assistant fire chief with a municipal fire department.

(RQ-291). Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether the Harris County Attorney is authorized to represent a Harris County Hospital District employee accused of criminal acts committed within the scope of his

employment, and whether the Hospital District is authorized either to hire an attorney to represent such an employee or to reimburse the legal expenses of such an employee following acquittal.

(RQ-292). Request from Frank Tejada, Chairman, Subcommittee on Urban Affairs, Texas State Senate, Austin, concerning whether a home-rule city may require fees and permits of a metropolitan transit authority for certain operations within its city limits.

(RQ-293). Request from Dan M. Boulware, District Attorney, 18th Judicial District, Johnson County Courthouse, Cleburne, concerning whether the citizenship requirement of 37 TAC §211.80(a)(1) for licensing Texas peace officers violates Article 1, §3(a) or Article 2, §1 of the Texas Constitution.

(RQ-294) Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether Harris County may regulate the building of structures over waterways over which the Port of Houston Authority exercises regulatory authority in particular circumstances.

(RQ-295). Request from James L. Anderson, Aransas County Attorney, Rockport, concerning whether a concrete material company owned by a serving county commissioner may provide services and materials to the county or to another contractor currently under contract for services with the county.

(RQ-296). Request from Alvin Roy Granoff, Chairman, Committee on State, Federal and International Relations, Texas House of Representatives, Austin, concerning whether a hearing examiner may be named a party defendant or subpoenaed to testify in an appeal of a civil service award under the Local Government Code, §143.057(j).

(RQ-297). Request from Fred Toler, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education concerning questions regarding the application of course requirements and in-service requirements under the Government

Code, §415.0345 and §415.034 to certain constables and other peace officers.

(RQ-298). Request from August Boto, Cooke County Attorney, Cooke County Courthouse, Gainesville, concerning whether the Texas Open Records Act, §3(a)(3) and §3(a)(8) except from public disclosure the state's prosecutorial file in a case in which the defendant was placed on deferred adjudication.

(RQ-299). Request from George J. Filley, III, Criminal District Attorney, Victoria, concerning whether Victoria County may fund the office of Election Administrator by contracting with political subdivisions that will utilize that office's services, pursuant to the Interlocal Cooperation Act.

(RQ-300). Request Bill G. Carter, Chairman, Public Safety Committee, Texas House of Representatives, Austin, concerning whether the Tax Code, §154.101(h) and §155.041(h), establishing the Tax Code as the exclusive authority for the issuance of permits for engaging in business as a retailer of cigarettes, preempt provisions of a city ordinance licensing tobacco product retailers.

(RQ-301). Request from Rene Guerra, Criminal District Attorney, Hidalgo County Courthouse, Edinburg, concerning whether a hospital authority may pay physicians a flat fee or per diem to be on call to admit emergency room patients to the hospital without violating the Health and Safety Code, §161.091 which prohibits remuneration for securing or soliciting patients.

(RQ-302). Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether Harris County and Harris County Flood Control District have the right to use right-of-way acquired by the other entity.

(RQ-303). Request from Ron Wilson, Chairman, Committee on Liquor Regulation, Texas House of Representatives, Austin, concerning the use of funds transferred to a municipality by a metropolitan rapid transit authority pursuant to Texas Civil Statutes, Article 118x, §6(t)-(v).

(RQ-304). Request from Homer R. Goehrs, M.D., F.A.C.P., Executive Director, Texas State Board of Medical Examiners, Austin, concerning the use of certain pharmaceutical agents by optometrists.

(RQ-305). Request from Robert Eckels, Chairman, Committee on County Affairs, Texas House of Representatives, Austin, concerning whether the Insurance Code, Article 21.48A, §2(e) authorizes an insurance agent to collect a substitution fee from a lender if the lender sells the mortgage in the secondary mortgage market and requests an endorsement reflecting the change in the identity of the mortgage holder from the agent.

(RQ-306). Request from John Hannah, Jr., Secretary of State, Austin, concerning whether a health spa in operation before September 1, 1989, is subject to a lower security deposit than one opened after that date, and related questions.

(RQ-307). Request from John Vance, Dallas County District Attorney, Dallas, concerning whether the minimum annual salary of statutory county court judges established by the Government Code, §25.005, includes FICA contributions.

TRD-9204164



Emergency Sections

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

Symbology in amended emergency sections. 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 II. Texas Ethics Commission

Chapter 9. Advisory Opinions

• 1 TAC §§9.1, 9.3, 9.5, 9.7

The Texas Ethics Commission adopts on an emergency basis new §§9.1, 9.3, 9.5, and 9.7, which govern the requests for advisory opinions.

The Texas Ethics Commission has determined that the emergency adoption of the new sections are necessary and in the public interest in order to comply with Texas Civil Statutes, Article 6252-9d(1.29).

The Texas Ethics Commission finds that an emergency exists in that §1.29 mandates that the Texas Ethics Commission issue advisory opinions as requested on or after January 1, 1992. In order to issue advisory opinions already received by the public, there must in place a procedure for processing and answering those opinions in a timely manner; the Texas Constitution, Article III, §24a created the Texas Ethics Commission and gives the commission such powers and duties as the legislature may provide. The legislature has enacted Texas Civil Statutes, Article 6252-9d.1, effective January 1, 1992, which confers on the commission the power to issue advisory opinions and to promulgate any rules necessary to effectuate the intent of the statute.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 6252-9d.1(1.29) by Article 6252.9d.1(1.11)(b)(9) which confers upon the commission the authority to adopt rules.

§9.1. Requests for Advisory Opinions.

(a) A request for a written advisory opinion for the commission must:

(1) be from a person authorized by Texas Civil Statutes, Article 6252-9d. 1 to make a request;

(2) be written;

(3) give specific detailed facts, real or hypothetical, in sufficient detail as to aid in the formation of an opinion;

(4) not be the subject matter of pending litigation;

(5) not require the resolution of a question of fact; and

(6) concern the application of one of the laws listed in Chapter 304, §1.29(a), Acts of the 72nd Legislative Session, 1991 (Texas Civil Statutes, Article 6252-(9d.1), to the requestor.

(b) A request regarding the activities, real or hypothetical, of a person other than the requestor is not a valid advisory opinion request.

(c) Advisory opinion requests should be sent to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070.

§9.3. Examination and Referral of Requests.

(a) Upon receipt of an opinion request, the staff of the commission shall date-stamp the request and assign a file number to the request.

(b) The staff of the commission will promptly examine each request to determine whether it satisfies the requirements listed in §9.1 of this title (relating to Requests for Advisory Opinions). The staff will respond to a request that does not meet the requirements of §9.1(a) of this title with a letter explaining why the request is unacceptable.

(c) If the commission staff determines that an opinion request can be answered by reference to the plain language of the applicable statute, or if the question has already been answered by the commission, then in either event the commission staff may advise the requestor of the language of the statute or the prior determination, as applicable. Such requests will not be designated as formal advisory opinions.

(d) Each request that qualifies as an advisory opinion request (AOR) under §9.1 of this title shall be assigned an AOR number for reference purposes and shall be published in summary form in the *Texas Register*.

(e) Any interested person may submit written comments concerning advisory opinion requests published by the commission. Comments submitted shall reference the AOR number.

§9.5. Time Period.

(a) An advisory opinion request will be considered to have been received on the date the staff of the commission determines the request to be in compliance with §9.1 of this title (relating to Request for Advisory Opinions).

(b) The authority granted by Texas Civil Statutes, Article 6252-9d.1(1.29) (b), is delegated to the staff of the commission.

§9.7. Confidentiality.

(a) The name of a person requesting an advisory opinion is confidential.

(b) The commission staff shall prepare a redacted version of each advisory opinion request. All information likely to identify a requestor shall be deleted.

(c) Original requests shall be placed in a confidential file. Neither original requests nor copies or original requests may be removed from the offices of the Ethics Commission.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204138

Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

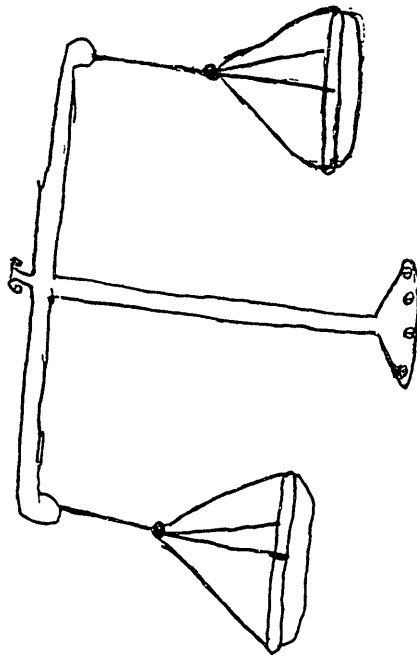
Effective date: March 23, 1992

Expiration date: July 21, 1992

For further information, please call: (512) 463-5800



LAW



Name: Albert Chavez

Grade: 5

School: Forbes Elementary, San Antonio ISD

Albert Chavez
Forbes Elementary
5th grade

Equal Justice Under The Law

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 II. Texas Ethics Commission

Chapter 9. Advisory Opinions

• 1 TAC §§9.1, 9.3, 9.5, 9.7

(Editor's Note: The Texas Ethics Commission proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is in the Emergency Rules section of this issue.)

The Texas Ethics Commission proposes new §§9.1, 9.3, 9.5, and 9.7 concerning the rules concerning requests for Advisory Opinions.

Jim Mathieson, assistant general counsel, 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. Mathieson 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 compliance with Texas Civil Statutes, Article 6252-9d.1 concerning the request for advisory opinions. 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 Jim Mathieson, 1101 Camino La Costa, Austin, Texas 78752. Only written comments will be accepted.

The new sections are proposed under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate rules concerning request for advisory opinions.

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 23, 1992.

TRD-9204137

Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Earliest possible date of adoption: May 1, 1992

For further information, please call: (512) 463-5800

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Housing and Community Affairs

Chapter 9. Texas Community Development Program

Subchapter A. Allocation of Program Funds

• 10 TAC §9.1, §9.3

The Texas Department of Housing and Community Affairs (TDHCA) proposes amendments to §9.1. and §9.3, concerning the eligibility of small business incubator activities for the Texas capital fund under the Texas Community Development Program (TCDP). The Texas capital fund will be available to eligible units of local government to provide financing for small business incubators. The proposed amendments establish the standards and procedures by which TDHCA will allocate these funds to eligible units of local government in Texas. The proposed amendments include threshold requirements and selection procedures and criteria.

Ruth Cedillo, director, community development block grant, 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. Cedillo 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 the equitable distribution of funds to eligible units of local government. 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 Anne O. Paddock, Assistant General Counsel, P.O. Box 12026, Austin, Texas 78711-2026 within 30 days after the date of this publication.

The amendments are proposed under Texas Civil Statutes, Article 4413(501) §2.07, which provide the Texas Department of Housing and Community Affairs with the authority to allocate CDBG nonentitlement area funds to eligible counties and municipalities according to department rules.

§9.1. General Provisions.

(a) (No change.)

(1)-(7) (No change.)

(8) **Incubator**—An incubator or small business incubator is defined as a facility within which small businesses share space, equipment, and support personnel and have access to professional consultants for advice related to the technical and management aspects of conducting a commercial enterprise.

(9) **Incubator sponsor**—A non-profit organization or entity including a quasi-governmental entity, a junior college, an institution of higher learning as defined by the Education Code, §61.003, a private college or university, a small business development center, or a development corporation created under state law, that enters into a written agreement with the applicant to establish, operate, and administer a small business incubator.

(10)[(8)] **Local government**—A unit of general local government.

(11)[(9)] **Low- and moderate-income person**—A member of a family which earns less than 80% of the area median family income, as defined under the United States Department of Housing and Urban Development §8 Assisted Housing Program.

(12)[(10)] **Nonentitlement area**—An area which is not a metropolitan city or part of an urban county as defined in 42 United States Code, §5302.

(13)[(11)] **Permanent job**—A job for which continuation of employment is not dependent on funds provided through the Texas Community Development Program.

(14)[(12)] **Poverty**—The current official poverty line established by the Director of the Federal Office of Management and Budget.

(15)[(13)] **Primary beneficiary**—A low- or moderate-income person.

(16)[(14)] **Regional review committee**—A regional community development review committee, one of which is established in each of the 24 state planning re-

gions established by the governor pursuant to Texas Local Government Code, §391.003.

(17) **Slum or blighted area**—An area which has been designated a state enterprise zone, or an area within a municipality or county that is detrimental to the public health, safety, morals, and welfare of the municipality or county because the area:

(A) has a predominance of buildings or other improvements that are dilapidated, deteriorated, or obsolete due to age or other reasons;

(B) is prone to high population densities and overcrowding due to inadequate provision for open space;

(C) is composed of open land that, because of its location within municipal or county limits, is necessary for sound community growth through replatting, planning, and development for predominantly residential uses; or

(D) has conditions that exist due to any of the causes enumerated in subparagraphs (A)-(C) of this paragraph or any combination of those causes that:

(i) endanger life or property by fire or other causes; or

(ii) are conducive to:

(I) the ill health of the residents;

(II) disease transmission;

(III) abnormally high rates of infant mortality;

(IV) abnormally high rates of juvenile delinquency and crime; or

(V) disorderly development because of inadequate or improper platting for adequate residential development of lots, streets, and public utilities.

(18) **Slum or blight, spot basis**—A building which has been declared as a slum or blight and has multiple and unattended building code violations, and qualifies as slum or blighted on a spot basis under local law.

(19) [(15)] **State review committee**—The State Community Development Re-

view Committee established pursuant to Texas Civil Statutes, Article 4413(501), §2. 10.

(20)[(16)] **Underemployed person**—A person who works less than 40 hours per week not by choice, at a salary that is not commensurate with his skills and experience.

(21)[(17)] **Unemployed person**—A person between the ages of 16 and 64, inclusive, who is not presently working but is seeking employment.

(22)[(18)] **Unit of general local government**—An entity defined as a unit of general local government in 42 United States Code, §5302(a)(1), as amended.

(b)-(e) (No change.)

(f) Citizen participation.

(1) (No change.)

(2) Application requirements.

Prior to submitting an application, an applicant for Texas Community Development Program funding shall satisfy the following requirements.

(A)-(E) (No change.)

(F) The second public hearing must include a discussion of the proposed project, the amount of funds being requested, the estimated amount of funds proposed for activities that will benefit low- and moderate-income persons, or in the case of the small business incubator program may include the fulfillment of the national objective of aiding in the prevention or elimination of slums or blight, and the plans of the applicant to minimize displacement of persons and to assist persons actually displaced as a result of activities assisted with Texas Community Development Program funds, if applicable. The notice must include the location and hours when the application is available for review.

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

(g)-(n) (No change.)

§9.3. Texas Capital Fund.

(a) **General provisions.** This fund covers projects which will result in either an increase in new, permanent employment within a community or retention of existing permanent employment; or may, in the case of the small business incubator program, include the fulfillment of the national objective in eliminating slum or blight. All jobs being created or retained must primarily benefit low- and moderate-income persons. A minimum of 51% of all of the jobs ultimately created or retained must have been for people who at the time of their employment had total family in-

come below the low- and moderate-income limit for the county where the development occurred. **If the project is designed to aid in the prevention or elimination of slums or blight, then it must meet the area slum or blight or spot slum or blight criteria and threshold requirements outlined in the pre-application.** Eligible activities include the loan program, the infrastructure program, [and] the real estate development program, and the small business incubator program. The loan program provides financing for activities such as machinery and equipment, working capital, the purchase of land and depreciable property, new construction, and rehabilitation of commercial or industrial facilities. The public infrastructure program provides funds for eligible activities such as the construction or improvement of water/wastewater facilities, public roads, natural gas-line services, electric-power services, and railroad spurs. The real estate development program provides a contract to an eligible applicant for the acquisition, construction, or rehabilitation of real estate in support of a specific business (either a for-profit entity or a non-profit entity). The small business incubator program provides funds for an eligible applicant to acquire, construct, or rehabilitate real estate and to provide public improvements in support of a non-profit incubator sponsor. The terms and criteria for the loan program, the public infrastructure program, [and] the real estate development program, and the small business incubator program are further defined in the pre-application guidelines for the programs. A firm financial commitment from all funding sources other than the United States Department of Commerce Economic Development Administration is required upon submission of a pre-application. A letter from the United States Department of Commerce Economic Development Administration inviting a formal application under its public works program must be included in the pre-application if applicable. The leverage ratio between all funding sources and Texas capital funds must not be less than 1:1. In order for an applicant to be eligible for Texas capital funding under the low- and moderate-income persons benefit objective, the cost per job calculation must not exceed \$25,000.

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

(3) The department will not consider any application for funding in which the business or incubator sponsor to be assisted thereunder has filed under the Federal Bankruptcy Code, and the matter is in the process of being adjudicated or in which such business has been adjudicated bankrupt.

(4) The department will only consider applications that provide funding for one business or incubator sponsor.

(5) (No change.)

(6) A business or incubator sponsor which is currently being provided assistance from the Texas capital fund must create at least 50 permanent jobs in each additional proposed Texas capital fund project in order for such project to be considered for funding, with the exception of Small Business Incubator Program projects that have met the national objective of aiding in the prevention or elimination of slums or blight.

(7) A Texas capital fund or governors special assistance fund for small and minority businesses contractor must satisfactorily close out a contract in support of a specific business/incubator sponsor in order to be eligible to receive additional funds under the Texas capital fund for the same business/incubator sponsor.

(8) (No change.)

(b) (No change.)

(c) Selection procedures. The department has entered into an interagency cooperation contract with the Texas Department of Commerce by which the Texas Department of Commerce performs marketing and underwriting services for this fund. Applications under this section are reviewed by the Texas Capital Fund Advisory Committee after they have been evaluated [scored] by staff of the Texas Department of Commerce. The Advisory Committee is appointed by the executive director of the Texas Department of Commerce and the community development block grant division director of the department. The Texas Department of Commerce and the department have equal representation on the Advisory Committee. The Texas Capital Fund Advisory Committee and staff make recommendations to the department's executive director for final award. The application and selection procedures consist of the following steps.

(1) (No change.)

(2) Upon receipt of a pre-application containing financial information on the business or incubator sponsor to be considered for funding, the staff of the Texas Department of Commerce performs an initial review to determine whether the pre-application is complete and whether the activities proposed are eligible for funding. In those instances where the staff of the Texas Department of Commerce determines that the pre-application is either incomplete or that the activities are ineligible for funding, the pre-application is returned for the applicant to complete or is cited as ineligible. The staff at the Texas Department of Commerce then conducts a review of each complete pre-application to make threshold determinations with respect to:

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

(E) whether there is evidence that at least 51% of the permanent jobs created or retained will benefit low- and moderate-income persons and/or in the case of the Small Business Incubator Program may meet the national objective of aiding in the prevention or elimination of slums or blight.

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

(5) The staff of the Texas Department of Commerce generates scores on selection criteria related to leverage ratio, cost per job, minority hiring, and project feasibility. Scores on factors in these categories are derived from information provided by the applicant. An infrastructure, loan, or real estate development program applicant must receive at least 60 points out of a possible 100 points to be considered for funding. An applicant that receives at least 60 points on such criteria may be invited to send a representative to make a presentation to the Texas Capital Fund Advisory Committee. An application submitted under the Small Business Incubator Program is not scored, however, an applicant must meet the minimum threshold requirements specified in the pre-application.

(6)-(10) (No change.)

(d) Selection criteria. The following is an outline of the selection criteria used for selection of projects under the Texas Capital Fund Infrastructure, Loan, and Real Estate Development Programs. One hundred points are available. The terms and criteria used in this subsection are further defined in the pre-application guidelines for these programs [this fund].

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

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

(g) Threshold requirements for the small business incubator program. The following is an outline of threshold requirements used for selection of projects under the Texas Capital Fund Small Business Incubator Program. The terms and criteria used in this subsection are further defined in the pre-application guidelines for this program. In order for its pre-application to be considered, an applicant must meet either paragraphs (1), (2), or (3) of this subsection.

(1) Low and moderate income persons benefit objective. Document that at least 51% or more of all the persons to benefit from the economic development activities qualify as low and moderate income persons.

(2) Area slums/blight objective. Document the boundaries of the area designated as a slum or blighted, document the conditions which qualified it under federal, state or local definition, and the way in which the assisted activity

addressed one or more of the conditions which qualified the area as slum or blighted.

(3) Spot slum/blight objective. To show how this objective will be met, the applicant must:

(A) document that the project qualifies as slum or blighted on a spot basis under local law;

(B) describe the specific condition of blight or physical decay that is to be treated;

(C) for rehabilitation carried out under this category, describe the specific conditions detrimental to public health and safety which will be corrected; and

(D) provide details and scope of the proposed rehabilitation, by structure.

(4) The staff at Texas Department of Commerce conducts a review of each complete pre-application to make threshold determinations with respect to the feasibility of each incubator project based on the soundness of the project. Factors examined include firm commitments for financial contributions; the jobs to be created or retained; the history of the incubator; the financial condition of the incubator, including a full review of the credit analysis and cash flow projections; the feasibility study and business plan; pre-lease commitments; demonstrated proof of community support; demonstrated linkages with related small business programs and educational institutions; and evidence of strong management experience of the incubator sponsor.

(h) Additional criteria for the small business incubator program.

(1) A minimum 10% equity injection (of the total project costs) in the form of cash, land, buildings, equipment, furniture, or fixtures by the applicant and/or incubator sponsor is required.

(2) An incubator project located in a designated enterprise zone receives special consideration.

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 24, 1992.

TRD-9204202

Anne O. Paddock
Assistant General Counsel
Texas Department of
Housing and
Community Affairs

Earliest possible date of adoption: May 1, 1992

For further information, please call: (512) 320-9526

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**TITLE 16. ECONOMIC
REGULATION**
Part I. Railroad
Commission of Texas
Chapter 5. Transportation
Division
Subchapter U. General and
Special Rules of Practice
and Procedure

The Railroad Commission of Texas proposes the repeal of §§5.403, 5.405, 5.406, 5.408-5.410, 5.413-5.422, 5.425-5.430, and 5.432-5.455 and amendments to §5.402 concerning object of rules, §5.404 concerning filing of documents, and §5.456 concerning effective date. The repeals and the amendments will operate to apply the General Rules of Practice and Procedure for the commission, as set out in Chapter 1 of Title 16, to applications before the Transportation Division of the Railroad Commission of Texas. The rules that are not repealed will continue to apply to proceedings before the transportation division, and cover circumstances unique to those proceedings.

Susan A. German, hearings examiner, 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. German 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 is increased uniformity of practice among the various divisions of the commission, and increased familiarity of practitioners regarding the procedures employed. 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.

Public comment is invited and may be submitted within 30 days to Susan A. German, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711.

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• **16 TAC §§5.402, 5.404, 5.456**

The amendments are proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the Railroad Commission of Texas to regulate motor carriers in all matters, and the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which authorizes the commission to adopt procedural rules.

§5.402. *Object and Scope of Rules.*

(a) The purpose of these rules is to provide for a simple and efficient system of

procedure before the **Transportation Division, to provide for standards of practice and procedure in accord with special circumstances in transportation proceedings**, [agency] to insure [uniform standards of practice and procedure,] public participation and notice of agency actions, and a fair and expeditious determination of causes. These rules shall be liberally construed, with a view towards the purpose for which they were adopted.

(b) This subchapter shall govern the procedure for the institution, conduct and determination of all causes and proceedings before the **Transportation Division. To the extent that these rules conflict with the General Rules of Practice and Procedure contained in Chapter 1 of this title (relating to Practice and Procedure) these rules shall apply. To the extent that this subchapter does not relate to any situation, the general rules shall apply. This subchapter shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of the agency or the substantive rights of any person.**

§5.404. *Filing of Documents. Applications*, [All applications, petitions,] complaints, [motions,] protests, [replies, answers, notices] and all other documents [pleadings] relating to any proceeding pending or to be instituted before the **Transportation/Gas Utilities Division** [agency] shall be filed with the director or the designee. Documents [They] shall be deemed filed only when actually received by the **director or the designee of the Transportation/Gas Utilities Division**, [him,] accompanied by **any required** [the filing] fee [, if any, required by statute or agency rules. All pleadings, except applications or petitions involving operating authority or rates, shall be accompanied by a signed copy for each commissioner]. **The time and date of filing shall be determined by the file stamp affixed thereon. Documents filed after 5 p.m. local time of the commission shall be deemed filed the first day following that is not a Saturday, Sunday, or official state holiday. Only documents that do not require a fee may be filed by telephonic document transfer, and shall be considered filed after 5 p.m. local time if the last page of the document is received after 5 p.m. local time.**

§5.456. *Effective Date.* These rules shall take effect on **June 1, 1992** [December 31, 1975]. They govern all proceedings filed after they take effect; and they also govern all proceedings then pending, except to the extent that the director shall determine that their application in a particular pending proceeding would not be feasible or would work injustice, in which event the former

procedure applies. [Any rule adopted after December 31, 1975 shall become effective 20 days after filing two certified copies of said rule with the secretary of state, unless otherwise specified in the rule because of statutory directive or federal law or emergency.]

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 23, 1992.

TRD-9204219 Nolan Ward
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Earliest possible date of adoption: May 1, 1992

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

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• **16 TAC §§5.403, 5.405, 5.406,
5.408-5.410, 5.413-5.422,
5.425-5.430, 5.432-5.455**

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

The repeals are proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the Railroad Commission of Texas to regulate motor carriers in all matters, and the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which authorizes the commission to adopt procedural rules

§5.403. *Scope of Rules.*

§5.405. *Computation of Time.*

§5.406. *Agreements to Be in Writing.*

§5.408. *Service of Pleadings in Nonrulemaking Proceedings.*

§5.409. *Conduct and Decorum.*

§5.410. *Classification of Parties.*

§5.413. *Classification of Pleadings.*

§5.414. *Form and Content of Pleadings.*

§5.415. *Examination by the Director.*

§5.416. *Motions.*

§5.417. Amendments.

§5.418. Incorporation by Reference of Agency Records.

§5.419. Docketing and Numbering of Causes.

§5.420. Publication of Notice in Rulemaking Proceedings.

§5.421. Licenses.

§5.422. Contested Proceedings.

§5.425. Prehearing Conference.

§5.426. Motions for Postponement, Continuance, Withdrawal, or Dismissal of Applications or Other Matters before the Agency.

§5.427. Joint Hearings.

§5.428. Place and Nature of Hearings.

§5.429. Presiding Officer.

§5.430. Order of Procedure.

§5.432. Formal Exceptions.

§5.433. Dismissal without Hearing.

§5.434. Rules of Evidence.

§5.435. Documentary Evidence and Official Notice.

§5.436. Prepared Testimony.

§5.437. Limitations on Number of Witnesses.

§5.438. Exhibits.

§5.439. Bills of Exception.

§5.440. Depositions.

§5.441. Subpoenas.

§5.442. Witness and Deponent Fees.

§5.443. Proposals for Decision.

§5.444. Filing of Exceptions, Briefs, and Replies.

§5.445. Form and Content of Briefs, Exceptions, and Replies.

§5.446. Oral Argument.

§5.447. Final Decisions and Orders.

§5.448. Administrative Finality.

§5.449. Motions for Rehearing.

§5.450. Rendering of Final Decision or Order.

§5.451. The Record.

§5.452. Show Cause Orders and Complaints.

§5.453. Ex Parte Consultations.

§5.454. Suspension of Rules.

§5.455. Procedure for Adoption of Rules.

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

Issued in Austin, Texas on March 23, 1992.

TRD-9204220

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

Earliest possible date of adoption: May 1, 1992

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

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Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

Rates

• 16 TAC §23.23

The Public Utility Commission of Texas proposes an amendment to §23.23, concerning rates. The proposed amendment makes several changes to the manner by which the commission regulates the fuel costs of generating utilities.

The proposal provides for the certification by the commission of long term natural gas contracts. Such certification will be determinative of the reasonableness of the original terms of the contract in all future commission proceedings.

The proposal also requires that each utility's fuel factor be revised or updated every six

months. Refunds or surcharges would no longer be required in that over/under collections are considered in setting the fuel factor. The proposed amendment requires a reconciliation of fuel costs at least as often as once every two years and provides a definition of the costs that are eligible for inclusion in the fuel factor. The final major change that the proposal makes is that it allows investor owned generation utilities to use a purchased cost recovery factor to pass through the capacity cost of purchased electricity.

The commission requests commenters to address the following questions in addition to their other comments.

If the commission should adopt some form of integrated resource planning, would adoption of this rule as proposed be harmonious with, inconsistent with, or have a negligible impact upon integrated resource planning?

The proposed rule provides for certification of long-term gas contracts *in toto*. Address the relative merits or demerits of some form of partial certification.

Is certification good public policy? Would it invite an overly intrusive role for the commission in management prerogatives?

Should the commission certify fuel contracts for other than natural gas? If so, why?

The proposed rule requires a comparison of a subject contract with terms and provisions of other "identified contracts" that the rulemaking petition describes as being "concurrently available." Section 23.23(a)(3)(A): how should "identified contracts" be construed? For example, how many contracts would be necessary or sufficient?

The proposed rule makes permissive the inclusion of economic-out clauses. Section 23.23(a)(4)(B): should this be mandatory? Because inclusion of such a clause makes renegotiation of price and other terms reviewable as an exercise of discretion, would a utility have an incentive or disincentive to include such a contract clause?

Would the standards for determining certification displace the current standard of requiring a showing of the "lowest reasonable cost" as the basis for cost recovery?

The proposed rule expressly provides for inclusion in the fuel factor of certain "eligible fuel expenses." Section 23.23(b)(2)(B): Would inclusion of these expenses authorize recovery of non-commodity and/or non-variable energy costs? Why or why not?

The rule requires the utility to establish in a fuel factor proceeding that its fuel factors are "reasonable estimates of its eligible fuel expenses". Section 23.23(b)(2)(D)(i)(I): is this standard more vigorous, less vigorous, or the same as the current standard of "known or reasonably predictable?" Please explain and defend your answer from a public policy standpoint.

The scope of a fuel factor proceeding is outlined in §23.23(b)(2)(D)(ii). Does this scope include an analysis of the utility's judgment in electing a particular fuel mix? If it does not, when would such an analysis occur?

In fuel reconciliation proceedings, the pro-

posed rule requires the utility to show that its eligible fuel expenses were "reasonable and necessary" to authorize recovery. Would this standard differ from the current standard requiring the utility to show that its costs were the lowest reasonable, that its system was operated efficiently, and that management exercised sufficient controls. If it does, why is this standard preferable?

Can the question of certification of long-term gas contracts be addressed independent of the proposal's modification of the commission's rules governing fuel factor and fuel reconciliation proceedings?

Are the proposed time lines for processing sufficient?

Are the notice provisions sufficient?

Bret J. Slocum, deputy general counsel, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The Public Utility Commission, the Office of Public Utility Counsel, and the Attorney Office are expected to incur an undetermined amount of additional cost in the certification of gas contracts, in the setting of each generating utility's fuel factor every six months, and in performing reconciliations every two years. Currently, the commission rules do not provide for the certification of long term natural gas contracts nor require that fuel factors be updated every six months. It is expected that the additional costs caused by the rule will decline over time as experience under the rule is gained. There will be no effect on local government.

Mr. Slocum 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 potential for greater certainty regarding commission regulatory treatment of long term natural gas contracts and the increased responsiveness of the fuel factor to changing fuel prices. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the proposed amendments is the additional cost associated with semi-annual fuel factor filings and proceedings regarding the utility's fuel factor and the greater frequency of reconciliation proceedings.

Mr. Slocum has also determined that for each of the first five years the proposed section is in effect, there will be no impact on employment in the geographical areas affected by implementing the requirements of the section.

Comments on the proposal (13 copies) may be submitted to Mary Ross McDonald, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 232S, Austin, Texas 78757. Comments should be submitted within 30 days after publication of the proposed amendment. Replies to comments may also be filed and are due 45 days after publication of the proposed amendment. Comments and replies to comments should refer to Project Number 10893.

The amendment is proposed under the Public Utility Regulatory Act, §16(a), which provides

the Public Utility Commission of Texas with the authority to make and enforce the rules reasonably required in the exercise of its powers and jurisdiction.

§23.23. Rate Design.

(a) Guidelines for certifying long-term gas contracts. Because long-term gas contracts are often in the public interest, the commission will certify such contracts in accordance with the guidelines in this subsection for determining the reasonableness of the terms and conditions of such contracts. This subsection does not require long-term gas contracts to be submitted for certification, and no adverse inference will result from a failure to seek certification.

(1) Definition. A long-term gas contract is a contract, or an amendment to a contract, with a specified term of at least five years for the supply, transportation, processing, and/or storage of natural gas for the generation of electricity.

(2) Initiation of review. Upon the petition of a utility, the commission will review the reasonableness of the terms and conditions of a long-term gas contract as of the time of its execution. A petition for certification may be filed separately, with a petition to reconcile fuel expenses, or with a statement of intent to change rates. If a contract has not been certified, the commission may review its reasonableness in any proceeding in which the reasonableness of the contract is in issue under this section.

(3) Criteria. The commission will consider the following factors in determining whether to certify a long-term gas contract:

(A) the pricing provisions and other terms, in light of identified contracts, offers, or proposals, if any, that the utility could reasonably have obtained for comparable supply, transportation, processing, and/or storage of gas when the contract was executed;

(B) the quantity deliverable under the contract, in light of the utility's long-term load forecast and mix of fuel purchases;

(C) current and projected gas prices when the contract was executed;

(D) the reliability of the supply, in light of the price under the contract;

(E) provisions allowing for variation in the purchase and receipt or supply and delivery of gas; and

(F) provisions allowing the utility to obtain transportation or storage capacity from the supplier.

(4) Additional considerations. Other matters relating to long-term gas contracts will be handled as follows.

(A) A price-adjustment clause, if any, in a long-term gas contract must either provide for specified or determinable adjustments or tie the price adjustments to appropriate market indexes.

(B) Long-term gas contracts may, but are not required to, contain economic-out clauses exercisable by one or both of the parties; the renegotiation of prices and other terms as a result of economic-out clauses will be reviewable as an exercise of discretion under paragraph (7) of this subsection.

(C) Long-term gas contracts may provide for variability of supply or take, but may be completely interruptible only in cases of force majeure, at the direction of a state or federal agency having jurisdiction over the natural gas supplier or the gas production, pursuant to a curtailment plan approved by such an agency, or upon such other terms as may be approved by the commission.

(D) A long-term gas contract may be contingent on certification.

(E) A long-term gas contract may provide for prepayments by the utility in return for dedicated long-term gas supply.

(F) The reasonableness of any price premiums in a long-term gas contract over short-term prices will be determined in light of all the benefits obtained under the contract as a whole.

(5) Procedural matters. Matters relating to procedural schedules and notice will be handled as follows.

(A) Upon motion by a utility for an expedited certification in a proceeding in which certification is the sole issue, the presiding officer shall set a procedural schedule that will enable the commission to issue a final order in the proceeding as follows:

(i) within 90 days after the contract is submitted to the commission, if no hearing is requested within 30 days after the contract is submitted; and

(ii) within 120 days after the contract is submitted to the commission, if a hearing is requested within 30 days after the contract is submitted, except that this deadline is extended two days for each day in excess of five days on which the commission conducts a hearing on the merits of the case.

(B) Commission approval of a request for expedited certification is contingent on the utility's filing its entire direct case at the time it submits its contract to the commission. The direct case must include testimony addressing each factor listed in paragraph (3) of this subsection.

(C) A utility may file a petition for certification without submitting a contract if at the time of filing it requests entry of a protective order making the contract available while protecting its confidentiality. The presiding officer shall promptly issue a protective order subject to any party's right to challenge the confidential designation of information in a contract. Issues involving the confidentiality of information will be resolved under subsection (b)(5) of this section.

(D) In any proceeding in which certification of a long-term gas contract is requested, the utility shall provide written individual notice of the proceeding to all other parties to the contract. Notice to other affected persons must be provided in accordance with commission rules.

(6) Certification. After considering the factors set forth in paragraph (3) of this subsection, the commission will certify a long-term gas contract if it determines that the terms and conditions of the contract are reasonable as a whole; otherwise, the commission will deny certification.

(7) Effect of certification. Certification of a long-term gas contract establishes that the prices, terms, and conditions of the contract are reasonable and precludes their further review by the commission in a subsequent proceeding. Certification does not, however, preclude subsequent commission review of a utility's exercise of discretion expressly provided for under the contract. Denial of certification establishes only that the contract is not eligible for certification, and it does not constitute evidence that the costs incurred under the contract are unreasonable.

[(a) General. In fixing the rates of a public utility, the commission shall fix its overall revenues at a level which will per-

mit such utility a reasonable opportunity to earn a reasonable return on its capital investment used and useful in rendering service to the public over and above its reasonable and necessary operating expenses.]

(b) Recovery of fuel and purchased-power costs.

(1) Purpose. The commission will set an electric utility's rates at a level that will permit the utility a reasonable opportunity to earn a reasonable return on its invested capital and to recover its reasonable and necessary expenses, including the cost of fuel and purchased power. The commission recognizes in this connection that it is in the interests of both utilities and their ratepayers to adjust customer charges in a timely manner to account for changes in certain fuel and purchased-power costs. Pursuant to the Public Utility Regulatory Act, (the Act), §43(g)(2), this subsection establishes a procedure for setting and revising fuel factors and purchased-power cost recovery factors and a procedure for regularly reviewing the reasonableness of the fuel expenses recovered through fuel factors.

(2) Fuel factors.

(A) Use and calculation of fuel factors. The charges for electric utility service will be adjusted by fuel factors to account for projected changes in eligible fuel expenses as defined in subparagraph (B) of this paragraph. Fuel factors are determined for six-month periods by dividing the utility's projected net eligible fuel expenses by the corresponding projected kilowatt-hour sales for the six-month period in which the fuel factors are expected to be in effect. Net eligible fuel expenses are the eligible fuel expenses adjusted by any over- or underrecoveries of eligible fuel expenses from the second preceding six-month period, calculated with interest accruing as set forth in paragraph (3)(C) of this subsection. Fuel factors must account for system losses and for the difference in line losses corresponding to the type of voltage at which the electric service is provided. A different method of calculation may be allowed upon a showing of good cause by the utility. The method of calculating fuel factors must be set forth in a utility's tariff, subject to approval by the commission.

(B) Eligible fuel expenses. Eligible fuel expenses include all expenses properly recordable on the books of an electric utility in accordance with generally accepted accounting principles consistently applied in Accounts Numbers 501, 518, 536, 547, and 555 of the Uniform System of Accounts as adopted and amended by the Federal Energy Regula-

tory Commission for Class A Utilities adjusted for revenues from off-system sales as approved by the commission and, in addition, wheeling costs where appropriate; however, the following specific expenses may not be recovered through a utility's fuel factor unless the utility demonstrates, in a general rate case or other proceeding, that special circumstances justify such recovery:

- (i) purchased-power capacity costs;
- (ii) fuel handling expenses;
- (iii) expenses associated with the disposal of fuel combustion residuals;
- (iv) maintenance expenses and taxes on rail cars owned or leased by the utility;
- (v) coal brokerage fees; and
- (vi) return on equity for an affiliate of the utility.

(C) Semiannual petitions to revise fuel factors. On the first business day of the months specified in subparagraph (F) of this paragraph, each utility using one or more fuel factors shall file a semiannual petition requesting revised fuel factors for a six-month fuel-factor period. Each petition must be accompanied by supporting testimony that includes the following information:

(i) for each month of the second preceding fuel-factor period before the period for which the revised fuel factors are expected to be in effect:

(I) eligible fuel expenses incurred, listed by the types of fuel used;

(II) purchased power and energy delivered to the utility, listed by source and showing the demand component and energy and/or fuel-expense component associated with the purchases;

(III) kilowatt-hour sales to system utility customers pursuant to Commission-approved tariffs;

(IV) off-system kilowatt-hour sales and associated fuel costs;

(V) the revenues collected pursuant to fuel factors;

(VI) any other items that to the knowledge of the utility have affected fuel factor revenues and eligible fuel expenses; and

(VII) the difference between the revenues collected pursuant to fuel factors and the eligible fuel expenses incurred;

(ii) for each month of the period for which the revised fuel factors are expected to be in effect:

(I) estimated eligible fuel expenses, listed by the types of fuel expected to be used;

(II) estimated purchased-power and energy deliveries, listed by source and showing the demand component and energy and/or fuel-expense component associated with the estimated purchases;

(III) estimated kilowatt-hour sales to system utility customers pursuant to commission-approved tariffs;

(IV) estimated off-system kilowatt-hour sales and associated fuel costs; and

(V) system energy input and sales, accompanied by the calculations underlying any differentiation of fuel factors to account for differences in line losses corresponding to the type of voltage at which the electric service is provided.

(D) Fuel factor revision proceeding. Matters relating to burden of proof and scope of proceeding will be resolved as follows.

(i) In a proceeding to revise fuel factors, a utility has the burden of proving that:

(I) the expenses proposed to be included in the fuel factors are reasonable estimates of the utility's eligible fuel expenses during the period that the fuel factors will be in effect;

(II) the utility's estimated monthly kilowatt-hour system sales and off-system sales are reasonable estimates for the period that the fuel factor is expected to be in effect;

(III) the proposed fuel factors are reasonably differentiated

to account for line losses corresponding to the type of voltage at which the electric service is provided; and

(IV) The utility has properly calculated the amount of revenues collected pursuant to the fuel factors in the second preceding six-month period.

(ii) The scope of a fuel factor revision proceeding is limited to the issue of whether the petitioning utility has correctly calculated its eligible fuel expenses and fuel factor revenues for the second preceding six-month period and whether it has appropriately calculated its estimated eligible fuel expenses and load; the scope of a fuel factor revision proceeding does not include the issue of the reasonableness of the eligible fuel expenses except as may be required by the Act, §41(c)(1).

(iii) For the purposes of this subparagraph, a utility's estimates of eligible fuel expenses and kilowatt-hour sales will be deemed reasonable to the extent the estimates are within 10%, plus or minus, of the utility's eligible fuel expenses and kilowatt-hour sales for the second preceding six-month fuel-factor period.

(E) Effective date of revised fuel factors. Upon approval by the commission, revised fuel factors become effective at the beginning of the utility's fourth billing month following the calendar month in which the petition is required to be filed. Fuel factors are effective until the effective date of superseding fuel factors.

(F) Schedule for filing petitions to revise fuel factors. Petitions to revise fuel factors must be filed by the following electric utilities on the first business day of the following months:

(i) January and July: El Paso Electric Company and Central Power and Light Company;

(ii) February and August: Texas Utilities Electric Company and Brazos Electric Power Cooperative, Inc.;

(iii) March and September: West Texas Utilities Company and Gulf States Utilities Company;

(iv) April and October: Houston Lighting & Power Company and Southwestern Electric Power Company;

(v) May and November: Southwestern Public Service Company and Lower Colorado River Authority; and

(vi) June and December: Texas-New Mexico Power Company, South Texas Electric Cooperative, Inc., San Miguel Electric Cooperative, Inc., and any other electric utility not named in this subparagraph that uses one or more fuel factors.

(G) Procedural schedule. Upon the filing of a petition to revise fuel factors in a separate proceeding, the presiding officer assigned by the hearings division shall set a procedural schedule that will enable the commission to issue a final order in the proceeding as follows:

(i) within 45 days after the petition was filed, if no hearing is requested within 30 days of the application; and

(ii) within 90 days after the application was filed, if a hearing is requested within 30 days of the application.

(3) Reconciliation of fuel expenses. No later than two years after the filing of its last fuel reconciliation petition, each utility using fuel factors shall file a petition requesting reconciliation of its fuel factor revenues and its eligible fuel expenses. Fuel reconciliation petitions may be filed separately or with a statement of intent to change rates. Upon motion and showing of good cause, a fuel reconciliation proceeding may be severed from or consolidated with other proceedings.

(A) Petitions to reconcile fuel expenses. A fuel reconciliation petition filed by a utility must be accompanied by supporting testimony that includes the following information:

(i) for the period being reconciled, historical data corresponding to the monthly data required to be included in semiannual petitions to revise fuel factors;

(ii) summaries of all uncertified contracts under which the utility or a fuel-supplying affiliate of the utility purchased fuel, power, and/or energy during the reconciliation period, the costs of which are includible in the utility's eligible fuel expenses. Each contract summary must include the following information:

(I) the name of the supplier, the contract number or other designation, and the type of fuel or purchased power involved;

(II) the date on which the contract was originally signed

and the dates on which any amendments were signed;

(III) the date on which the fuel or purchased-power was first supplied pursuant to the contract;

(IV) the term of the contract;

(V) the pricing mechanism under the contract;

(VI) the provisions of any take-or-pay obligations under the contract;

(VII) the maximum amount of deliveries available under the contract;

(VIII) the terms of any economic-out provisions in the contract;

(IX) the delivery points under the contract;

(X) the provisions for transportation of the fuel or transmission of the purchased-power under the contract; and

(XI) the quality or measurement of the fuel or purchased-power under the contract;

(iii) the quantities purchased and the unit prices and total prices paid under any contract during the reconciliation period;

(iv) if the utility's eligible fuel expenses for the period included an item or class of items supplied by an affiliate of the utility, the prices charged by the supplying affiliate to the utility were reasonable and necessary and no higher than the prices charged by the supplying affiliate to its other affiliates or divisions or to unaffiliated persons or corporations for the same item or class of items;

(v) a summary description of all generating-unit outages and partial outages during the reconciliation period; the utility must make available information stating in detail the reason or cause for any outage, the beginning and ending time and date of the outage or partial outage, and the amount of capacity reduction during any partial outage;

(vi) a summary of significant events that occurred during the reconciliation period that constrained the

economic dispatch of the utility's generating units, including, but not limited to, transmission line constraints, fuel use or deliverability constraints, unit operational constraints, and system reliability constraints; and

(vii) the reasonableness and necessity of the utility's eligible fuel expenses and its mix of fuel purchases during the reconciliation period.

(B) Fuel reconciliation proceedings. Matters related to the burden of proof and scope of proceeding will be resolved as follows.

(i) In a proceeding to reconcile fuel factor revenues and expenses, a utility has the burden of showing that:

(I) its eligible fuel expenses during the reconciliation period were reasonable and necessary expenses incurred to provide reliable electric service;

(II) if its eligible fuel expenses for the reconciliation period included an item or class of items supplied by an affiliate of the utility, the prices charged by the supplying affiliate to the utility were reasonable and necessary and no higher than the prices charged by the supplying affiliate to its other affiliates or divisions or to unaffiliated persons or corporations for the same item or class of items; and

(III) it has properly accounted for the amount of fuel-related revenues collected pursuant to the fuel factor during the reconciliation period.

(ii) The scope of a fuel reconciliation proceeding includes any issue related to determining the reasonableness of the utility's fuel expenses during the reconciliation period and whether the utility has over- or underrecovered its reasonable fuel expenses. The scope does not include:

(I) the reasonableness of the terms and conditions of certified long-term gas or purchased-power contracts; or

(II) the reasonableness of the terms and conditions of other contracts under which fuel costs were reconciled for a previous reconciliation period.

(C) Refunds. With the approval of the commission, refunds may

be incorporated into the calculation of a utility's next fuel factor. Any refund payments ordered in a fuel reconciliation proceeding must be made as follows.

(i) Monthly interclass allocations will be calculated on the basis of the kilowatt-hour consumption of each rate class during each period in which an overrecovery occurred. The allocations will be adjusted for line losses, using the same loss factors that were used during the overrecovery period.

(ii) Intraclass allocations of refunds will depend on the type of voltage at which a customer receives service. Allocations among wholesale customers and retail customers receiving service at transmission voltage will be based on each customer's monthly consumption during an overrecovery period, adjusted for line losses if necessary. Allocations for all other customers will be based on the kilowatt-hour consumption of their rate class during an overrecovery period.

(iii) All refunds must be made through a one-time bill credit unless such a credit would provide an incentive for excessive consumption; however, refunds to municipally-owned utility systems must be by check at their request. Wholesale customers and retail customers receiving service at transmission voltage will receive lump-sum credits. All other customers will be given credits based on a refund factor applied to their kilowatt-hour consumption for one month. The refund factor will be calculated by dividing the amount of the refund allocated to a class by the forecasted kilowatt-consumption of the class for the month in which the refund will be made.

(iv) Interest will be calculated on the cumulative monthly ending under- or overrecovery balance in the manner and at the rate established by the commission for overbilling and underbilling in §23.45(g) of this title (relating to Billing).

(D) Procedural schedule. Upon the filing of a petition to reconcile fuel expenses in a separate proceeding, the residing officer assigned by the hearings division shall set a procedural schedule that will enable the commission to issue a final order in the proceeding as follows:

(i) within 90 days after the petition was filed, if no hearing is requested within 45 days of the application; and

(ii) within 150 days after the application was filed, if a hearing is requested within 45 days of the application.

(4) Notice of fuel proceedings. Matters related to notice will be handled as follows.

(A) On the day of the filing of a petition initiating a fuel proceeding, the utility shall deliver to a newspaper of general circulation in each county in which the utility provides service, for a one-time publication in the next possible edition, a notice of the filing of its petition, stating the date the petition was filed; a general description of the customers, customer classes, and territories affected by the petition; and the relief requested. Notices to revise fuel factors must also state the proposed fuel factors by type of voltage and the six-month period for which the proposed fuel factors are expected to be in effect. Notices to reconcile fuel expenses must also state the period for which final reconciliation is sought. In addition, the newspaper notice must state: "Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Commission's Public Information Office at (512) 458-0256 or (512) 458-0221 (telecommunications device for the deaf). The deadline for intervening in the proceeding is 30 days after the petition was filed."

(B) Proof of notice may be demonstrated by appropriate affidavit. In fuel proceedings initiated by a person other than a utility, the notice required in this paragraph must be provided in accordance with a schedule ordered by the presiding officer.

(5) Reports; confidentiality of information. Matters related to submitting reports and confidential information will be handled as follows.

(A) The commission will monitor each utility's actual and projected fuel-related costs and revenues on a monthly basis. Each utility shall maintain and provide to the commission, in a format specified by the commission, monthly reports containing all information required to monitor monthly fuel-related costs and revenues, including generation mix, fuel consumption, fuel costs, purchased power quantities and costs, and system and off-system sales revenues.

(B) Contracts for the purchase of fuel, fuel storage, fuel transportation, fuel processing, or power are discoverable in fuel proceedings, subject to appropriate confidentiality agreements or protective orders.

(C) In any fuel proceeding, a utility may file its application without such information it claims is confidential, if at the time of filing it requests entry of a protective order and offers to make the information available pursuant to a confidentiality agreement pending the entry of the protective order. A request for a protective order tolls the running of time to the deadline for a commission final order in the case until a protective order is entered or the information is submitted to the commission under a confidentiality agreement with general counsel. The presiding officer shall promptly issue a protective order subject to any party's right to challenge the confidential designation of the information. Upon such challenge to the confidentiality of information, the burden of proof is on the party claiming confidentiality.

(D) A party that cannot view a confidential document without receiving advantage as a competitor or bidder may hire outside counsel and consultants to view the document subject to a protective order.

(6) Purchased-power cost recovery factors (PCRFs). This paragraph governs the use of PCRFs by all electric utilities.

(A) An investor-owned electric distribution utility, river authority, or cooperative-owned electric utility that purchases electricity at wholesale pursuant to rate schedules approved, promulgated, or accepted by a federal authority or the commission or from qualifying facilities may include within its tariff a PCRF clause that authorizes the utility to charge or credit its customers for the cost of purchased electricity. Purchased electricity cost includes all amounts chargeable for electricity under the applicable wholesale tariffs and amounts paid to qualifying facilities for the purchase of capacity and or energy. These costs may be recovered through a PCRF only to the extent that they vary from the costs used to fix the base rates of the utility. PCRF clauses may specify the method by which refunds or surcharges from the utility's wholesale suppliers are passed through to its customers. The terms and conditions of PCRF clauses must be approved by an order of the commission.

(B) An electric utility that purchases electricity at wholesale under rate schedules or contracts approved, promulgated, or accepted by a federal authority or the commission or from

qualifying facilities may include within its tariff a PCRF clause that authorizes the utility to charge or credit its customers for the costs of purchased capacity. These costs may be recovered through a PCRF only to the extent that they vary from the costs used to fix the base rates of the utility, are equal to or less than the utility's avoided cost as established by the commission and in effect when the agreement was signed, and (in the case of purchases from qualifying facilities) comply with §23.66(h) of this title (relating to Arrangements Between Qualifying Facilities and Electric Utilities). The terms and conditions of PCRF clauses must be approved by an order of the commission.

(C) For a generating utility, costs recovered through a PCRF must be excluded in calculating the utility's fixed fuel factor as defined in paragraph (2)(A) of this subsection.

(D) Unless otherwise ordered by the commission, costs recovered through a PCRF by generating utilities must be allocated to the various rate classes in the same manner as the embedded costs of the utility's generation facilities allocated in the utility's last rate case. Once allocated, these costs must be collected from ratepayers through a demand or energy charge.

(E) Unless otherwise ordered by the commission, any difference between actual costs recoverable through a PCRF and actual PCRF revenues must be credited or charged to the customers in the second succeeding billing month.

(F) If PCRF revenue collections exceed PCRF costs by 10% in any given month and the total PCRF revenues have exceeded total PCRF costs by 5.0% or more for the most recent 12-month period:

(i) cooperative-owned utilities shall report to the commission the justification for the excess collection;

(ii) utilities other than cooperative-owned utilities will be subject to a 10% penalty on excess collections.

(G) Utilities shall maintain and provide to the commission monthly reports containing all information required to monitor costs recovered through the PCRF. This information includes, but is not limited to, total estimated PCRF cost, total actual PCRF cost, total PCRF revenue, and the calculation of the PCRF.

(7) Effective date of 1992 amendments; transition period. The 1992 amendments to this subsection are effective three months after they are filed for adoption with the secretary of state. However, with respect to individual utilities, all fuel-related revenues collected through a fuel factor in effect before the effective date of a fuel factor established under the 1992 amendments shall be reconciled under commission rules and orders in effect before the effective date of the 1992 amendments.

[(b) Electric.

[(1) Rates shall not be unreasonably preferential, prejudicial, or discriminatory, but shall be sufficient, equitable, and consistent in application to each class of customers, taking into consideration the need to conserve energy and resources.

[(2) The provisions of this paragraph apply to all generating electric utilities.

[(A) The commission shall monitor the utility's actual and projected fuel-related costs and revenues on a monthly basis. The utility shall maintain and provide to the commission in a format specified by the commission, monthly reports containing all information required to monitor monthly fuel-related costs and revenues. This information includes, but is not limited to, generation mix, fuel consumption, fuel costs, purchased power quantities and costs, and off-system sales revenues.

[(B) Known or reasonably predictable fuel costs shall be determined at the time of the utility's general rate case, fuel reconciliation proceeding, or interim fuel proceeding under subparagraphs (D) and (E) of this paragraph.

[(i) In determining known or reasonably predictable fuel costs, the commission shall consider all conditions or events which will impact the utility's fuel-related cost of supplying electricity to its ratepayers during the period that the rates will be in effect. These conditions or events include generation mix and efficiency, the cost of fuel used to produce the utility's generation, purchased power costs, wheeling costs, hydro generation, and other costs or revenues associated with generated or purchased power as approved by the commission.

[(ii) Purchased power capacity costs, fuel handling costs, costs associated with the disposal of fuel combustion residuals, railcar maintenance costs, railcar taxes, and coal brokerage fees will not be included as known or reasonably predictable fuel costs to be recovered through the fixed fuel factor as defined in subparagraph

(C) of this paragraph, unless the utility demonstrates that such treatment is justified by special circumstances.

[(C) The utility shall recover its known and reasonably predictable fuel costs through a fixed fuel factor. The utility's fixed fuel factor shall be established during a general rate case, fuel reconciliation proceeding or interim fuel proceeding as designated in subparagraphs (D) and (E) of this paragraph, and shall be determined by dividing the utility's known or reasonably predictable fuel cost, as defined in subparagraph (B) of this paragraph, by the corresponding kilowatt-hour sales during the period in which the factor will be in effect. If, due to unique circumstances, such a calculation is not appropriate for a particular utility, a different method of calculation may be used. When approved by the commission, the utility's fixed fuel factor:

[(i) may be designed to account for seasonal differentiation of fuel costs, and

[(ii) shall be designed to account for system losses and for differences in line losses corresponding to the voltage level of service.

[(D) Unless requested by a party to the proceeding, petitions to lower a utility's fuel factor may be approved by the commission without an evidentiary hearing. A lower interim fuel factor may be established and placed in effect in the first full billing cycle beginning no earlier than five days after the tariff is approved. An initial prehearing conference shall be conducted in all such proceedings no later than the 21st day following the filing of the petition and any person who fails to attend such prehearing conference may be dismissed as a party or refused party status.

[(i) An interim fuel proceeding, to lower a utility's fixed fuel factor shall be conducted when either:

[(I) the utility has materially over-recovered and projects to materially over-recover its known or reasonably predictable fuel costs. In such instance, the utility shall file a petition with the commission to lower its existing fuel factor and establish a new interim fuel factor. The petition shall clearly state all of the reasons for lowering the utility's existing fuel factor, and provide support for the new interim fuel factor. The commission may establish standards for the information and format that shall be contained in such petitions; or

[(II) upon information and belief, the commission's general counsel, or any affected person, avers that the

utility has materially over-recovered and projects that the utility will materially over-recover its known or reasonably predictable fuel costs, and files a petition with the commission to lower the utility's existing fuel factor and establish a new interim fuel factor.

[(ii) For the purposes of determining whether a utility has materially over-recovered or projects that the utility will materially over-recover its known or reasonably predictable fuel costs, fuel costs associated with a nuclear generation plant subject to a deferred accounting order of the commission, or which is not recognized as plant-in-service in rates by the commission, are not considered known or reasonably predictable fuel costs, and the recovery of fuel costs incurred in connection with such generation plant shall not be included in the utility's fuel factors, but shall be treated separately as the commission may order.

[(iii) Materially or material as used in this paragraph shall mean that the cumulative amount of over- or under-recovery, including interest, is the lesser of \$40 million or 4.0% of the annual known or reasonably predictable fuel cost figure most recently adopted by the commission, as shown by the utility's fuel filings with the commission.

[(E) If fuel curtailments, equipment failure, strikes, embargoes, sanctions, or other reasonably unforeseeable circumstances have resulted in a material under-recovery of known or reasonably predictable fuel costs, the utility may file a petition with the commission requesting an emergency interim fuel factor. Such emergency requests shall state the nature of the emergency, the magnitude of change in fuel costs resulting from the emergency circumstances, and other information required to support the emergency interim fuel factor. The commission shall issue an interim order within 30 days after such petition is filed to establish an interim emergency fuel factor. If within 120 days after implementation, the emergency interim factor is found by the commission to have been excessive, the utility shall refund all excessive collections with interest at the utility's composite cost of capital as established in the utility's most recent rate proceeding before the commission. Such interest shall be calculated on the cumulative monthly over-recovery balance. If, after full investigation, the commission determines that no emergency condition existed, a penalty of up to 10% of such over-collections may also be imposed on investor-owned utilities.

[(F) All refunds shall be made by the utility pursuant to the methods outlined in subparagraph (G) of this paragraph.

[(i) A utility may petition for interim refunds at any time. Such refund petitions may be approved by the commission without a hearing.

[(ii) Any petition filed under subparagraph (D)(i)(II) may include a petition for interim refunds. Such refund petitions may be approved by the commission without a hearing, upon agreement of the parties.

[(iii) If, at the conclusion of a general rate case, reconciliation proceeding, or interim fuel proceeding, the commission determines that, sometime since the utility's last general rate case, reconciliation proceeding, or interim fuel proceeding, a material over-recovery of known or reasonably predictable fuel costs had occurred and was concurrently projected to continue to occur, and the utility failed to file a petition pursuant to subparagraph (F)(i) of this paragraph, the refunds to be made may include a penalty of up to 10% of the amount that should have been refunded at that time.

[(G) All refunds shall be made using the following methods.

[(i) Interest shall be paid by the utility at its composite cost of capital, as established by the commission, during the period the rates were in effect. Such interest shall be calculated on the cumulative monthly over- or under-recovery balance.

[(ii) Rate class as used in this subparagraph shall mean all customers taking service under the same tariffed rate schedule, or a group of seasonal agricultural customers as identified by the utility.

[(iii) Interclass allocations of refunds including associated interest shall be developed on a month-by-month basis and shall be based on the historical kilowatt-hour usage of each rate class for each month during the period in which the cumulative over-recovery occurred, adjusted for line losses using the same commission approved loss factors that were used in the utility's applicable fixed or interim fuel factor.

[(iv) Intraclass allocations of refunds shall depend on the voltage level at which the customer receives service from the utility. Retail customers who receive service at transmission voltage levels, all wholesale customers, and any groups of seasonal agricultural customers as identified by the utility shall be given refunds based on their individual actual historical usage recorded during each month of the period in which the cumulative over-recovery occurred, adjusted for line losses if necessary. All other customers shall be given refunds based on the historical kilowatt-hour usage of their rate class.

[(v) All refunds shall be made through a one-time bill credit unless it can be shown that this method would provide an incentive for customers to benefit from excessive usage of electricity. However, refunds may be made by check to municipally-owned utility systems if so requested. Retail customers who receive service at transmission voltage levels, all wholesale customers, and any groups of seasonal agricultural customers as identified by the utility shall be given a lump sum credit. All other customers shall be given a credit based on a refund factor which will be applied to their kilowatt-hour usage over a one-month period. This refund factor will be determined by dividing the amount of refund allocated to each rate class, by forecasted kilowatt-hour usage for the class during the month in which the refund will be made.

[(H) Final reconciliation of fuel costs shall be made at the time of the utility's general rate case or reconciliation proceeding, and shall cover all months following the utility's last final reconciliation through the most current month for which records are available. Any affected person, or the commission's general counsel, may file a petition for a reconciliation proceeding, provided such petition may only be filed if it has either been over one year since that utility's last final reconciliation or the utility has materially under-recovered its known or reasonably predictable fuel costs. In reconciliation of fuel costs the utility shall have the burden of proving that:

[(i) it has generated electricity efficiently;

[(ii) it has maintained effective cost controls;

[(iii) for all nonaffiliated fuel and fuel-related contracts, its contract negotiations have produced the lowest reasonable cost of fuel to ratepayers. To the extent that the utility does not meet its burden of proof, the commission shall disallow the portion of fuel costs that it finds to be reasonable;

[(iv) for all fuels acquired from or provided by affiliates of the utility, all fuel-related affiliate expenses are reasonable and necessary, and that the prices charged to the utility are no higher than prices charged by the supplying affiliate to its other affiliates or divisions or to unaffiliated persons or corporations for the same item or class of items.

[(I) The affiliate fuel price shall be at cost; no return on equity or equity profit may be included in the affiliate fuel price. The commission may consider the inclusion of affiliate equity return in rate of return and rate base during the utility's

general rate case; however, affiliate equity return or profit shall not be considered part of fuel cost.

[(II) Operational investigations of all affiliate fuel suppliers and fuel supply services shall be performed at the discretion of the commission. The commission may use the results of such investigations during succeeding general rate cases, fuel cost reconciliation proceedings, emergency request proceedings, and elsewhere as it deems appropriate.

[(III) The affiliated companies shall establish, maintain, and provide for commission audit, all books and records related to the cost of fuel. These records shall explicitly identify all salaries, contract expenses, or other expenses paid or received among any affiliated companies, their employees, or contract employees. Under-recovery reconciliation shall be granted only for that portion of fuel costs increased by conditions or events beyond the control of the utility.

[(I) Upon final reconciliation, in determining the final over- or under-recovery amount, interest shall be paid by the utility or to the utility in reconciliation of any over- or under-recovery of fuel costs at the utility's composite cost of capital as established by the commission in connection with the utility's base rates in effect during the periods the over- or under-recovery occurred. Such interest shall be calculated on the cumulative monthly over- or under-recovery balance. Upon final reconciliation, if refunds are owed to the utility's ratepayers, they shall be made in accordance with the provisions of subparagraph (G)(ii)-(v) of this paragraph.

[(3) The provisions of this paragraph apply to all investor-owned electric distribution utilities, river authorities and cooperative-owned electric utilities.

[(A) An electric utility which purchases electricity at wholesale pursuant to rate schedules approved, promulgated, or accepted by a federal or state authority, or from qualifying facilities may be allowed to include within its tariff a purchased power cost recovery factor (PCRF) clause which authorizes the utility to charge or credit its customer for the cost of power and energy purchased to the extent that such costs varies from the purchased power cost utilized to fix the base rates of the utility. Purchased electricity cost includes all amounts chargeable for electricity under the wholesale tariffs pursuant to which the electricity is purchased and amounts paid to qualifying facilities for the purchase of capacity and/or energy. The terms and condi-

tions of such PCRf clause, which may include the method in which any refund or surcharge from the utility's wholesale supplier will be passed on to its customers, shall be approved by an order of the commission.

[(B) Any difference between the actual costs to be covered through the PCRf and the actual PCRf revenues recovered shall be credited or charged to the utility's ratepayers in the second succeeding billing month unless otherwise approved by the commission.

[(C) If the utility purchases power from an unregulated entity, such as a political subdivision of the State of Texas, the utility shall submit the purchased power contract to the commission for approval of the terms, conditions, and price. If the commission issues an order approving the purchase, a PCRf may be applied to such purchases.

[(D) If PCRf revenue collections exceed PCRf costs by 10% in any given month and the total PCRf revenues have exceeded total PCRf costs by 5.0% or more for the most recent 12-month period:

[(i) investor-owned electric distribution utilities shall be subject to a 10% penalty on excess collection;

[(ii) cooperative-owned electric utilities shall report to the commission the justification for excess collection.

[(E) The utility shall maintain and provide to the commission, monthly reports containing all information required to monitor the costs recovered through the PCRf clause. This information includes, but is not limited to, the total estimated PCRf cost for the month, the actual PCRf cost on a cumulative basis, total revenues resulting from the PCRf and the calculation of the PCRf.

[(4) The provisions of this paragraph apply to all investor-owned generating electric utilities and river authorities.

[(A) An electric utility which purchases electricity from qualifying facilities may be allowed to include within its tariff a PCRf clause which authorizes the utility to charge or credit its customers for the costs of capacity purchased from cogenerators and small power producers. These costs shall be included in the PCRf only to the extent that such costs vary from the costs utilized to fix the base rates of the utility and to the extent that they comply with §23.66(h) of this title (relating to Arrangements between Qualifying Facilities and Electric Utilities). The terms and condi-

tions of such PCRf shall be approved by an order of the commission.

[(B) Purchased power costs that are recovered through the PCRf shall be excluded in calculating the utility's fixed fuel factor as defined in paragraph (2)(C) of this subsection.

[(C) Costs recovered through a PCRf shall be allocated to the various rate classes in the same manner as the embedded costs of the utility's generation facilities allocated in the utility's last rate case, unless otherwise ordered by the commission. Once allocated, these costs shall be collected from ratepayers through a demand or energy charge.

[(D) Any difference between the actual costs to be recovered through the PCRf and the PCRf revenues recovered shall be credited or charged to the customers in the second succeeding billing month.

[(E) If PCRf revenue collections exceed PCRf costs by 10% in any given month and the total PCRf revenues have exceeded total PCRf costs by 5.0% or more for the most recent 12-month period, the electric utility shall be subject to a 10% penalty on excess collections.

[(F) The utility shall maintain and provide to the commission, monthly reports containing all information required to monitor costs recovered through the PCRf. This information includes, but is not limited to, total estimated PCRf cost for the month, the actual PCRf cost, total revenue resulting from the PCRf and the calculation of the PCRf clause.]

(c) (No change.)

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

Issued in Austin, Texas on March 24, 1992.

TRD-9204182

Mary Ross McDonald
Secretary of the
Commission
Public Utility Commission
of Texas

Earliest possible date of adoption: May 15, 1992

For further information, please call: (512) 458-0100

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 9. Exploration and Leasing of Oil and Gas

• 31 TAC §§9.4, 9.5, 9.8

The General Land Office proposes amendments to §§9.4, 9.5, 9.8, concerning geophysical and geochemical exploration permits, leasing state property for oil and gas, and discontinuing the leasehold relationship. The amendments will correct references to the current fee schedule.

Stroud Kelley, acting general counsel, 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. Kelley 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 that references to the fee schedule are correct. 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 Stroud Kelley, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The amendments are proposed under the Natural Resources Code, §31.051 and §32.062, which authorizes the commissioner to make and enforce rules consistent with the law.

§9.4. Geophysical and Geochemical Exploration Permits.

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

(c) Permit applications and procedures.

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

(5) The application shall be accompanied by the following fee as specified in §1.3 [1.91] of this title (relating to Fees):

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

(6)-(7) (No change.)

(d)-(j) (No change.)

§9.5. Leasing State Property for Oil and Gas. State property will be leased for the exploration and development of oil and gas under these procedures.

(1) (No change.)

(2) Leasing of Relinquishment Act lands by surface owners.

- (A)-(C) (No change.)
- (D) Lease negotiation procedure.
 - (i)-(iii) (No change.)
 - (iv) The proposed lease shall be submitted to GLO for approval prior to recording the lease in the county records. The proposed lease shall be accompanied by the processing fee required §1.3 [1.91] of this title (relating to Fees).
- (E) Approval and filing of lease.
 - (i)-(xi) (No change.)
 - (xii) The state's share of the bonus payment and the filing fee prescribed by §1.3 [1.91] of this title (relating to Fees) shall be submitted along with the certified copy or copies of the lease. A lease is void unless it recites the actual consideration paid or promised for the lease.
- (F)-(G) (No change.)
- (3) (No change.)
- (4) Leasing of highway rights-of-way by SLB.
- (A)-(B) (No change.)
- (C) Preliminary leasing procedures.
 - (i) (No change.)
 - (ii) An application to lease a tract must contain the following:
 - (I)-(III) (No change.)
 - (IV) the processing fee required by §1.3 [1.91] of this title (relating to Fees).
 - (iii) (No change.)
 - (D)-(E) (No change.)
- (5) (No change.)

§9.8. Discontinuing the Leasehold Relationship.

- (a) (No change.)
- (b) Release.
 - (1)-(2) (No change.)
 - (3) Fees and other required information.
 - (A) The following must accompany each release required to be filed and every counterpart so filed in GLO under this subsection:

- (i) (No change.)
 - (ii) the payment of the filing fee required by §1.3 [1.91] of this title (relating to fees) for each mineral file number affected by the release;
 - (iii) (No change.)
 - (B) (No change.)
 - (4) (No change.)
 - (c) Assignment.
 - (1) (No change.)
 - (2) Assignment of a state oil and gas lease.
 - (A) (No change.)
 - (B) An assignment is effected only by complete compliance with the following.
 - (i) (No change.)
 - (ii) Each assignment required to be filed and every counterpart so filed with GLO must be accompanied by the filing fee prescribed by §1.3 [1.91] of this title (relating to Fees) for each mineral file number affected by the assignment. Any assignment not accompanied by the required fees shall not be accepted for filing. If an assignment is not filed within 90 days of its execution, the filing fee due shall be double the usual fee.
 - (iii)-(v) (No change.)
 - (C)-(G) (No change.)
 - (d)-(h) (No change.)
- This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 24, 1992.
 TRD-9204165 Garry Mauro
 Commissioner
 General Land Office

Earliest possible date of adoption: May 1, 1992

For further information, please call: (512) 463-5394

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

Chapter 87. Treatment Education Program

• 37 TAC §87.37

The Texas Youth Commission (TYC) proposes new §87.37 concerning financial assistance for youth in TYC custody to attend

college or technical institute. Through the new rule, qualified youth financially unable to attend are afforded an opportunity to apply for TYC college or technical institute financial assistance.

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

Mr. Franks also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be increased opportunity for juvenile rehabilitation in an effort to decrease recidivism. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

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

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

§87.37. College/Technical Institute Financial Assistance.

(a) Policy. The Texas Youth Commission (TYC) financially assists youth in TYC custody who are qualified and wish to attend public or private institutions of higher education, or technical institutes in Texas. Qualified youth financially unable to attend are afforded an opportunity to apply for TYC college or technical institute financial assistance.

- (b) Rules.
 - (1) Restrictions.
 - (A) Youth participating in the financial assistance program are required to attend community college or junior college for the first semester. Restriction does not apply to technical institutes.
 - (B) Financial assistance is provided for no less than three semester hours and no more than 12 semester hours during the first semester, and no less than nine semester hours each semester thereafter. Restriction does not apply to technical institutes.
 - (C) Financial assistance is limited to four complete semesters. Summer sessions consisting of 12 semester hours shall constitute one semester. Restriction does not apply to technical institutes.

(D) Each succeeding semester's assistance requires that the youth submit to the primary service worker (PSW) a grade slip indicating the youth is eligible for readmission.

(E) Youth whose individual case plan requires them to live on campus or in an apartment while attending college or technical institutes must complete an approved independent living preparatory program before requesting financial assistance.

(F) The College Assistance Review Committee evaluates for approval all applications.

(G) Members of the College Assistance Review Committee and the chairperson are appointed by the executive director or designee and includes one representative from each of the following areas:

- (i) aftercare;
- (ii) education;
- (iii) finance; and
- (iv) independent living.

(H) Any exceptions to the stated restrictions must be approved by the College Assistance Review Committee.

(2) Acceptance criteria.

(A) All youth requesting financial assistance complete an application and document:

- (i) completion of a GED or high school diploma;
- (ii) completion of the TASP test;
- (iii) completion of the appropriate college admissions examination, i.e., SAT or ACT; and
- (iv) that the Pell Grant has been applied for and is available for the requested college admission date;
- (v) completion of an independent living preparatory program when appropriate.

(B) Applications must be received by the College Assistance Review Committee no later than 45 days prior to the college or technical institute enrollment date.

(C) Applications will remain active for six months. If a youth has not enrolled in college or technical institute during this time a new application is required to request financial assistance.

(3) Acceptance process.

(A) The PSW is responsible for counseling and assisting the youth to complete and submit the Application for College/Technical Institute Financial Assistance form.

(B) The College Assistance Review Committee chairperson is responsible for informing the PSW of the committee's decision within 10 days of receiving the Application for College/Technical Institute Financial Assistance.

(C) The PSW is responsible for informing the youth of the decisions made by the College Assistance Review Committee.

(D) The PSW is responsible for submitting grade slips to the Review Committee for approval of continued financial assistance.

(4) Supervision.

(A) Youth living at home or with family members while receiving financial assistance are supervised in accordance with established parole supervision policies.

(B) Youth living independently (i.e., on campus or in an apartment) receiving independent living subsidy funds are supervised in accordance with requirements in the Independent Living Subsidy Program Contract.

(5) Discharge exception for services.

(A) TYC custody of youth who would otherwise be discharged at age 18 may be continued up to age 21 if the youth was committed after September 1, 1985, and extended supervision is requested in writing by the primary service worker, agreed to in writing by the youth, and would allow TYC to provide college/technical institute financial assistance which would not be provided by other means.

(B) Extending custody requires approval by the regional director or institutional superintendent.

(C) The youth must continue to be approved for financial assistance by the College Assistance Review Committee.

(D) Agreement to this discharge exception may be canceled at any time by the youth, the primary service worker or the College Assistance Review

Committee should the youth become ineligible for college/technical institute admission.

(E) When a youth is discharged, all state funded financial assistance shall cease.

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 23, 1992.

TRD-9204158

Ron Jackson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: May 1, 1992

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

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Chapter 91. Discipline and Control

Due Process Hearing Procedures

• **37 TAC §91.31**

The Texas Youth Commission (TYC) proposes an amendment to §91.31, concerning Level I hearing procedure. The change requires that youth be given a copy of the hearing report form.

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

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

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

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

§91.31. Level I Hearing Procedure.

(a) (No change.)

(1)-(39) (No change.)

(40) Following announcement of the decision as to disposition, the hearings examiner shall inform the youth of his

appeal any or all findings and decision made at the hearing and give youth a copy of the Hearing Examiner's Report of a Level I Hearing (CCF-160).

(41)-(45) (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 23, 1992.

TRD-9204159 Ron Jackson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: May 1, 1992

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services
Chapter 47. Primary Home Care

Service Requirements

• 40 TAC §47.2904, §47.2909

The Texas Department of Human Services (DHS) proposes amendments to §47. 2904, concerning critical omissions/errors, and §47.2909, concerning physician supervision, in its primary home care chapter. The purpose of the amendments is to extend from six months to twelve months the period for which physicians orders may be valid for primary home care services. The prescribing physician retains the authority to order the service for a period of time shorter than twelve months. Also in this issue of the *Texas Register*, the department is proposing a related change in Chapter 48, community care for aged and disabled, concerning eligibility for Primary Home Care, and in Chapter 50, day activity and health services, concerning service criteria and enrollment.

Burton F. Raiford, interim commissioner, 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. Raiford 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 the reduction of unnecessary paperwork for physicians, DHS, and home health agency staff. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of this proposal may be directed to Frances Barraza at (512)

450-3216 in DHS's CCAD Care Management Unit. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-069, 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 amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§47.2904. *Critical Omissions/Errors.*

(a) If the client health assessment/proposed service plan form or the physician's order for primary home care is missing, or if any of the following critical omissions or errors has occurred in the required documentation, the provider agency cannot obtain prior approval.

(1)-(9) (No change.)

[(10) The "primary home care" order block is not checked on the physician's order.]

(10)[(11)] The physician's signature is not on the physician's order.

(11)[(12)] The physician's signature date is missing or illegible and the provider agency's stamped date is missing from the physician's orders.

(12)[(13)] The provider agency's stamped date used instead of the physician's date on the physician's orders does not include the provider agency's name, abbreviated name, or initials.

(13)[(14)] For renewal of prior approval, the physician's order has a date that is earlier than 30 days before the end of the prior approval period.

(b) (No change.)

§47.2909. *Physician Supervision.* The client's physician must renew his order for primary home care at least every 12 [six] months.

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 25, 1992.

TRD-9204205 Nancy Murphy
Agency liaison, Policy and Document Support
Texas Department of Human Services

Proposed date of adoption: July 1, 1992

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

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Chapter 48. Community Care for Aged and Disabled

Eligibility

• 40 TAC §48.2918

The Texas Department of Human Services (DHS) proposes an amendment to §48. 2918, concerning eligibility for primary home care, in its community care for aged and disabled chapter. The purpose of the amendment is to extend from six months to 12 months the period for which physicians orders may be valid for primary home care services. The prescribing physician retains the authority to order the service for a period of time shorter than 12 months. Also in this issue of the *Texas Register*, the department is proposing a related change in Chapter 47, primary home care, concerning critical omissions/errors and physician supervision, and in Chapter 50, day activity and health services, concerning service criteria and enrollment.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the sections will be the reduction of unnecessary paperwork for physicians, DHS, and home health agency staff. 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 Frances Barraza at (512) 450-3216 in DHS's CCAD Care Management Unit. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-069, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

§48.2918. *Eligibility for Primary Home Care.*

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

(d) an applicant or client must have prior approval for primary home care from the department regional nurse. Prior approval for primary home care is valid for up to 12 [six] months from the date the physician signs the orders.

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 25, 1992.

TRD-9204206

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

Proposed date of adoption: July 1, 1992

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

Chapter 50. Day Activity and Health Services

Eligibility Requirements

• 40 TAC §50.1901, §50.1902

The Texas Department of Human Services (DHS) proposes amendments to §50.1901, concerning service criteria, and §50.1902, concerning enrollment, in its day activity and health services chapter. The purpose of the amendments is to extend from six months to twelve months the period for which physicians orders may be valid for primary home care services. The prescribing physician retains the authority to order the service for a period of time shorter than twelve months. Also in this issue of the *Texas Register*, the department is proposing a related change in Chapter 47, primary home care, concerning critical omissions/errors and physician supervision, and in Chapter 48, community care for aged and disabled, concerning eligibility for primary home care.

Burton F. Raiford, interim commissioner, 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. Raiford 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 the reduction of unnecessary paperwork for physicians, DHS, and home health agency staff. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of this proposal may be directed to Frances Barraza at (512) 450-3216 in DHS's CCAD Care Management Unit. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-069, 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 amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§50.1901. Service Criteria.

(a) The applicant/recipient is eligible for day activity and health services (DAHS) if he:

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

(3) Has physician's orders for DAHS. **The applicant/recipient must have prior approval for day activity and health services from the regional nurse. Prior approval for day activity and health services is valid for up to 12 months from the date a physician signs the orders.**

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

§50.1902. Enrollment.

(a)-(f) (No change.)

(g) **Prior approval. The client's physician must renew his order for day activity and health services at least every 12 months.**

(h)[g] Suspension of services. When the recipient threatens the health or

safety of himself, other recipients, or staff, the facility must notify the worker immediately by telephone for his oral confirmation to suspend services immediately. The facility must notify the worker by telephone or in writing within five workdays of a situation that is included in this subsection. The facility must suspend services before the end of the prior approval period if one or more of the following circumstances occur:

(1) the recipient dies;

(2) the recipient moves out of the facility's geographic service boundaries;

(3) the recipient is admitted to a nursing home, state hospital, or state school;

(4) the recipient requests that service be terminated;

(5) the recipient becomes ineligible;

(6) the recipient threatens the health or safety of others or himself, and the worker and supervisor concur that services must be terminated immediately.

(i)[h] Termination of service. Services must be terminated according to provisions of §48.3903 of this title (relating to Denial, Reduction, or Termination of Benefits).

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 25, 1992.

TRD-9204207

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

Proposed date of adoption: July 1, 1992

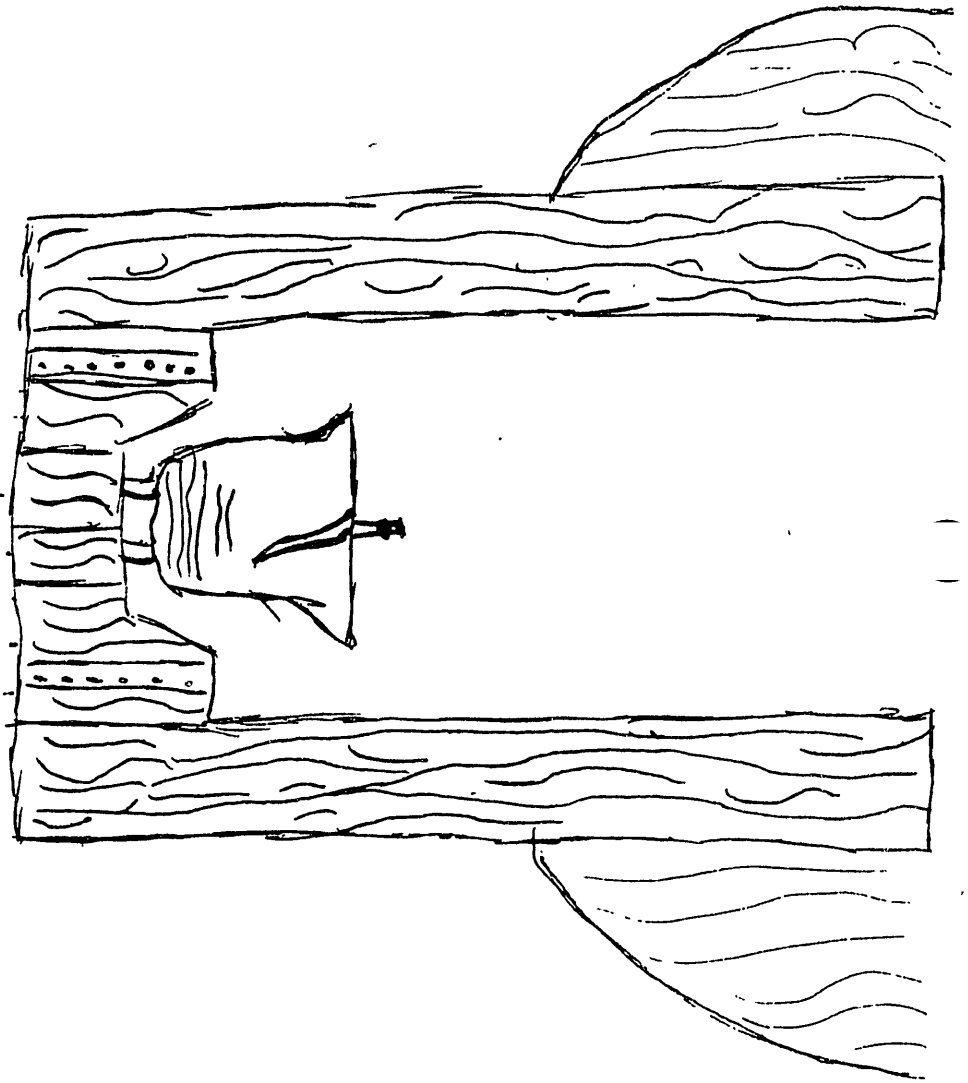
For further information, please call: (512)
450-3765

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Reyes Armando
Forbes Elementary
5th Grade

Name: Reyes Armando

Grade: 5

School: Forbes Elementary, San Antonio 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 19. EDUCATION Part II. Texas Education Agency

Chapter 75. Curriculum

Subchapter H. Promotional and Alternative to Social Promo- tion

• 19 TAC §75.191

The Texas Education Agency adopts an amendment new §75.191, concerning grading and reporting requirements, without changes to the proposed text as published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 783). Senate Bill 1, 71st Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters occur under the new rulemaking relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. All sections of Chapter 133, Pupil-School Relations have been reviewed by the SBOE and are being repealed in a separate submission. A new Chapter 133 is being proposed in a separate submission. However, former §133.41, Prohibited Withholding, is being readopted as an amendment to Chapter 75 to more approximately locate the section with rules relating to grading and reporting requirements.

Justification of the amendment will be to group similar rules in the same chapter.

The amendment will function by making the rules more accessible.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Senate Bill 1, §2.25, passed by the 71st Legislature, Sixth Called Session, which provides the SBOE with the authority to review all rules, other than portions of this title, Chapter 75 relating to public education.

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 19, 1992.

TRD-9204194 Criss Cloudt
Coordinator, Policy
Planning and
Evaluation
Texas Education Agency

Effective date: April 14, 1992

Proposal publication date: January 31, 1992
For further information, please call: (512)
463-9701

Subchapter K. Extracurricular Activities

• 19 TAC §75.411, §75.412

The Texas Education Agency adopts new §75.411 and §75.412, concerning extracurricular activities for students, without changes to the proposed text as published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 784). Senate Bill 1, 71st Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters occur under the new rulemaking relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. Section 97.113 and §97.115 in Chapter 97, Planning and Accreditation, have been reviewed by the SBOE and are being repealed in a separate submission. The sections are being readopted in Chapter 75 to more appropriately locate them with rules relating to grading and reporting requirements. The remaining sections of Chapter 97 are being reviewed by the SBOE and are being readopted in a separate submission.

Justification of the new section will be to group similar rules in the same chapter.

The sections will function by making the rules more accessible.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Senate Bill 1, §2.25, passed by the 71st Legislature, Sixth Called Session, which provides the SBOE with the authority to review all rules, other than portions of this title, Chapter 75 relating to public education.

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 19, 1992.

TRD-9204192 Criss Cloudt
Coordinator, Policy
Planning and
Evaluation
Texas Education Agency

Effective date: April 14, 1992

Proposal publication date: January 31, 1992

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

Chapter 97. Planning and Accreditation

Subchapter D. Additional Ac- creditation Regulations

• 19 TAC §97.113, §97.115

The Texas Education Agency adopts the repeals of §97.113 and §97.115, concerning planning and accreditation, without changes to the proposed text as published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 785). Senate Bill 1, 71st Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters occur under the new rulemaking relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. Section 97.113 and §97.115 have been repealed and readopted in Chapter 75 to more appropriately locate them with rules relating to grading and reporting requirements. The remaining sections of Chapter 97 are being reviewed by the SBOE and will be published in a separate submission.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Senate Bill 1, §2.25, passed by the 71st Legislature, Sixth Called Session, which provides the SBOE with the authority to review all rules, other than portions of this title, Chapter 75 relating to public education.

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 19, 1992.

TRD-9204193 Criss Cloudt
Coordinator, Policy
Planning and
Evaluation
Texas Education Agency

Effective date: April 14, 1992

Proposal publication date: January 31, 1992

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

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

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

Subchapter T. Minimum Standards for Medicare Supplement Policies

- 28 TAC §§3.3301, 3.3303-3.3309, 3.3313, 3.3315, 3.3317-3.3325

The State Board of Insurance of the Texas Department of Insurance adopts amendments to §§3.3301, 3.3303-3.3309, 3.3313, 3.3315, and 3.3317-3.3321, and adopts new §§3.3322-3.3325, concerning minimum standards for Medicare supplement policies. Sections 3.3304, 3.3309, 3.3317, and 3.3319 are adopted with changes to the proposed text as published in the February 7, 1992 issue of the *Texas Register* (17 TexReg 1007). Sections 3.3301, 3.3303, 3.3305-3.3308, 3.3313, 3.3315, 3.3318, and 3.3320-3.3325 are adopted without changes and will not be republished.

The first change is deletion of the limitation on definition of mental or nervous disorders found in §3.3304(8). The change to §3.3304 is necessary to remove the definition limitation entirely from the regulation, since the amendments as proposed eliminate from §3.3305 the opportunity to exclude or limit coverage for mental or emotional disorders. The second change is a non-substantive editorial change to §3.3309 as published. The change to §3.3309(a)(2), is necessary to eliminate duplicate use of the same subparagraph indicators. The third change is a nonsubstantive deletion in §3.3319(c), that deletes the reference to §3.3314. The fourth change is the restoration of language in §3.3317(c), to allow first-year commissions in replacement situations when the new policy provides benefits which are clearly and substantially greater than the benefits under the replaced policy.

The amendments and new sections govern minimum standards for Medicare supplement insurance policies, pursuant to the Insurance Code, Article 3.74, and consistent with the federal requirements of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, as codified at 42 United States Code, §1395ss. The amendments are necessary to assure orderly implementation, conversion, and effective disclosure of Medicare supplement insurance benefits and premiums by licensed insurers, companies subject to the Insurance Code, Chapter 20, and by health maintenance organizations.

The amendment to §3.3301 deletes the reference to age and makes full disclosure a requirement for all sales of Medicare supplement policies. The amendment to §3.3303 adds definitions for the terms "applicant," "certificate," "issuer," and "Medicare," and clarifies that individual or group evidences of coverage issued under the Federal

Social Security Act, §1876 or §1833 are not Medicare supplement policies. The amendment to §3.3304, as adopted, adds a definition for "Medicare approved amounts," and states restrictions on "Convalescent Nursing Home," "Extended Care Facility," and "Skilled Nursing Facility;" in addition, the amendment to §3.3304 deletes the definition limitation for "mental or nervous disorders" in paragraph (8), and changes the numbering of the definitions which follow the definition limitation which has been deleted. The amendment to §3.3305 restates the prohibition against limitations or exclusions on coverage that are more restrictive than those of Medicare in instances where policies or certificates are advertised, solicited, or issued as Medicare supplement policies. The amendment to §3.3306 revises the benefit conversion requirements and the prohibition against preexisting conditions waiting periods, elimination periods, and probationary periods in replacement policies or certificates. It also provides for the suspension of benefits and premiums upon the request of the policyholder for any period not to exceed 24 months for which the policyholder is eligible for Medicaid benefits, as well as providing for reinstatement of such benefits. The amendment to §3.3306 provides for uniform structure, language, designation, and format for Medicare supplement benefit plans and outlines of coverage. The amendment to §3.3307 changes the minimum loss ratio for individual policies to 65% of earned premiums, amends the requirements for the filing of rates and rating schedules, provides for collection and filing of data for refunds, and sets out requirements for refunds or credits. In §3.3307, the board proposes to adopt by reference a form for use in complying with the section. The board has filed with the Office of the Secretary of State, Texas Register Section, copies of the form proposed for adoption by reference. This form, entitled "Medicare Supplement Refund Calculation Form," is published by the Texas Department of Insurance and is available from the Publication Division, Mail Code 108-5A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. The amendment to §3.3308 brings the section into compliance with federal requirements for uniform disclosures in the outline of coverage for Medicare supplement policies. The amendment provides for a required notice to be provided to policyholders regarding changes to Medicare supplement coverage. In §3.3308, the board proposes to adopt by reference a form for use in complying with the section. The board has filed with the Office of the Secretary of State, Texas Register Section copies of the form entitled "Notice on Changes in Medicare and Your Medicare Supplement Insurance - 19__." This form is published by the Texas Department of Insurance and persons desiring copies of the form may obtain copies from the Publications Division, Mail Code 108-5A of the Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. The amendment to §3.3309 changes the requirements for replacement of Medicare supplement policies and includes statements and questions to be included upon the taking of an application for Medicare supplement coverage. The amendment to §3.3313 removes a transitional re-

quirement for a time period which already has elapsed. The amendment to §3.3315 sets out in detail the specific standards for claims payment as provided in the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203. The amendment to §3.3318 sets out the effective date for this subchapter, as amended. The amendment to §3.3319 replaces existing paragraph (3) with a provision designed to assure that prospective insureds are aware of the existence and availability of the basic "core" benefit package, and to assure the fair and accurate comparison of policies. The amendment to §3.3320 strengthens the requirement that an agent recommending the purchase or replacement of a Medicare supplement policy determine the appropriateness of the purchase or replacement. The amendment to §3.3321 provides updated information about the division from which reporting forms are available. New §3.3322 provides for the filing and approval of Medicare supplement forms and sets out the requirements for discontinuance of particular policy or certificate forms. New §3.3323 sets out the process for filing and review of proposed premium rate increases with respect to Medicare supplement coverages. New §3.3324 sets out the requirements for availability and effectiveness of Medicare supplement coverage for all newly eligible beneficiaries under the Medicare program. New §3.3325 sets out essential provisions permitting issuers to provide Medicare supplement coverages through preferred provider, managed care arrangements.

Comments from a total of 10 sources were received on the proposed amendments and new sections during the period for public comment. Those who submitted comments on the proposed amendments and new sections were American Life and Accident Insurance Company, United American Insurance Company, American Republic Insurance Company, Blue Cross and Blue Shield of Texas, Inc., Dallas General Life Insurance Company, the Office of Public Insurance Counsel, the Texas Legal Reserve Officials Association, and five individual commenters. Most commenters suggested changes to the sections as they were proposed and published; some expressed opposition to additional limits on permitted compensation.

One commenter suggested deletion of the definition of mental and nervous disorders in §3.3304(8). The board responds by deleting the definition in §3.3304, since it is no longer needed; the amendments otherwise eliminate the opportunity to exclude or limit coverage for mental or nervous disorders. One commenter indicated that §3.3306 seemed to contain inconsistent requirements. The Board responds that §3.3306 permits inclusion of other provisions which exceed the general minimum standards, so long as they are consistent with the standards, thereby permitting such provisions and also permitting provisions for innovative benefits while still requiring specific standard benefits which cannot vary. The board therefore finds no inconsistency in the section. Another commenter suggested that §3.3306(1)(A) exceeds the statutory authority provided under the Insurance Code, Article 3.74, regarding waiver of preexisting condition waiting periods, elimina-

tion periods, and probationary periods in replacement policies when such time has been spent under another policy. The board responds that it has sufficient statutory authority to adopt such a requirement, which will provide an important benefit to consumers, and makes no change to the section. One commenter expressed concern about proposed §3.3306(4), which requires that benefits be listed in a prescribed order. The board responds that the Insurance Code, Article 3.74, requires the rules to comply with federal law. Federal law requires that benefits be in the prescribed order set forth in §3.3306. One commenter asked that the double asterisks and footnote appearing in the outline of coverage charts in §3.3308 be deleted. The board responds that the double asterisks and footnote provide important additional disclosure for consumers by more fully informing them of expenses and charges not payable by Medicare and not payable under Medicare Supplement coverage. Two commenters suggested that the requirements for 12-point type in §3.3308 be changed to 10-point type. One commenter suggested changing requirements in §3.3308 to allow issuers to place premium information last in the outline of coverage. The board again notes that the Insurance Code, Article 3.74, requires state compliance with federal law. Outline-of-coverage format requirements in §3.3308 are necessary to comply with federal law. One commenter suggested that the requirements in §3.3309 improperly apply to direct response insurers. Another commenter stated that §3.3309 should not require consumers to evaluate their other coverages when applying for Medicare Supplement coverage. The board makes no change as a result of these comments and emphasizes once more that these are requirements of federal law. A commenter asked that the board clarify what constitutes duplication of coverage in §3.3309. The board acknowledges that neither the amendments, nor the federal law from which they are derived, explicitly define duplication of coverage; the board cannot as part of this adoption provide the level or precision of clarification that is sought. A commenter stated that §3.3314 should be repealed. The board agrees and §3.3314 will be repealed in a separate action. Four commenters opposed §3.3317 amendments prohibiting first-year compensation Medicare Supplement coverage being replaced, arguing that statutory constraints in the Insurance Code, Article 3.74, precluded such a prohibition at this time. The board agrees and restores to §3.3317 language permitting first-year compensation in certain replacement situations. One commenter expressed concern that proposed §3.3322 does not include provisions to allow additional policy forms based the addition of either direct response or agent placed marketing methods, or upon the addition of either guaranteed issue or underwritten coverage. The board responds that proposed §3.3322 as published helps minimize confusion among consumers by significantly reducing the number of policy forms; it also serves to alleviate potential abuses that could occur during the open enrollment period. One commenter requested changes to §3.3323 so that a public hearing on rate increases could only be held if the minimum loss ratio is not

achieved. The board notes that §3.3323 as published provides additional guidance regarding unacceptable rate increases and therefore serves both consumers and issuers; for this reason no change is made to §3.3323 as proposed.

The amendments and new sections are adopted under the Insurance Code, Article 3.74, §§2(b), 2(c), 2(f), 4(d), 4(f), 5(b), 5(f), 9B, and 10, and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 3.74, §2(b) provides that the board shall adopt a basic policy form providing only those benefits common to all Medicare supplement policies, and that it may also adopt additional policies whose combination of benefits conforms to one of the benefit packages authorized by 42 United States Code, §1395ss. Article 3.74, §2(c) provides that the board shall issue such reasonable rules to establish specific standards for provisions of Medicare supplement policies, including requirements that are at least equal to those required by federal law. Article 3.74, §2(f) further provides that rules that are adopted by the board must include requirements that are at least equal to those required by federal law. Article 3.74, §4(d) provides that the board shall issue reasonable rules providing loss ratio standards applicable to rates charged for Medicare supplement policies to the extent necessary for the state to obtain or retain certification as a state with an approved regulatory program under 42 United States Code, §1395ss. Article 3.74, §4(f) provides that the board, by rule, shall provide a process for review and approval of proposed premium increases with respect to Medicare supplement policies or benefits, consistent with 42 United States Code, §1395ss. Article 3.74, §5(b) provides that the board, by rule, shall prescribe the format and content of the outline of coverage required by the statute, including provisions at least equal to those required by applicable federal law. Article 3.74, §5(f) further provides that any rules adopted by the board under Article 3.74, §5 must include requirements at least equal to those required by all applicable federal law. Article 3.74, §9B provides that the board shall adopt rules limiting the commission or other compensation to be paid to an agent for the sale of Medicare supplement coverage, including replacement coverage, and that such rules must conform to, but be no more restrictive than, requirements of federal law which must be met in order for the state to obtain or retain certification as a state with an approved regulatory program under 42 United States Code, §1395ss. Article 3.74, §10 provides that the board shall adopt any rules applicable to regulation of Medicare supplement coverage which are necessary for the state to obtain or retain certification as a state with an approved regulatory program under 42 United States Code, §1395ss. Texas Civil Statutes, Article 6252-13a, §4, authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures; §5 prescribe the procedures for adoption of rules by a state administrative agency.

§3.3304. Policy Definitions and Terms. No insurance policy, subscriber contract, certificate, or evidence of coverage may be advertised, solicited, or issued

for delivery in this state as a Medicare supplement policy unless such policy, subscriber contract, certificate, or evidence of coverage contains definitions or terms which conform to the requirements of this section.

(1) "Accident," or "Accidental Injury," or "Accidental Means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds," or similar words of description or characterization.

(A) The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance or health coverage is in force."

(B) (No change.)

(2) (No change.)

(3) "Convalescent Nursing Home," "Extended Care Facility," or "Skilled Nursing Facility" shall be defined in relation to its status, facilities, and available services. In no event shall such terms be defined more restrictively than as defined in the Medicare program.

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

(4) (No change.)

(5) "Medicare" shall be defined in the policy, certificate, or evidence of coverage. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended" or "Title I, Part I of Public Law 89-97, as Enacted by the 89th Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

(6) "Medicare Approved Amounts" refer to the level of service or amount of health care reimbursement recognized and approved for a particular medical or health care service or procedure by Medicare.

(7) "Medicare Eligible Expenses" are health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

(8) "Nurses" may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate

professional nurse (RN), a licensed practical nurse (LPN), or a licensed vocational nurse (LVN). If the words "nurse," "trained nurse," or "registered nurse" are used without specific instruction, then the use of such terms requires the issuer to recognize the services of any individual who qualifies under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of Texas.

(9) "Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician," but shall not be defined more restrictively than as defined in the Medicare program. The use of such terms requires an issuer to recognize and to accept, to the extent of its obligation under the contract, all providers of medical care and treatment when such services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws.

(10) "Sickness" shall not be defined to be more restrictive than the following: "Sickness means illness or disease of a covered person which first manifests itself after the effective date of insurance or health coverage and while the insurance or health coverage is in force." The definition shall not be construed to limit §3.3306(1) of this title (relating to Minimum Benefit Standards). The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability, or similar law.

§3.3309. Requirements for Application Forms and Replacement Coverage.

(a) Application forms shall include the following information, statements, and questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing such questions may be used.

(1) The information shall be provided to prospective covered persons in statement form conforming to subparagraphs (A)-(D) of this paragraph.

(A) You do not need more than one Medicare supplement policy.

(B) If you are 65 or older, you may be eligible for benefits under Med-

icaid and may not need a Medicare supplement policy.

(C) The benefits and premiums under your Medicare supplement policy will be suspended during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy will be reinstated if requested within 90 days of losing Medicaid eligibility.

(D) Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning Medicaid.

(2) Information shall be elicited from prospective covered persons by asking the questions as provided in subparagraphs (A)-(D) of this paragraph.

(A) Do you to the best of your knowledge have another Medicare supplement insurance policy, certificate or coverage in force (including health care service contract or health maintenance organization contract)? If so, with which company?

(B) Do you to the best of your knowledge have any other health insurance policies or coverages that provide benefits which this Medicare supplement policy would duplicate?

(i) If so, with which company?

(ii) What kind of policy?

(C) Are you covered by Medicaid?

(D) If your answer to question 1 or 2 is "yes", do you intend to replace these medical or health insurance policies or coverages with this policy (certificate)?

(b) Agents shall list the following:

(1) any other health insurance policies or coverages sold to the applicant which are still in force; and

(2) any other health insurance policies or coverages sold to the applicant in the past five years which are no longer in force.

(c) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the issuer, shall be returned to the applicant by the issuer upon delivery of the policy.

(d) Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of such notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

(e) The notice required by subsection (c) of this section for an issuer shall be provided in substantially the following form.

NOTICE TO APPLICANT REGARDING

REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

(Issuer's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT

TO YOU IN THE FUTURE

According to (your application) (information you have furnished), you intend to terminate existing Medicare supplement coverage and replace it with a policy to be issued by (Issuer's Name). Your new policy will provide 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. Terminate your present policy only if, after due consideration and acceptance by the replacing issuer, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY ISSUER, (OR OTHER REPRESENTATIVE):

I have reviewed your current medical or health coverage. The replacement of coverage resulting from this transaction does not duplicate coverage, to the best of my knowledge. The replacement policy is being purchased for the following reasons:

Additional benefits,

Same benefits but lower premiums,

Fewer benefits and lower premiums

Other _____ (specify) _____

I call to your attention the following items for your consideration:

(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) (No change.)

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

(4) Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

 Signature of Agent or other Representative

 Typed Name and Address of Issuer or Agent

(Applicant's Signature)

(Date)

(f) Subsection (e)(1) and 2 this section (applicable to pre-existing conditions) may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation.

§3.3317. Permitted Compensation Arrangements.

(a) An issuer or other entity designated in the Insurance Code, Article 3. 74, §1(a), may provide commission or other compensation to an agent for the sale of a Medicare supplement policy or certificate

only if the first-year commission or other first-year compensation is no more than 200% of the commission or other compensation paid for selling or servicing the policy or certificate in the first renewal year, or the first 12-month service period immediately following the initial 12-month service period of the policy in instances where premium payment is other than on an annual basis.

(b) (No change.)

(c) No issuer shall provide compensation to its agents and no agent shall receive compensation greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced unless benefits of the new policy or certificate are clearly and substantially greater than the benefits under the replaced policy.

(d) (No change.)

§3.3319. Standards for Marketing.

(a) Every issuer marketing Medicare supplement coverage in this state, directly or through its agents, shall establish marketing procedures to ensure that:

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

(3) all prospective policyholders are advised prior to the time an application is taken, that the basic "core" benefit package is available, including the contents of such basic "core" benefit package;

(4) (No change.)

(5) auditable procedures for verifying compliance with provisions of this section are in place and utilized.

(b) Every issuer marketing Medicare supplement coverage in this state, directly or through its agents, shall ensure that the following notice is prominently displayed by type, stamp, or other appropriate means on the first page of the policy: "Notice to buyer: This policy may not cover all of your medical expenses."

(c) (No change.)

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

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

TRD-9204215 Linda von Quintus Dorn
 Chief Clerk
 Texas Department of
 Insurance

Effective date: April 15, 1992

Proposal publication date: February 7, 1992

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



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 25. Beach Cleaning and Maintenance Assistance Program

• 31 TAC §§25.1-25.22

The General Land Office adopts new §§25.1-25.22, concerning the Beach Cleaning and Maintenance Assistance Program. Section 25.6 is adopted with changes to the proposed text as published in the December 17, 1991, issue of the *Texas Register* (16 TexReg 7310). Sections 25.1-25.5 and 25.7-25.22 are adopted without changes and will not be republished.

The new chapter brings the agency into compliance with the Act of May 8, 1991, Chapter 114, 1991 Texas Session Law Service 691 (Vernon), relating to the transfer of administration of beach cleaning funds from the Texas Parks and Wildlife Department to the Texas General Land Office.

These sections replace Texas Parks and Wildlife rules §§61.41-61.67, relating to the beach cleaning and maintenance assistance program which were administratively repealed in the December 17, 1991 issue of the *Texas Register* (16 TexReg 7359).

No comments were received regarding adoption of the new sections.

The new section are adopted under the Act of May 8, 1991, Chapter 114, 1991 Texas Session Law Service 691 (Vernon), which authorizes the land commissioner to promulgate rules reasonably necessary to perform the duties imposed by the Act.

§25.6. Application for Funds Assistance.

(a) Any city or county which borders on the seaward shoreline of the Gulf of Mexico may apply for state assistance for beach cleaning and maintenance on an application form approved and supplied by the agency.

(b) Each state fiscal year the agency will announce by mail to all qualified cities and counties an application period not less than 30 days in length during which applications may be filed.

(c) Applications received after the announced application period will be considered invalid.

(d) The agency reserves the right, in its sole discretion, to waive any procedural defect in the application process.

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 23, 1992.

TRD-9204166

Garry Mauro
Commissioner
General Land Office

Effective date: April 14, 1992

Proposal publication date: December 17, 1991

For further information, please call: (512) 463-5394

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**TITLE 34. PUBLIC FI-
NANCE**

**Part III. Teacher
Retirement System of
Texas**

Chapter 29. Benefits

Service Retirement

• **34 TAC §29.11**

The Teacher Retirement System of Texas (TRS) adopts an amendment to §29.11, con-

cerning actuarial tables adopted by reference and used for disability retirement options, without changes to the proposed text as published in the February 14, 1992, issue of the *Texas Register* (17 TexReg 1272).

The changes in the section are necessary to adopt by reference the actuarial tables needed to implement recent statutory changes to disability retirement benefits offered by TRS.

The amendment will provide TRS with actuarial tables for calculating disability retirement benefits that include benefit options required by law. The table provide factors for reducing the standard disability retirement annuity if the disability retiree selects an option that may continue a benefit payment after the retiree's death.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Government Code, §825.102, which provides the board of trustees of the Teacher Retirement System with the authority to adopt rules for membership eligibility, administer the funds of the retirement system, and conduct its business; §825.105, which authorizes the board to adopt actuarial tables for benefit

calculations; and §824.308(f), which authorizes the board to adopt separate tables to be used to reduce an optional disability retirement annuity to the actuarial equivalent of the standard retirement annuity.

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 24, 1992.

TRD-9204185

Wayne Blevins
Executive Director
Teacher Retirement
System of Texas

Effective date: September 1, 1992

Proposal publication date: February 14, 1992

For further information, please call: (512) 370-0524

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Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

State Bar of Texas

Thursday, April 2, 1992, 1:30 p.m. The Executive Committee of the State Bar of Texas will meet at the Four Seasons Hotel, Ballroom A, 98 San Jacinto Boulevard, Austin. According to the agenda summary, the committee will call the meeting to order; take roll call; reports of chairman, president, president-elect, executive director, office of general counsel, immediate past president, immediate past chairman, TYLA president, and Supreme Court Liaison; and consider approval of grant for submission to Texas Bar Foundation.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: March 25, 1992, 4:08 p.m.

TRD-9204240

Friday, April 3, 1992, 9 a.m. The Board of Directors of the State Bar of Texas will meet at the Texas Law Center, 1414 Colorado Street, Room 104, Austin. According to the agenda summary, the board will call the meeting to order; take roll call; give invocation; reports of chairman, president, president-elect, executive director, office of general counsel; board committees: ABA nominating; administrative advisory; appeals; audit and finance; goals and implementation; grant review; ad hoc committee on membership services; nominating committee to select minority directors; policy manual and professional development; report from bar committees/sections/divisions; alternate dispute resolution section; international law section; minimum continuing legal education; reports from commission on lawyer discipline; immediate past president; immediate past chairman; TYLA President; Supreme Court Liaison; court of appeals liaison; judicial section liaison; federal judicial liaison; remarks from the general public; and written reports.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: March 25, 1992, 4:07 p.m.

TRD-9204239

Credit Union Department

Thursday-Friday, April 2-3, 1992, 12:45 p.m. and 9 a.m. respectively. The Credit Union Commission of the Credit Union Department will meet at Credit Union Department Building, 914 East Anderson Lane, Austin. According to the complete agenda, the commission will invite public input for future consideration; conduct a planning/orientation session to discuss Texas Credit Union Industry; Texas economy; dialogue with the National Credit Union Administration; open forum and department staff presentation; receive minutes of January 17, 1992 meeting; communications reported by the commissioner; Commissioner Evaluation Committee report; briefing on commission member liability; consider adoption of rules 91.211 (Foreign State CU Branch Offices), 91.402 (Records Retention), 91.404 (Safe Deposit Box Facilities), 95.3 (Share Deposit Guaranty Requirements); proposed rule 91.206 (Standard By-law Amendments) and 91.708 (Late Charges); and conduct an executive session to discuss credit unions and problem cases and Commissioner Evaluation Committee report.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: March 24, 1992, 2:38 p.m.

TRD-9204174

Texas Commission for the Deaf and Hearing Impaired

Friday, April 10, 1992, 9:30 a.m. The Texas Commission for the Deaf and Hearing Impaired will meet at 1524 South IH-35, Attorney General's Office Conference

Room, Austin. According to the complete agenda, the commission will call the meeting to order; discuss approval of minutes; operations projects reports on rules/regulations, statutes, personnel manual, human rights policy, budget/financial, data information and House Bill 7 transition; program projects reports on consumer contribution advisory committee; SOHIT program development, contract development, interpreter certification, interagency contacts, publications and message relay funding; activities reports on board response to projected agency budget cuts, the T.A.S.P., disaster recovery plan, legislative budget board program audit, and staff introductions/assignments; make announcements; and adjourn.

Contact: Carla Stephenson, 1524 South IH-35, #200, Austin, Texas 78704, (512) 444-3323.

Filed: March 25, 1992, 2:51 p.m.

TRD-9204232

Texas Education Agency

Thursday, April 2, 1992, 1 p.m. The State Environmental Education Advisory Committee-Subcommittee on Communications of the Texas Education Agency will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Eighth Floor Conference Room, Austin. According to the complete agenda, the committee will develop strategy for communication of programs to educational service centers, schools, and teachers; and examine Environmental Protection Agency grant for implications to communication.

Contact: Jim Collins, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9585.

Filed: March 24, 1992, 4 p.m.

TRD-9204187

Thursday, April 2, 1992, 1 p.m. The State Environmental Education Advisory

Committee-Subcommittee on Teacher Training of the Texas Education Agency will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Eighth Floor Conference Room, Austin. According to the complete agenda, the committee will discuss teacher training site applications and guidelines; review Environmental Protection Agency grant proposal and implications on future training programs.

Contact: Jim Collins, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9585.

Filed: March 24, 1992, 4:01 p.m.

TRD-9204188

Thursday, April 2, 1992, 1 p.m. The State Environmental Education Advisory Committee-Subcommittee on Finance will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Eighth Floor Conference Room, Austin. According to the complete agenda, the committee will examine future fund raising activities; examine Environmental Protection Agency grant; and establish funding for teacher training and materials subcommittees.

Contact: Jim Collins, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9585.

Filed: March 24, 1992, 4:01 p.m.

TRD-9204189

Thursday, April 2, 1992, 1 p.m. The State Environmental Education Advisory Committee-Subcommittee on Curriculum Review of the Texas Education Agency will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Eighth Floor Conference Room, Austin. According to the complete agenda, the committee will review and discuss examination of environmental materials received by the subcommittee; and link with communications committee on advertising for materials.

Contact: Jim Collins, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9585.

Filed: March 24, 1992, 4:01 p.m.

TRD-9204190

Thursday-Friday, April 2-3, 1992, 8 a.m. The Advisory Committee for Technology Standards (ACTS) of the Texas Education Agency will meet at the Department of Information Resources, Capitol One Plaza Building, 15th and Lavaca Streets, Austin. According to the agenda summary, on Thursday the committee will have a materials review period; report on hardware, equipment and training standards effort; review and refine committee charge and status report; standards writing; wrap-up; and adjourn. On Friday, the committee will distribute, read and study information from yesterday's activities; assign and understand

tasks and break into subcommittees; continue standards effort; review current efforts and set future goals; and adjourn.

Contact: Lane Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9401.

Filed: March 24, 1992, 3:59 p.m.

TRD-9204186

Thursday-Friday, April 2-3, 1992, 8:30 a.m. The State Environmental Education Advisory Committee of the Texas Education Agency will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Eighth Floor Conference Room, Austin. According to the agenda summary, on Thursday, the committee will exam by-laws to establish procedures for future meetings and activities; discuss officer elections; ad hoc committee to develop job description for staff person; discuss adding new members to executive committee; report on grant application to Environmental Protection Agency; committee update reports; and subcommittee meetings. On Friday, the committee will hear report from subcommittees, i.e., teacher training, communications, finance, and curriculum review; reconvene executive committee; report and recommendations from ad hoc committee on job description; approval/rejection from executive committee; set date for next executive committee meeting; and set dates for subcommittee meetings.

Contact: Jim Collins, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9585.

Filed: March 24, 1992, 4:01 p.m.

TRD-9204191

◆ ◆ ◆ Employees Retirement System of Texas

Thursday, April 2, 1992, 9 a.m. The Group Benefits Advisory Committee of the Employees Retirement System of Texas will meet at the Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Austin. According to the agenda summary, the committee will call the meeting to order; recognize visitors and guests; discuss approval of minutes from previous meeting; ERS update; appeals process; standing subcommittees updates and reports; other related insurance matters; and adjourn.

Contact: James W. Sarver, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3217.

Filed: March 24, 1992, 2:14 p.m.

TRD-9204173
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Texas Department of Housing and Community Affairs

Wednesday, April 1, 1992, 1 p.m. The Programs Committee of the Texas Department of Housing and Community Affairs will meet at 811 Barton Springs Road, Suite 300, Austin. According to the agenda summary, the committee will consider and possibly act on an agenda for the April 10, 1992 Programs Committee meeting.

Contact: Susan J. Leigh, P.O. Box 12941, Austin, Texas 78711, (512) 474-2974.

Filed: March 24, 1992, 4:16 p.m.

TRD-9204201
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Texas Department of Human Services

Friday, April 3, 1992, 10:30 a.m. The State Advisory Committee on Child Care Programs 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 discuss approval of the minutes of February 7, 1992 meeting; hear staff reports/information items; ratesetting committee recommendations; self-arranged child care update; JOBS state plan overview; child care and development block grant state plan overview; committee action items; review of the current Teen Parent Eligibility Exception rule; review of the Parent Fee rule; committee member reports/information items; and scheduling of next meeting.

Contact: Mary Beth O'Hanlon, P.O. Box 149030, Austin, Texas 78714-9030, (512) 459-4169.

Filed: March 25, 1992, 9:44 a.m.

TRD-9204221
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Texas Department of Licensing and Regulation

Monday, April 6, 1992, 9 a.m. The Inspections and Investigations, Tow Trucks of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Third Floor Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Rolando Esquivel doing business as Rolando's Used Auto Parts for violation of Vernon's Texas Civil Statutes, Articles 6687-9b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: March 24, 1992, 4:05 p.m.

TRD-9204196

Monday, April 6, 1992, 1 p.m. The Elimination of Architectural Barriers Advisory Committee of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the agenda summary, the committee will elect presiding officer; overview of the Architectural Barriers Act, Article 9102; review of the Advisory Committee statutory mandate; department briefing; and discuss and consider manner of proceeding and committee appointments.

Contact: Rick Baudoin, P.O. Box 12157, Austin, Texas 78711, (512) 463-3519.

Filed: March 24, 1992, 4:04 p.m.

TRD-9204195

Tuesday, April 7, 1992, 9 a.m. The Inspections and Investigations, Tow Trucks of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Third Floor Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for James Plant for violation of Vernon's Texas Civil Statutes, Articles 6687-9b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: March 24, 1992, 4:06 p.m.

TRD-9204200

Tuesday, April 7, 1992, 10:30 a.m. The Inspections and Investigations, Tow Trucks of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Third Floor Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Shebli El Etoum for violation of Vernon's Texas Civil Statutes, Articles 6687-9b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: March 24, 1992, 4:05 p.m.

TRD-9204199

Monday, April 13, 1992, 9 a.m. The Inspections and Investigations, Air Conditioning and Refrigeration of the Texas Department

of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Third Floor Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Lawrence J. Romeo, Capital Air and Heath, Inc. for violation of Vernon's Texas Civil Statutes, Articles 8861 and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: March 24, 1992, 4:05 p.m.

TRD-9204198

Tuesday, April 28, 1992, 9 a.m. The Inspections and Investigations, Manufactured Housing of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Third Floor Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension, or revocation of the license for Bob Douthit, Bob Douthit House Movers for violation of Vernon's Texas Civil Statutes, Articles 5221f and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: March 24, 1992, 4:05 p.m.

TRD-9204197

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State Medical Education Board

Saturday, April 4, 1992, 1:30 p.m. The State Medical Education Board will meet at the Chevy Chase Office Complex, Building Four, Room 4.100, 7715 Chevy Chase Drive, Austin. According to the complete agenda, the board will review accounts needing board attention; and discuss other business.

Contact: Mack Adams, P.O. Box 12788, Austin, Texas 78711, (512) 483-6340.

Filed: March 24, 1992, 2:09 p.m.

TRD-9204172

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Texas Department of Mental Health and Mental Retardation

Thursday, March 26, 1992, 11 a.m. The Board Business and Asset Management Committee of the Texas Department of Mental Health and Mental Retardation met

at the TXMHMR Central Office, 909 West 45th Street, Auditorium, Austin. According to the complete emergency revised agenda, the committee heard citizens' comments; considered approval of the selection of architects and engineers of TXMHMR construction projects; considered approval of FY 1992 operating budget adjustments; considered grazing lease for 317 acres of land at the Abilene State School; considered items related to the West 38th Street planned unit development lease; and memorandum of understanding/finance agreement with Texas Public Finance Authority. If deaf interpreters required, notify TDMHMR (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting. The emergency status was necessary as on March 19, 1992, the Texas Bond Review Board approved the 1992 general obligation bonds to finance TYC and TXMHMR projects. The Finance Authority planned to expedite the issue of the bonds on April 2, 1992 and had presented to the department a memorandum of understanding and a financing agreement which they requested our board to approve. In order to meet the April 2, 1992 release date an emergency agenda item had to be placed on the March 26-27 board agenda to be presented to the board for approving the financing documents.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 465-4506.

Filed: March 25, 1992, 9:29 a.m.

TRD-9204216

Friday, March 27, 1992, 11 a.m. The Board of the Texas Department of Mental Health and Mental Retardation met at the TXMHMR Central Office, 909 West 45th Street, Auditorium, Austin. According to the agenda summary, the board called the meeting to order; heard citizens' comments (limited to three minutes); may have approved minutes of February 7, 1992 meeting; and considered other issues. If deaf interpreters required, notify TDMHMR (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting. The emergency status was necessary as on March 19, 1992, the Texas Bond Review Board approved the 1992 general obligation bonds to finance TYC and TXMHMR projects. The Finance Authority planned to expedite the issue of the bonds on April 2, 1992 and had presented to the department a memorandum of understanding and a financing agreement which they requested our board to approve. In order to meet the April 2, 1992 release date an emergency agenda item had to be placed on the March 26-27 board agenda to be presented to the board for approving the financing documents.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 465-4506.

Filed: March 25, 1992, 9:30 a.m.

TRD-9204217

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Midwestern State University

Monday, March 30, 1992, 10 a.m. The Board of Regents of Midwestern State University held a meeting by telephone at the Hardin Administration Building, MSU, Wichita Falls. According to the complete agenda, the board made recommendations concerning approval of Stage I of the MSU Strategic Master Plan, 1992-1998; discussed construction of a new residence hall with donated funds; architect selection for this new residence hall; changed order for new telecommunications system; staffing of a telecommunications office; renovation of Bea Wood Hall for academic health science laboratories; and renovation of Sikes House.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6551.

Filed: March 25, 1992, 9:15 a.m.

TRD-9204223

◆ ◆ ◆
Texas Parks and Wildlife Department

Wednesday-Thursday, April 8-9, 1992, 12:30 p.m. The Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Eagle Room, OLE' Distributor, 1990 Bedell Avenue, Del Rio. According to the agenda summary, the commission will hold registration; welcome visitors and guests; make introductions; hear opening comments; information questionnaire-What do you believe about Mountain Lions?; Why are We Here?; Mountain Lion Ecology and Research update; A Review of My Experiences with Mountain Lions in Texas 1950-1991; The Ecology of a Mountain Lion Population in New Mexico; sub-groups with similar interests to identify goals; list and discuss goals and strategies from each Roundtable; general session review results and discuss today's objectives; mixed group session; sub-groups with diverse opinions identify goals of common interests (where we agree) and goals of divergent interests (where we do not agree); general session-presentation of goals and strategies for Mountain Lion management in Texas; needs and future plans-Where do we go from here?; closing remarks; and adjourn at 2:15 p.m. April 9, 1992. Although this is not a formal commission meeting, commissioners may be in attendance as participants and may discuss matters on this agenda.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4800.

Filed: March 25, 1992, 2:49 p.m.

TRD-9204230

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Texas State Board of Podiatry Examiners

Saturday, March 28, 1992, 10 a.m. The Texas State Board of Podiatry Examiners met at the Texas Podiatric Medical Association, 5017 Bull Creek Road, Austin. According to the complete emergency revised agenda, the board elected a new vice-president; proposed new fees; discussed modification of statute for Sunset Commission report; and discussed/acted on appointment, employment evaluation, reassignment, duties, job performance, responsibilities, discipline or dismissal of executive director. The board then reconvened to take action on executive director if needed. The emergency status was necessary as board had to meet to discuss an increase of fees so that the new rule could be passed in time for renewal notices to be sent out.

Contact: Janie Alonzo, 3420 Executive Center Drive, Suite 305, Austin, Texas 78731, (512) 794-0145.

Filed: March 25, 1992, 9:05 a.m.

TRD-9204214

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Polygraph Examiners Board

Friday, April 3, 1992, 1 p.m. The Polygraph Examiners Board will meet at the Days Inn, 8611 Airport Boulevard, Houston. According to the complete agenda, the board will discuss approval of the October 1991 board meeting minutes; discuss approval of the January 1992 board meeting minutes; consider applications for licensure; adoption of board regulation 395.17; agency update; discuss 1994-1995 budget needs; appearance of Carl Phillips for approval as Director of University of Houston Polygraph School; and adjourn.

Contact: Bryan M. Perot, P.O. Box 4087, Austin, Texas 78773, (512) 465-2058.

Filed: March 25, 1992, 12:28 p.m.

TRD-9204224

◆ ◆ ◆
State Preservation Board

Friday, April 3, 1992, 2 p.m. (rescheduled from March 30, 1992). The Permanent Advisory Committee of the State Preservation Board will meet at the Lorenzo de Zavala Library and Archives Building, Room 314, Austin. According to the revised agenda summary, the committee will call the meeting to order; discuss approval of the min-

utes; discuss old, unfinished or new business; and adjourn.

Contact: Dealey Herndon, 201 East 14th Street, Room 503, Austin, Texas 78701, (512) 463-5495.

Filed: March 25, 1992, 4:04 p.m.

TRD-9204238

◆ ◆ ◆
Public Utility Commission of Texas

Wednesday, April 1, 1992, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the commission will consider the following dockets: 10739, 10584, P9547, P9942, and P10966.

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

Filed: March 24, 1992, 3 p.m.

TRD-9204180

Wednesday, April 1, 1992, 9:05 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the commission will discuss reports, discuss and act on budget and fiscal matters; presentation of outstanding employee award; discuss National Regulatory Research Institute funding; discuss issues with Sunset Advisory Commission staff; adjourn for executive session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and adjourn.

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

Filed: March 24, 1992, 3 p.m.

TRD-9204179

Monday, April 6, 1992, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 11011-petition of Southwestern Public Service Company for a fuel reconciliation.

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

Filed: March 24, 1992, 2:58 p.m.

TRD-9204177

Monday, April 6, 1992, 1 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. Ac-

ording to the complete agenda, the division will hold a hearing on the merits in Docket Numbers 9667 and 10138-application of GTE Southwest, Inc. to modify 911 service tariff and to add new service offerings.

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

Filed: March 24, 1992, 2:58 p.m.

TRD-9204176

Tuesday, April 7, 1992, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10818-application of West Texas Utilities Company for approval of calculation of House Bill 11 tax adjustment factors for 1992 pursuant to PUC Substantive Rule 23.21(d).

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

Filed: March 25, 1992, 2:52 p.m.

TRD-9204233

Tuesday, June 9, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 10883-application of Brazos Electric Power Cooperative, Inc. for a certificate of convenience and necessity for proposed generating facilities.

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

Filed: March 24, 1992, 3:01 p.m.

TRD-9204181

Texas Public Finance Authority

Thursday, April 2, 1992, 1 p.m. The Board of the Texas Public Finance Authority will meet at the William P. Clements Building, 300 West 15th Street, Senate Meeting Room #1, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of minutes; at 1 p.m. CDT, open bids for sale of Series 1992A general obligation bond issue; briefing of board on documentation developed for master equipment finance program; consider approval of implementation of the master equipment finance program as structured by Grigsby, Brandford Company, Inc.; consider implementation of current status of Texas Public Finance Authority Strategic Plan and concurrence to proceed.

Contact: Rachael Caron, 300 West 15th Street, Austin, Texas 78701, (512) 463-5544.

Filed: March 25, 1992, 4:55 p.m.

TRD-9204242

Texas State University System

Monday, March 30, 1992, 4 p.m. The Board of Regents of the Texas State University System held a telephone conference call meeting by speakerphone available in Room 505, Sam Houston Building, Austin. According to the complete agenda, the board approved strategic plans for the system and its universities; and considered a gift of land to Sam Houston State University. (Where appropriate and permitted by law, executive sessions may be held for above listed subjects).

Contact: Lamar Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, (512) 463-1808.

Filed: March 24, 1992, 1:48 p.m.

TRD-9204167

Texas Department of Transportation

Wednesday, March 25, 1992, 9:30 a.m. The Texas Transportation Commission of the Texas Department of Transportation met at the Dewitt C. Greer Building, 125 East 11th Street, Room 101/101A, First Floor, Austin. According to the emergency revised agenda summary, the commission reviewed and discussed: 10. b. emergency and proposed adoption: Chapter 25-Division of Maintenance and Operations: (MO) amendments to Section 25.62 (permit issuance and procedures in issuing oversize permits for multiple commodity loads). The emergency status was necessary as immediate action was required in order to avoid severe adverse economic impact on Texas industry.

Contact: Myrna Klipple, 125 East 11th Street, Austin, Texas 78701, (512) 463-8576.

Filed: March 24, 1992, 2:53 p.m.

TRD-9204175

University of Texas Health Center at Tyler

Thursday, April 2, 1992, 11:30 a.m. The Animal Research Committee of the University of Texas Health Center at Tyler will meet at the Biomedical Research Building, Room 116, Highways 155 and 271 North,

Tyler. According to the complete agenda, the committee will discuss approval of the minutes from March, 1992 meeting; hear chairman's report-Dr. Peterson; veterinarian's report-Dr. Thedford; discuss old business: review of animal committee handbook; review of inspection report; new protocol: protocol on use of rabbits for raising antibodies in muscle research; and adjourn.

Contact: Barry Peterson, Ph.D., P.O. Box 2003, Tyler, Texas 75710, (903) 877-7012.

Contact: March 25, 1992, 1:31 p.m.

TRD-9204227

Texas Water Commission

Wednesday, April 1, 1992, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: March 24, 1992, 3:46 p.m.

TRD-9204184

Friday, April 3, 1992, 10 a.m. The Weather Modification Advisory Committee of the Texas Water Commission will meet at 8900 Shoal Creek Boulevard, Austin. According to the agenda summary, the committee will review staff reports including: seminar on weather modification in Canyon, on February 27, 1992; hold a public hearing in Big Spring on March 2, 1992 on the permit application by the Colorado River Municipal Water District; and status of weather-modification research activities. The committee will also review paper on "seeding supercooled cumuli for rain enhancement; prospects" and discuss other business.

Contact: D. Diane Smith, P.O. Box 13087, Austin, Texas 78711, (512) 463-8060.

Filed: March 26, 1992, 9:44 a.m.

TRD-9204244

Wednesday, April 8, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within

the regulatory jurisdiction of the commission including specifically the adoption of new or amended agency regulations. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in 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 24, 1992, 5:05 p.m.

TRD-9204204

Wednesday, April 8, 1992, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: March 24, 1992, 5:05 p.m.

TRD-9204203

Regional Meetings

Meetings Filed March 24, 1992

The Callahan County Appraisal District Board of Directors met at the Callahan County Appraisal District Office, 130-A West Fourth Street, Baird, March 30, 1992, at 7 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79500, (915) 854-1165. TRD-9204171.

The Dallas Area Rapid Transit Board of Directors met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, March 28, 1992, at 8:30 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9204183.

The Middle Rio Grande Development Council Board of Directors will meet at the Green House Restaurant, 101 East Main, Cotulla, April 2, 1992, at 1 p.m. Information may be obtained from Michael Patterson, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9204170.

Meetings Filed March 25, 1992

The Central Appraisal District of Johnson County Board of Directors met at 109 North Main, Suite 201, Room 202, Cleburne, March 26, 1992, at 4:30 p.m. (rescheduled from March 19, 1992). Information may be obtained from Priscilla A. Bunch, 109 North Main, Cleburne, Texas 76031, (817) 645-3986. TRD-9204207.

The Dawson County Central Appraisal District Board of Directors will meet at 902 North Dallas Avenue, Lamesa, April 1, 1992, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9204209.

The Education Service Center, Region XIII Board of Directors met at the ESC, Region XIII, Room #205, 5701 Springdale Road, Austin, March 30, 1992, at 12:45 p.m. (revised agenda). Information may be obtained from Dr. Joe Parks, 5701 Springdale Road, Austin, Texas 78723, (512) 929-1300. TRD-9204213.

The Education Service Center, Region 17 Board of Directors will meet at the Board Room, ESC Region 17, 1111 West Loop 289, Lubbock, April 7, 1992, at 9 a.m. Information may be obtained from Virgil Ed Flathouse, 1111 West Loop 289, Lubbock, Texas 79416, (806) 793-4802. TRD-9204208.

The Heart of Texas Region Mental Health and Mental Retardation Center Board of Trustees will meet at 110 South 12th Street, Waco, March 31, 1992, 11:45 a.m. Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (817) 752-3451. TRD-9204226.

The Kendall Appraisal District Appraisal Review Board met at 121 South Main Street, Boerne, March 30, 1992, at 9 a.m. Information may be obtained from Ed W. Mergele, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9204210.

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, March 31, 1992, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9204235.

The Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, April 1, 1992, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9204236.

The Texas Panhandle Mental Health Authority Board of Trustees will meet at 7120 I-40 West, Suite 150, Amarillo, April 2, 1992, at 10:30 a.m. Information may be obtained from Mellisa Talley, P.O. Box 3250, Amarillo, Texas 79116, (806) 353-3699. TRD-9204234.

Meetings Filed March 26, 1992

The Trinity River Authority of Texas Joint Meeting of the Executive Committee and the Administration Committee will meet at 5300 South Collins Street, Arlington, April 2, 1992, at 10 a.m. Information may be obtained from J. Sam Scott, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9204245.

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Ark-Tex Council of Governments Request for Proposal

The Ark-Tex Council of Governments (ATCOG) is in the process of requesting proposals for the development of a regional solid waste management plan for a geographic area which includes Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Morris, Titus, and Red River Counties in Texas and Miller County in Arkansas. The project is to be funded by the Texas Water Commission. Consultants will be required to meet the minimum requirements set by the Texas Solid Waste Disposal Act, §325.561 "Subchapter O Guidelines for Regional and Local Solid Waste Plans," administered by the Texas Water Commission, Bureau of Solid Waste Management. The project is projected to begin May 25, 1992 and will end May 25, 1994. Proposals shall be evaluated in terms of the following criteria: the content of the proposal narrative, the consultant's environmental planning experience, organizational quality and characteristics, experience with geographical information systems, and references and professional commitment.

Those interested in receiving RFP packets should contact Elaine Wray, Manager, Regional Development, Ark-Tex

Council of Governments, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. The deadline for proposal submission is April 27, 1992.

Issued in Texarkana, Texas, on March 19, 1992.

TRD-9204222 Beverly C. Pearson
Director of Program Operations
Ark-Tex Council of Governments

Filed: March 25, 1992

For further information, please call: (903) 832-8636

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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, Article 1.04, as amended (Texas Civil Statutes, Articles 5069-1.04).

Types of Rate Ceilings	Effective Period (Dates are Inclusive)	Consumer (1)/Agricultural/	Commercial(2)
		Commercial (2) thru \$250,000	over \$250,000
Indicated (Weekly) Rate - Art. 1.04(a)(1)	03/30/92-04/05/92	18.00%	18.00%

(1) Credit for personal, family or household use. (2) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204212 Al Endsley
Consumer Credit Commissioner

Filed: March 25, 1992

For further information, please call: (512) 479-1280

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Texas Education Agency Request for Applications-Pregnancy, Education, and Parenting Program

Request For Application-#701-92-036. This request for application is filed in accordance with the Texas Education Code, §16.152 and §21.114.

Eligible Applicants: The Texas Education Agency (TEA) is requesting applications (RFA #701-92-036) from re-

gional service centers or public school districts in Texas for the development of an integrated program of education and support services for students who are pregnant or who are parents. A school district may apply for funding if at least 30% of the district's students are of low-socioeconomic status. The criteria to determine low-socioeconomic status will be based on the number of students qualifying for the free or reduced school lunch program as reported in the 1992 Superintendents Report based on Average Daily Attendance. A school district or an education service center official who wants to submit an application in cooperation with other districts may elect to do so. A cooperative of school districts must have a single fiscal agent. A regional education service center may serve as a fiscal agent only for a cooperative. The fiscal agent must maintain all financial and personnel records required by the agency for the cooperative in accordance with Texas Education Agency Accounting Manual Bulletin 679. An education service center may apply as a fiscal agent of a cooperative, whereby 100% of the funds must flow through to member districts. Each

district within the cooperative must meet the 30% low-socioeconomic criteria.

Description: The purpose of this program is to reduce the number of students who drop out of school due to pregnancy or parenthood and to recover young parents who are under the age of 21 years on the first day of September to the educational system. In addition, the program is designed to help the students achieve academically and work toward graduation; to develop job-related skills and training; to access available community resources; to become knowledgeable in child development, parenting, and home management; and to become productive citizens.

Dates of Project: The program will begin September 1, 1992, and end on August 31, 1993. Funds may be available for continuance operation during the 1993-1994 school year contingent upon legislative appropriation.

Project Amount: Project funding will be for an amount not to exceed \$100,000. Project funds must be matched on a dollar for dollar basis. Matching funds may come from any source including the district's compensatory education allocation.

Selection Criteria: Applicants will be reviewed to determine the capability of the applicant to implement the following required components: instruction skills and knowledge for parenting, job readiness training, counseling, child care, transportation of students and their children, and assistance in obtaining services from government agencies or community service organizations. All required components of the request for application must be addressed for the application to be considered for funding. TEA reserves the right to select from the highest ranking applications the ones that best address the needs of the pregnant and/or parenting students and that best implement the required components of the program. Special consideration will be given to districts that describe the greatest need.

Bidders' Conference: A bidders' conference will be held at the Texas Education Agency, William B. Travis Building, Room 1-111, on Thursday, April 30, 1992 from 9 a.m. until noon. Interested applicants are encouraged to bring a copy of the request for application to the conference.

Requesting the Application: A copy of the complete request for application (RFA #701-92-020) may be obtained by writing or calling the: Document Control Center, Texas Education Agency, Room 6-108, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701-1494, or call (512) 463-9304.

Further Information: For clarifying information about this request contact Bill Nance or Karen Alarcon, Pregnancy, Education, and Parenting Program, (512) 463-9501.

Deadline for Receipt of Application: The deadline for submitting an application is 5 p.m., Monday, June 1, 1992.

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

TRD-9204218 Lionel R. Meno
Commissioner of Education

Filed: March 25, 1992

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



Public Utility Commission of Texas Notice of Application to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on March 17, 1992, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number. Application of Pedernales Electric Cooperative, Inc. to amend certificate of convenience and necessity for proposed transmission line within Hays County, Docket Number 11014 before the Public Utility Commission of Texas.

The Application: In Docket Number 11014, Pedernales Electric Cooperative, Inc. requests approval of its application to construct approximately 13.9 miles of 138-kV transmission line.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas on March 23, 1992.

TRD-9204178 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission

Filed: March 24, 1992

For further information, please call: (512) 458-0100



Senate Interim Committee on Health and Human Services Public Meeting Notice

The Senate Interim Committee on Health and Human Services will hold its third work session in Austin on April 1, 1992, to further discuss and adopt committee recommendations pertaining to private psychiatric and substance abuse services.

The work session will begin at 1:30 p.m. in Room 101 of the John H. Reagan Building at 105 West 15th Street. Visitor parking is available at 15th Street and Congress Avenue. Although the committee does not plan to take any testimony, the work session is an open meeting, and the public is encouraged and welcome to attend.

If you have any questions or need additional information, please feel free to call the committee office at (512) 463-0360.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204157 Sandra Bernal-Malone
Committee Clerk
Senate Interim Committee on Health and
Human Services

Filed: March 24, 1992

For further information, please call: (512) 463-0360



Texas Water Commission Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to E & L Lumber Company Inc. (Permit 03285) on March 17, 1992, assessing \$45,900 in administrative penalties with \$5,900 deferred and possibly foregone pending compliance. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting , Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204189 Laurie J. Lancaster
Notices Coordinator
Texas Water Commission

Filed: March 24, 1992

For further information, please call: (512) 463-7898.

Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of March 13, 1992-March 20, 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) 463-7906.

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.

Iritmore Utility, Inc.; the wastewater treatment facilities; are approximately 2,000 feet southeast of the intersection of Fisher and Brittmore Roads in Harris County; renewal; 11193-01.

City of East Tawakoni; the wastewater treatment facilities is approximately one mile due east of the intersection of State Highway 276 and FM Road 513 on the northeast side of Lake Tawakoni in Rains County; renewal; 11428-01.

John Heavyside doing business as Heavyside Lingleville Dairy; a dairy; the dairy is located approximately three miles south of the intersection of FM Road 8 and FM Road 219 in Erath County; new; 03471.

K. C. Feeding Company; a swine farm is located on the south side of U.S. Highway 87 approximately five miles northwest of the intersection of U.S. Highway 87 and FM Road 808 in Dallam County; new; 03444.

City of Laredo; the wastewater treatment facility; is located approximately 3, 500 feet east of U.S. Highway 83 and 3.2 miles south of the intersection of U.S. Highway 83 and State Highway 20 in southwest in Webb County; renewal; 10681-03.

Rio Grande Valley Sugar Growers, Inc.; a raw sugar and molasses production facility; the facility is located three miles west of the community of Santa Rosa on State Highway 107 in Hidalgo County; renewal; 01752.

Trinity River Authority; The Wolf Creek Park Wastewater Treatment Plant; is approximately 0.3 of a mile northeast of FM Road 224 at a point approximately 2. 7 miles southeast of the intersection of State Highway 156 and FM Road 224 in San Jacinto County; renewal; 11310-01.

A. L. Murphy Veterans Memorial Hospital; the applicant will operate a medical waste incinerator; the site is to be approximately 2.0 miles northwest of the IH 10 and IH 410 interchange, at 7400 Merton Mintor Boulevard in the City of San Antonio, Bexar County; new; 2187.

Issued in Austin, Texas, on March 23, 1992.

TRD-9204168 Laurie J. Lancaster
Deputy Chief Clerk
Texas Water Commission

Filed: March 24, 1992

For further information, please call: (512) 463-7906

Using Art to Help Children in Trouble With the Law

by Sunny Nash

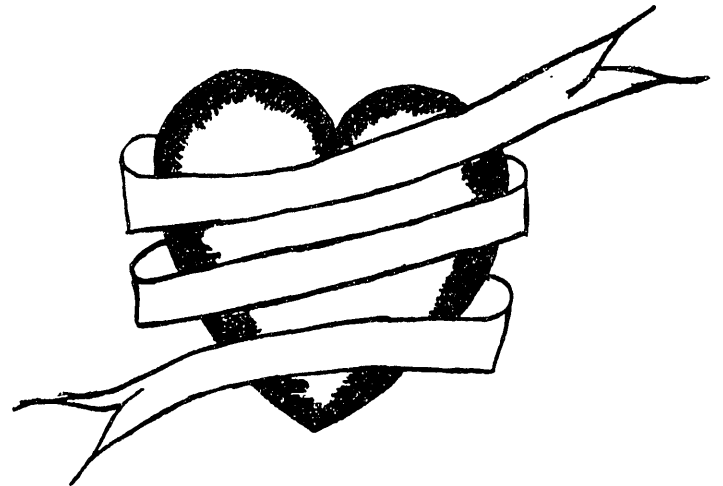
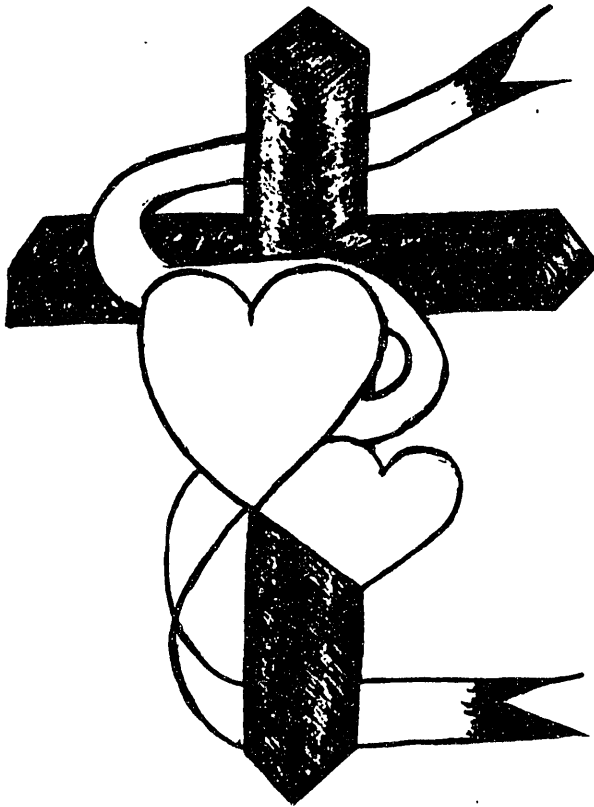
Second and third generation criminals, children in crime is a growing trend in major U.S. cities and small to mid-size towns. Children's environments, controlled by grandparents, parents, siblings and other relatives involved in illegal activities, are defining crime as cool. Passing family business secrets to youngsters, they coach children on current techniques and tools of burglary, selling stolen goods, avoid police apprehension and building a client base for drug distribution and sales.

During prescribed art activities--such as painting, drawing, story telling and music--children exposed feelings about their lives and criminal activities. Without urging, pictures and sounds spilled forth. Images of monsters, weapons, cars, drugs, sisters and cool friends with trendy hair and jewelry revealed the trouble in some children's lives.

A 15-year-old twin rendered the drawings below while in juvenile detention for armed robbery and kidnapping. With a family history of crime and gang activity, the other twin was also in detention for the same crimes. The twins admitted to becoming active lawbreakers when they were 12 years old, urged by a relative to use their identical appearance to evade the police.

"We got caught when we did that job together," the twin said, shading in the area around the heart. "My uncle told us not to do the job together. He was right, too, 'cause we got caught."

Ms. Nash works with children in the Brazos County Juvenile Detention Center, helping them express themselves through art. Her column is a regular feature of the Texas Register.





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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