

Texas Register

Volume 17, Number 56, July 28, 1992

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Information Available: The ten 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
- Texas Ethics Commission** - summaries of requests for opinions and opinions
- Emergency Sections** - sections adopted by state agencies on an emergency basis
- Proposed Sections** - sections proposed for adoption
- Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Sections** - sections adopted following a 30-day public comment period
- Open Meetings** - notices of open meetings
- In Addition** - miscellaneous information required to be published by statute or provided as a public service

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

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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: "17 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 17 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 TR1 number.

Texas Administrative Code

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

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

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

Texas Register Art Project

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

Texas Register Publications



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Office of the Secretary of State
P. O. Box 13824
Austin, Texas 78711-3824
(512) 463-5561
Fax (512) 463-5569

Secretary of State
John Hannah, Jr.

Director
Dan Procter

Assistant Director
Dee Wright

Circulation/Marketing
Jill S. Dahmert
Roberta Knight

1AC Editor
Dana Blanton

TAC Typographer
Madeline Chrisner

Documents Section Supervisor
Patty Moore

Documents Editors
Lisa Martin
Janlene Allen

Open Meetings Clerk
Brenda Bernal

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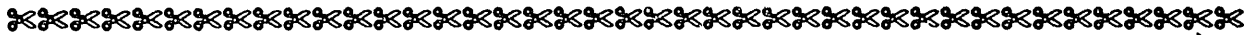
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*The Texas Register Readers Choice Award
continues with this issue!*

You will be able to continue to VOTE throughout the summer on what you think is the best of the 1991-1992 school art project submissions. In this issue, we finish publishing the first category of artwork, featuring submissions from children in kindergarten through third grade. Also in this issue, we begin publishing artwork from students in grades four through six. The pictures are labeled first by the category, and then by a number reflecting the individual piece. For example "4-1" will indicate that the picture is the first submission in the fourth through sixth grade group. You will be able to vote as often as you would like. Simply fill out the attached form, and mail it to the Texas Register, Roberta Knight, P.O. Box 13824, Austin, Texas 78711-3824.

The Secretary of State, Texas Register staff will then tabulate the votes and announce the winners in the fall of 1992.

The artwork does not add additional pages and does not increase the cost of the Texas Register.



1991 - 1992 Texas Register Readers Choice Award.

Please enter my vote for the "best of the best" :

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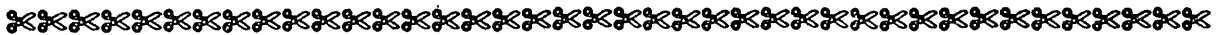
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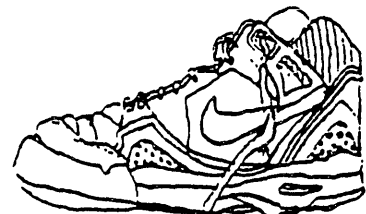
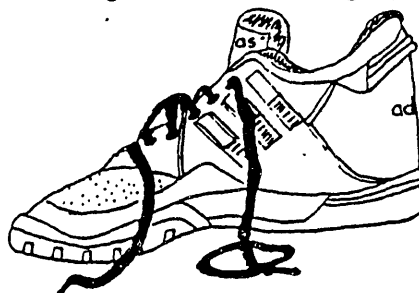
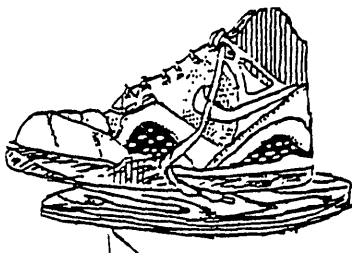
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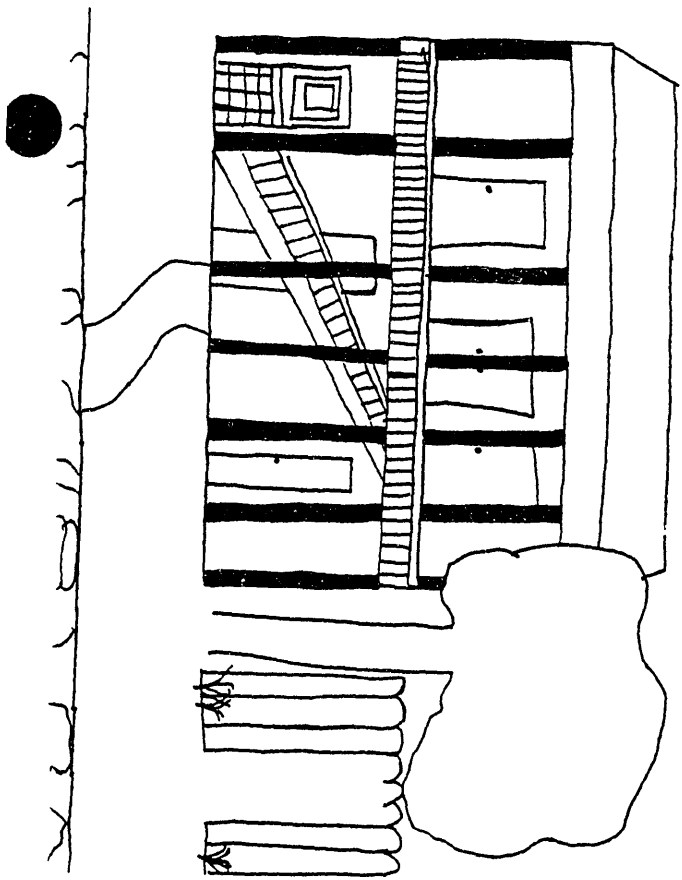
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For more information contact Roberta Knight (512) 463-5561.

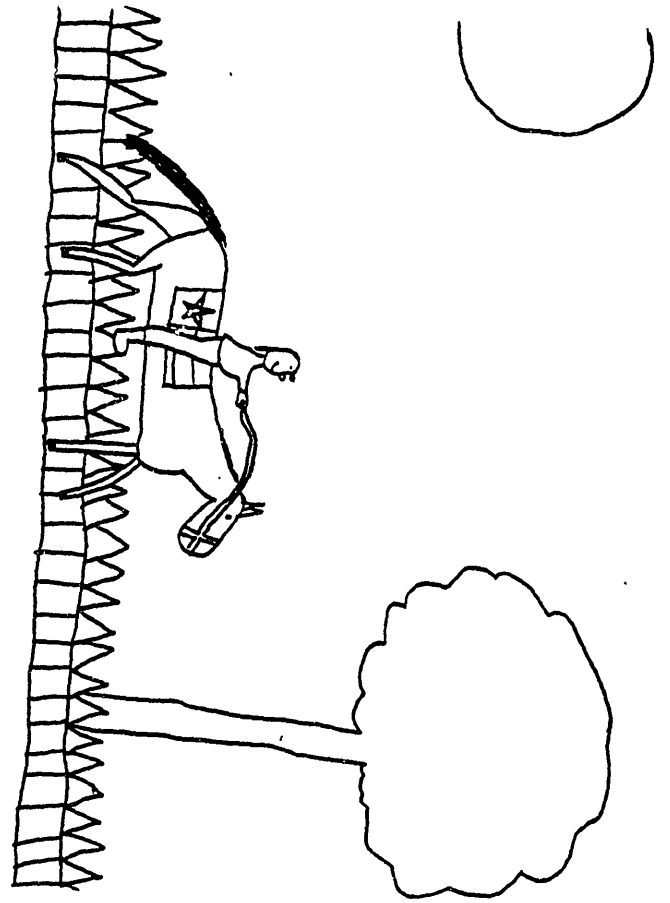


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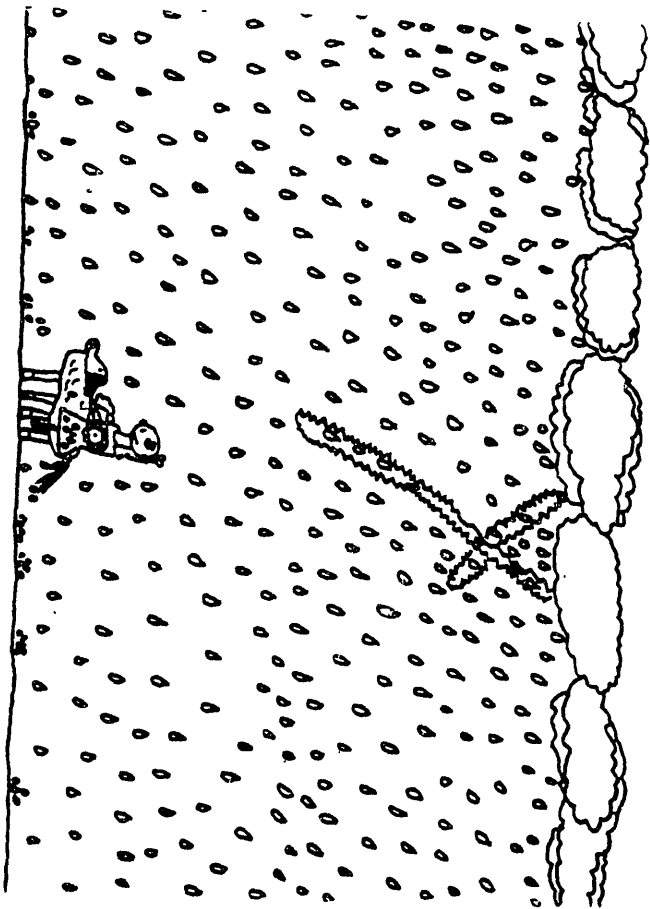


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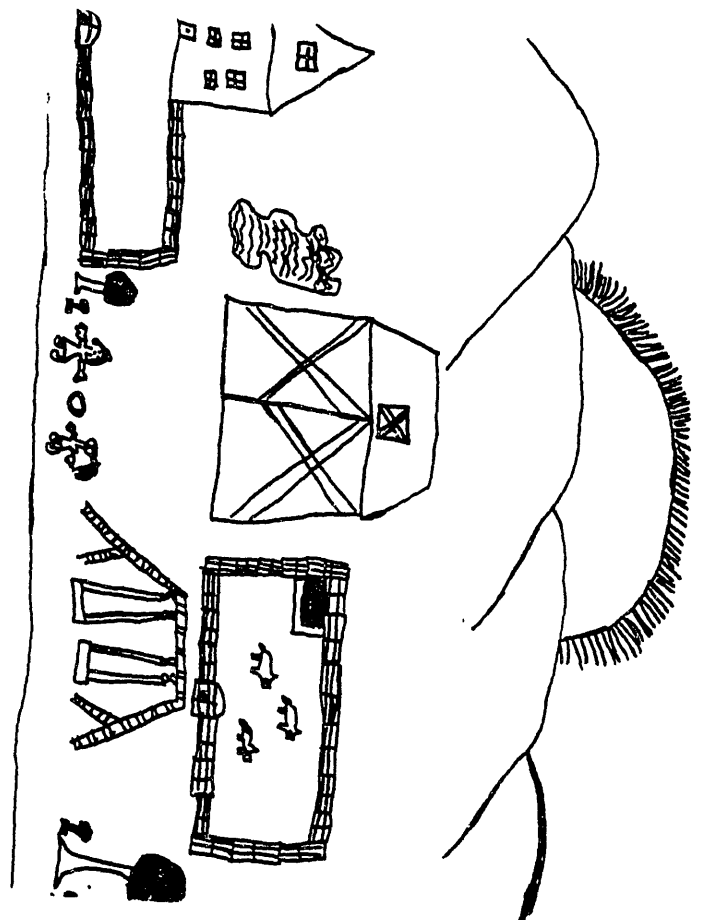


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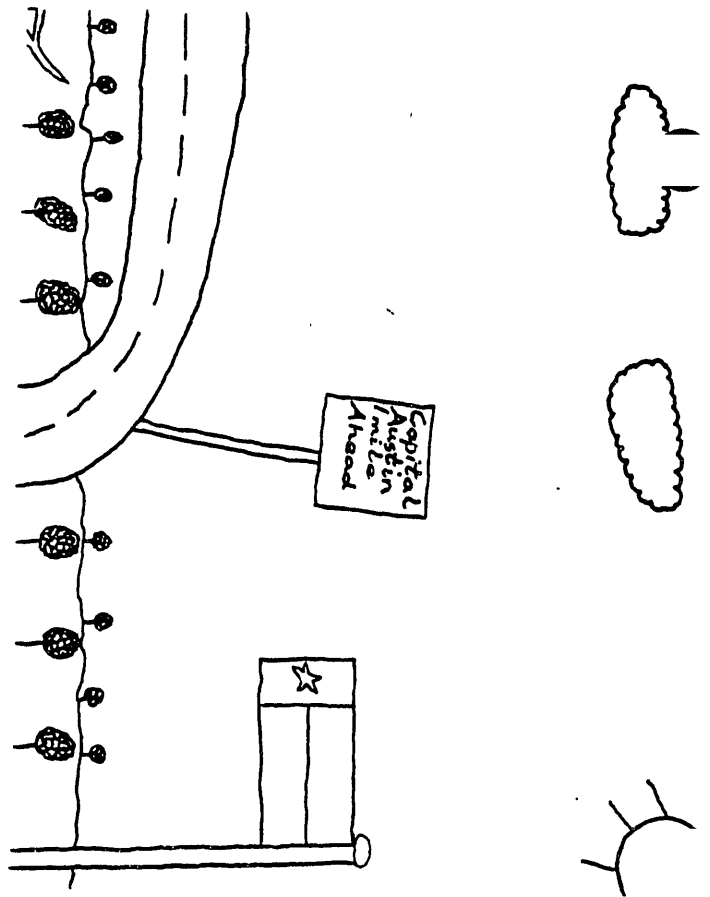


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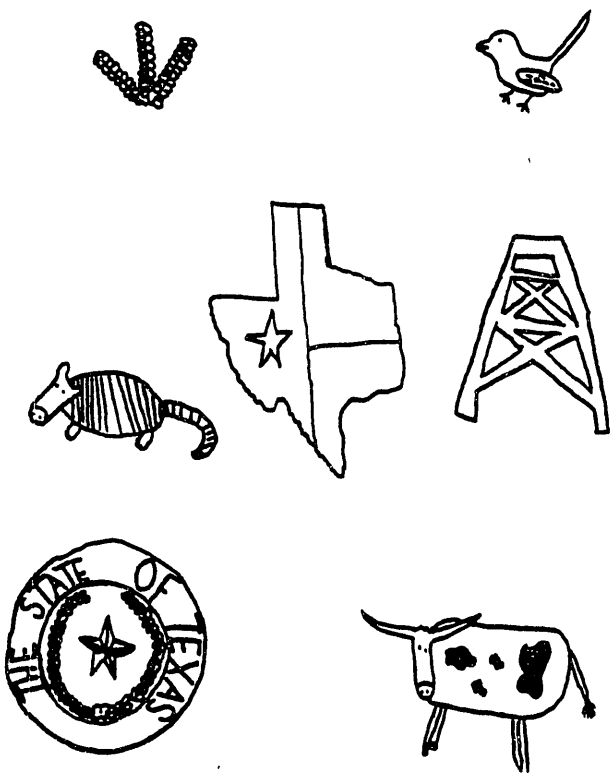


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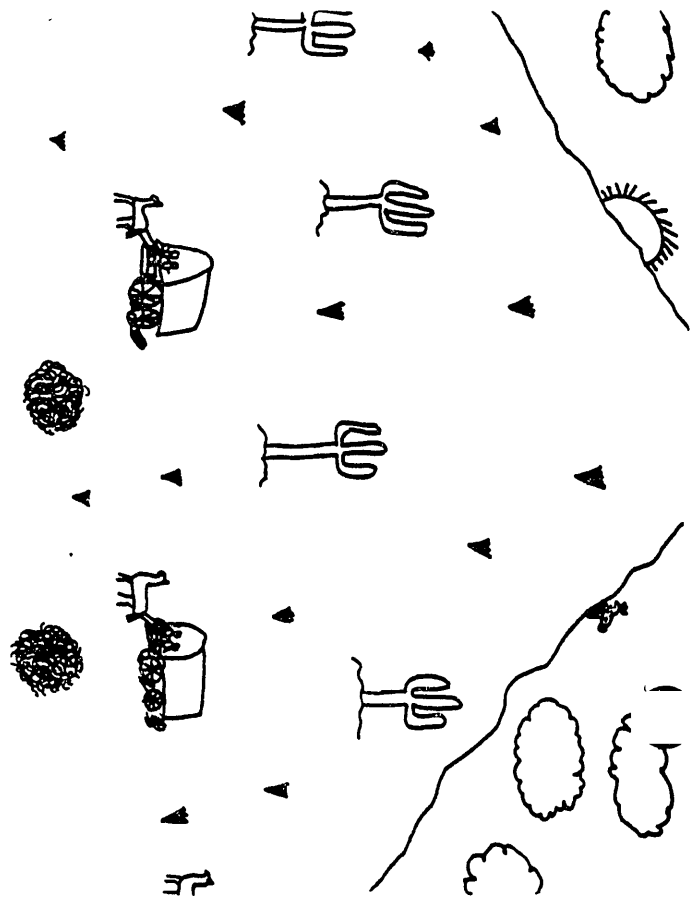


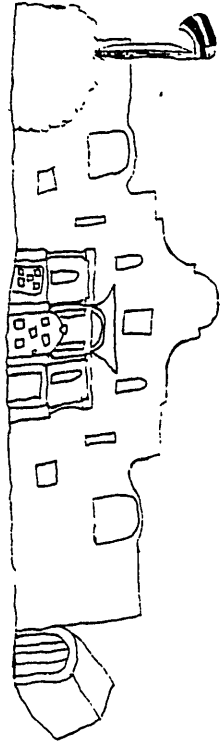
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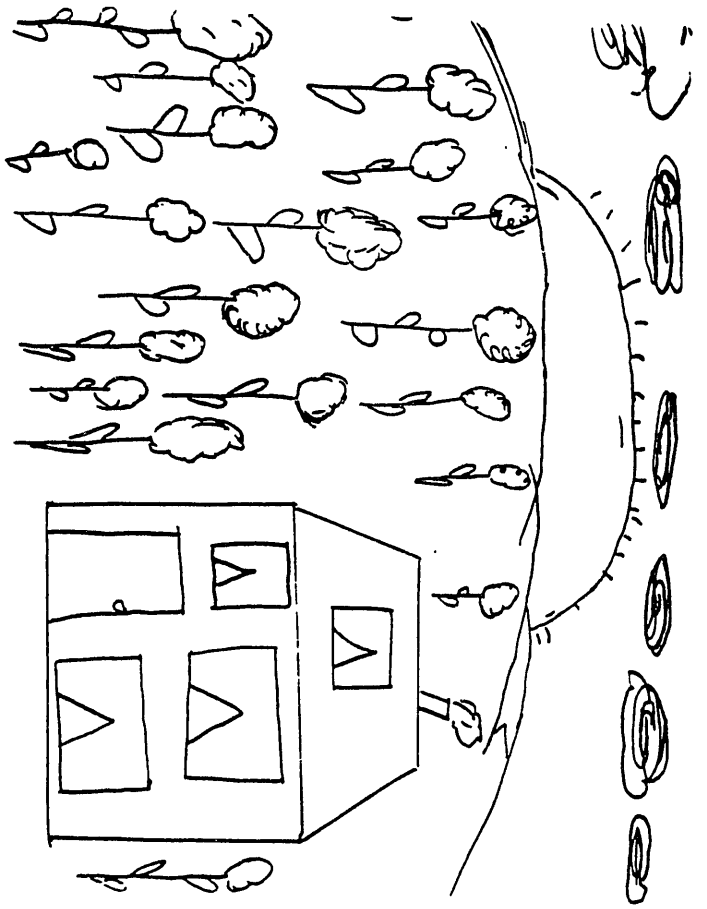


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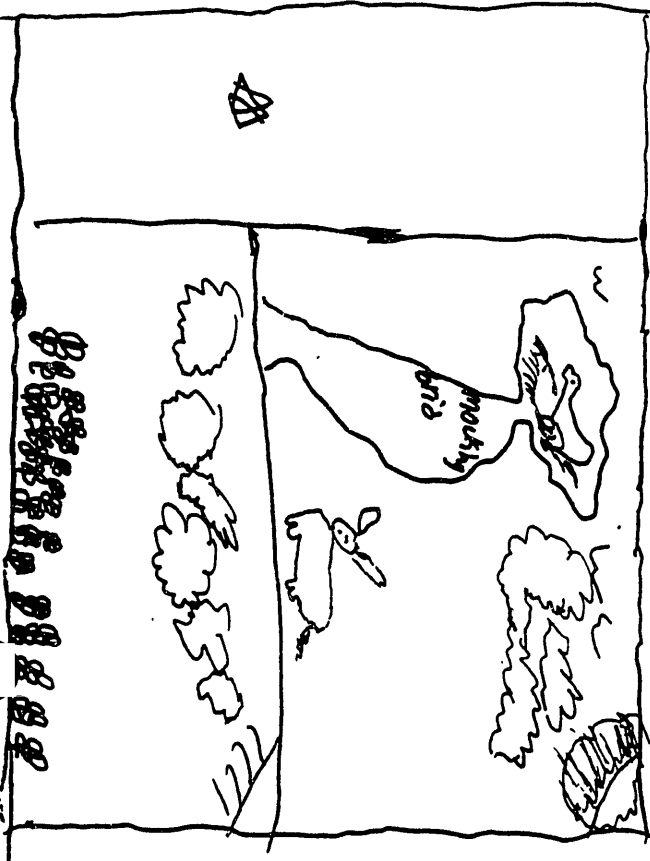
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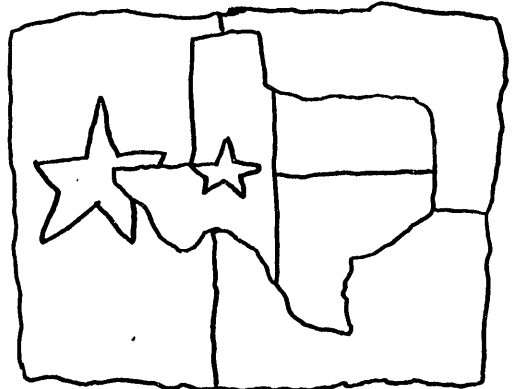
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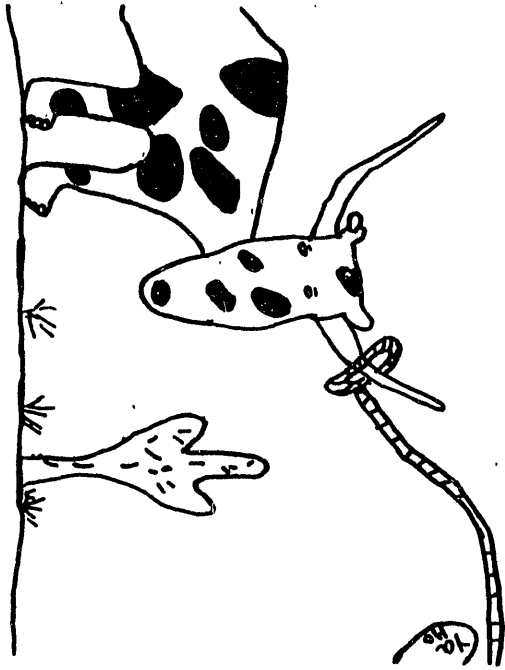
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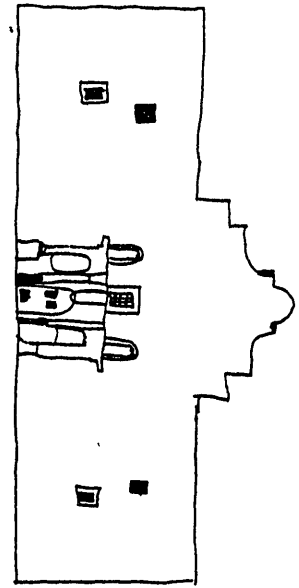


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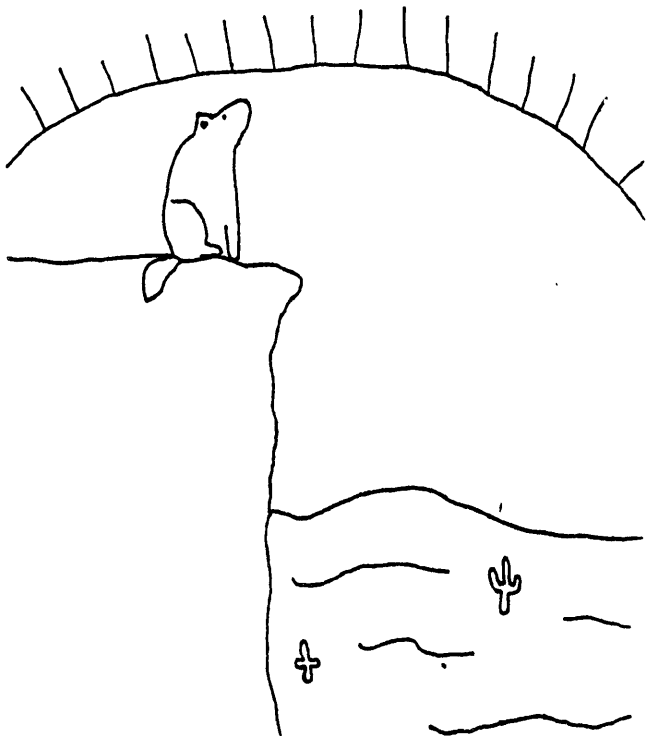




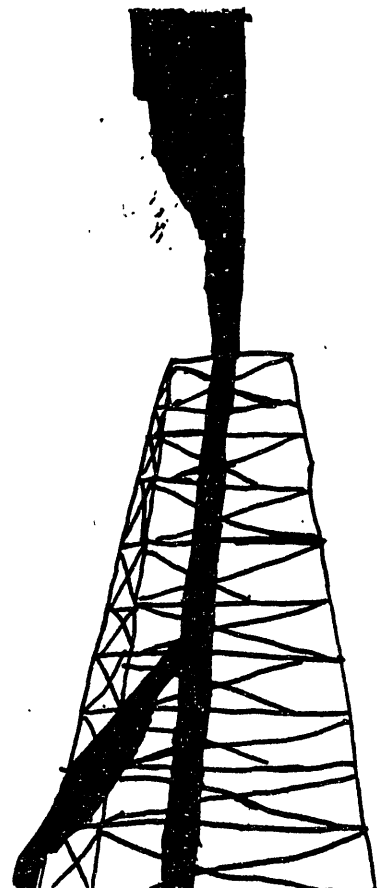
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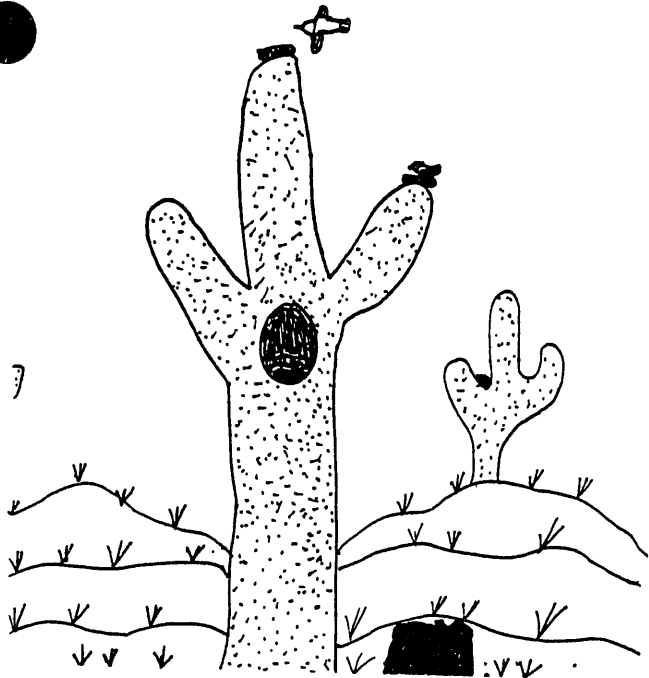
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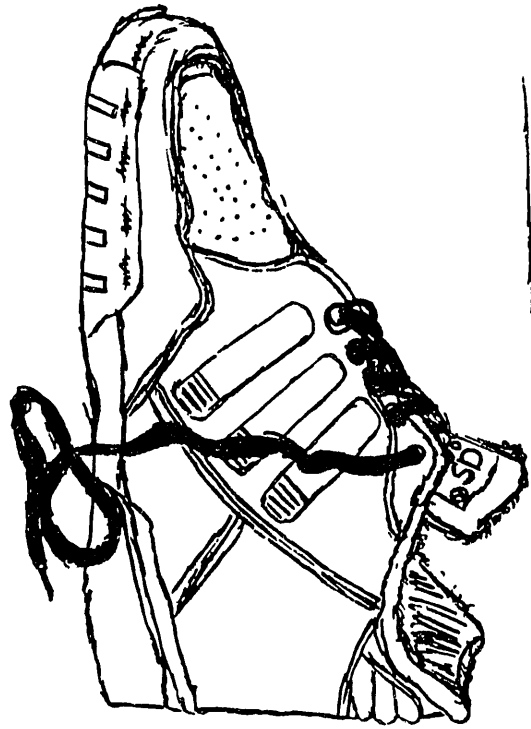
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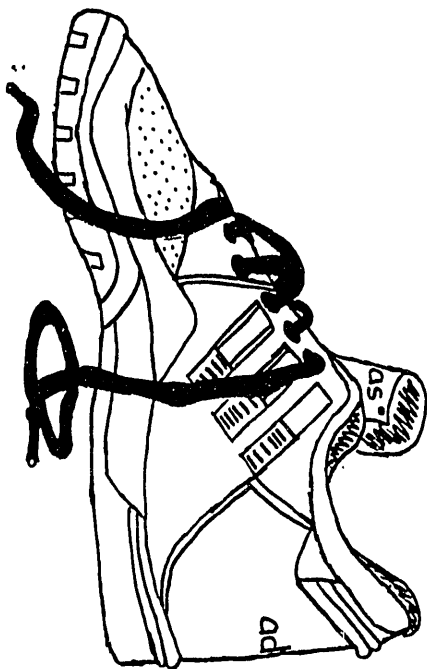
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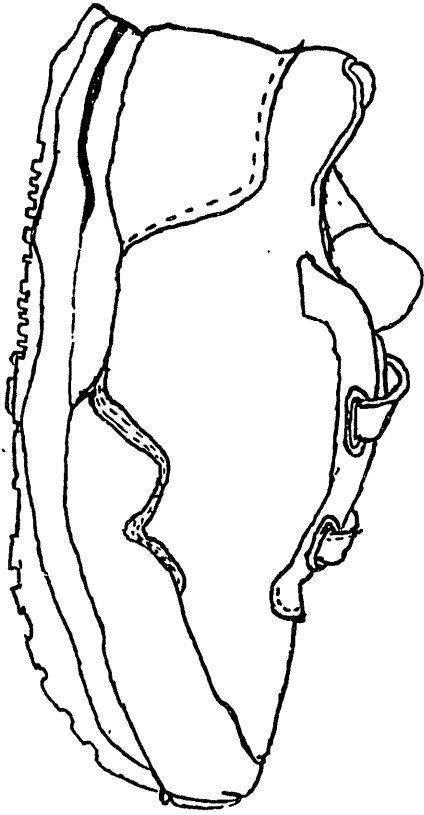


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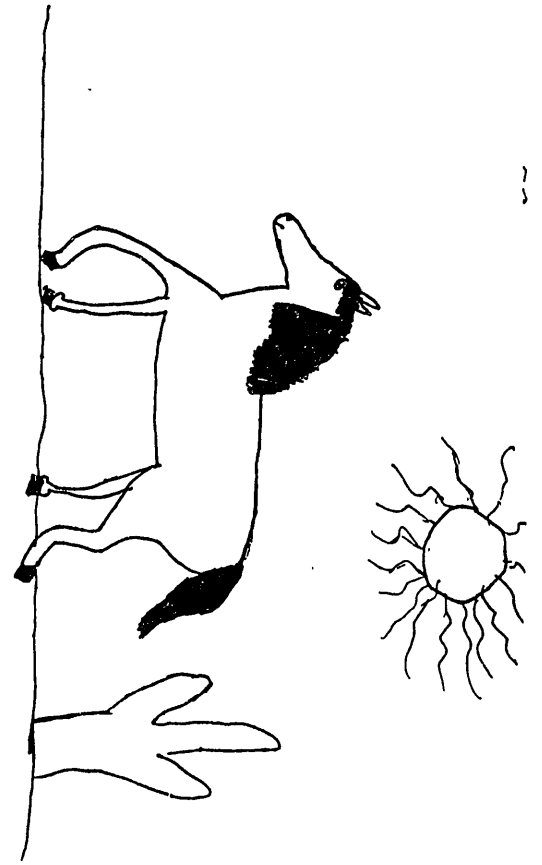
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NIKE
AIR





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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 IV. Office of the Secretary of State

Chapter 81. Elections

Voting Systems

• 1 TAC §81.60

The Office of the Secretary of State adopts on an emergency basis new §81.60, concerning a directive to facilitate the certification of voting systems. The directive provides for procedures relating to the examination of voting systems. The Texas Election Code is silent concerning some of the specific procedures necessary to conduct a certification examination of voting systems.

The amendment is adopted on an emergency basis because voting system certification is in progress, and current election law does not adequately or clearly establish specific procedures necessary to conduct a certification examination.

The secretary of state is required to obtain and maintain uniformity in the application, operation, and interpretation of the Election Code and of the election laws outside the Election Code (Texas Election Code Annotated §31.003 (Vernon 1986)). To perform this duty, the secretary is required to prepare detailed and comprehensive written directives and instructions relating to and based on the Election Code and the election laws outside the Election Code. *Id.* This directive is adopted to facilitate the certification of voting systems.

The new section is adopted on an emergency basis under the Texas Election Code, §31.003, which provides the secretary of state with authority to obtain and maintain uniformity in the application, operation, and

interpretation of election laws, and prepare detailed and comprehensive written directives and instructions relating to election laws.

§81.60. Voting System Certification Procedures. In addition to the procedures prescribed by the Texas Election Code, Chapter 122, compliance with the following procedures is required for certification of a voting system.

(1) The entity applying for certification must complete Forms 100 and 101 prescribed by the secretary of state, and deliver them to the secretary of state no later than 45 days prior to examination.

(2) The vendor must deliver four copies of all relevant software and source codes and six copies of any user and/or reference manuals to the Office of the Secretary of State no later than 45 days prior to the examination.

(3) The certification fee is determined by the secretary of state according to the complexity of the voting system and the time required to conduct the examination, and must be received by the secretary of state 45 days prior to examination.

(4) Certification examinations will be scheduled by the secretary of state three times a year during the months of January, May, and September.

(5) The time and date of each examination will not be scheduled until after the entity applying for certification has delivered all forms, software, source codes, user and/or reference manuals, and fees to the secretary of state.

(6) All physical examinations of voting system will take place at the Office of the Secretary of State, Elections Division, in Austin, unless extenuating circumstances required otherwise.

(7) If the entity applying for certification desires that the examiners sign confidentiality statements, the entity must submit its own confidentiality statements to the secretary of state.

(8) All examinations must be videotaped by the secretary of state.

(9) Each examiner must submit a written report to the secretary of state stating his or her findings for each voting system no later than the 45th day after examination.

(10) An examiner appointed by the secretary of state will be compensated after he or she files his or her written report.

(11) The secretary of state must approve or disapprove the voting system(s) within 30 days of receipt of all the examiners' report.

Issued in Austin, Texas, on July 20, 1992.

TRD-9209929

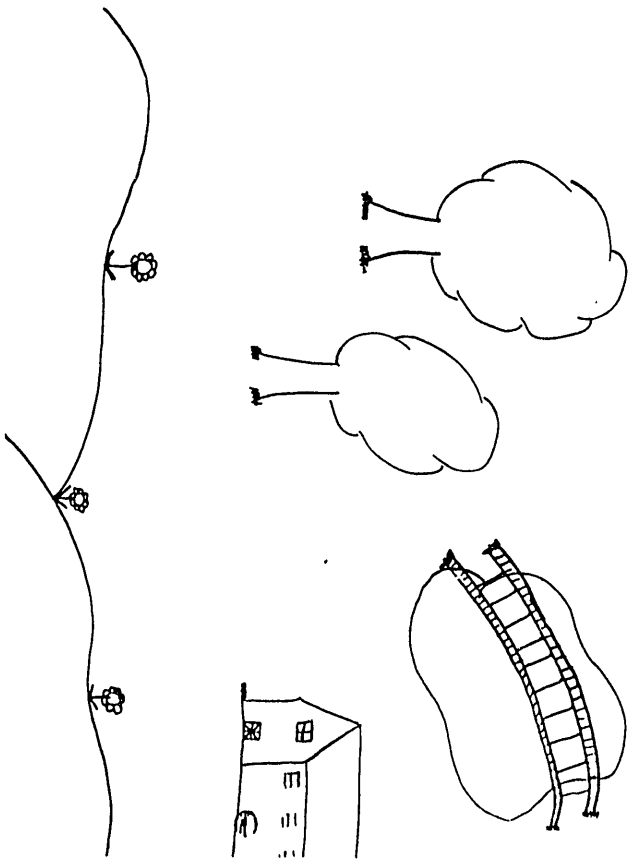
Audrey Selden
Assistant Secretary of
State
Office of the Secretary of
State

Effective date: July 20, 1992

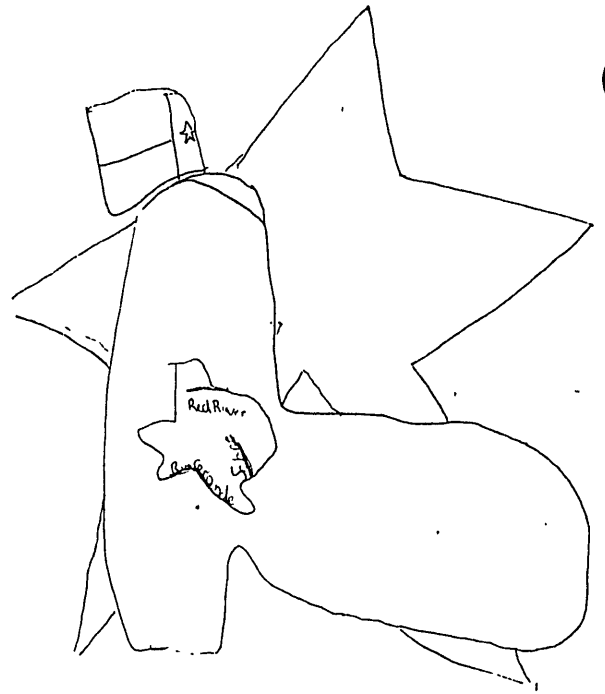
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For further information, please call: (512) 463-5650

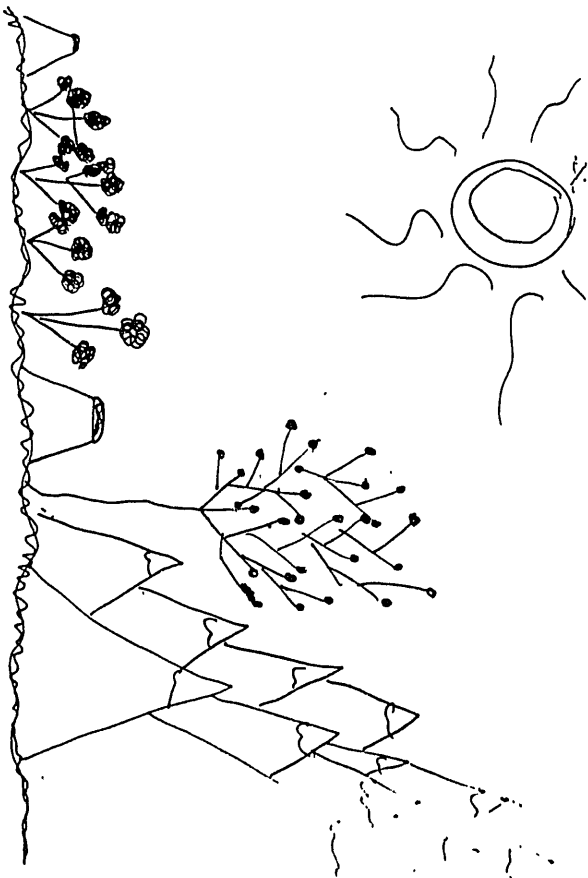
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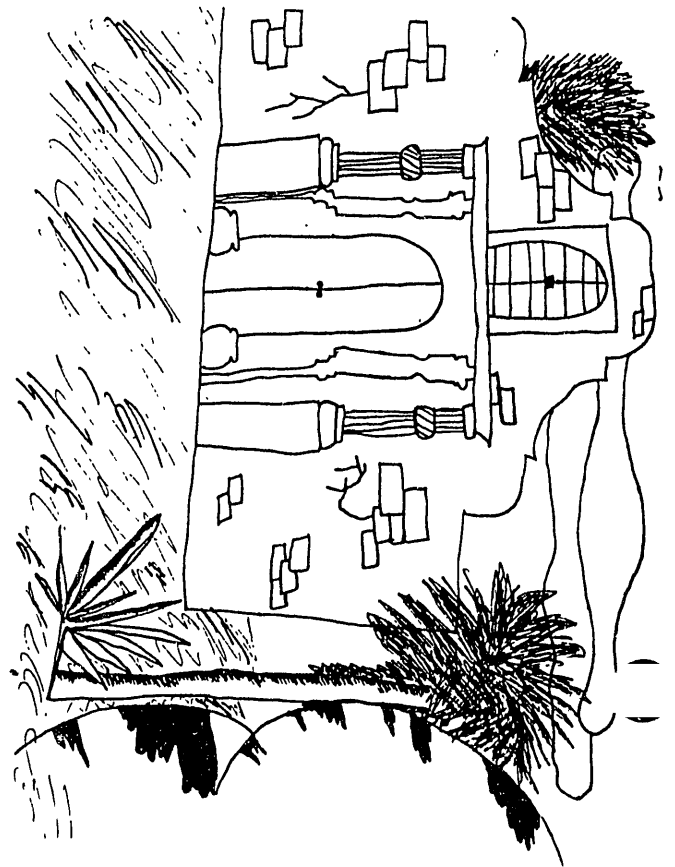
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Proposed Sections

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 IV. Office of the Secretary of State

Chapter 81. Elections

Voting Systems

• 1 TAC §81.60

(Editor's Note: The Secretary of State 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 Office of the Secretary of State proposes new §81.60, concerning a directive to facilitate the certification of voting systems. Emergency adoption has been submitted. The directive provides for procedures relating to the examination of voting systems. The Texas Election Code is silent concerning some of the specific procedures necessary to conduct a certification examination of voting systems.

The secretary of state is required to obtain and maintain uniformity in the application, operation, and interpretation of the Election Code and of the election laws outside the Election Code (Texas Election Code Annotated §31.003 (Vernon 1986)). To perform this duty, the secretary is required to prepare detailed and comprehensive written directives and instructions relating to and based on the Election Code and the election laws outside the Election Code. *Id.* This directive is submitted to facilitate the certification of voting systems.

Tom Harrison, deputy assistant secretary of state, elections, 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. Harrison 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 and consistent voting system certification process. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Tom Harrison, Deputy Assistant Secretary of State, Elections Division, P.O. Box 12060, Austin, Texas 78711-2060.

The new section is proposed under the Texas Election Code, §31.003, which provides the secretary of state with authority to obtain and maintain uniformity in the application, operation, and interpretation of election laws, and prepare detailed and comprehensive written directives and instructions relating to election laws.

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 July 20, 1992.

TRD-9209930

Audrey Selden
Assistant Secretary of
State
Office of the Secretary of
State

Earliest possible date of adoption: August 28, 1992

For further information, please call: (512) 463-5650

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 517. Temporary Practice in Texas

• 22 TAC §517.1

The Texas State Board of Public Accountancy proposes an amendment to §517.1, concerning temporary practice. The amendment concerns time limits for temporary practice permits.

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

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

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

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

§517.1. Temporary Practice.

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

[(d) A temporary permit will be valid for not more than 180 days and the board will not issue more than one permit to a person or firm during any three-year period.]

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 July 20, 1992.

TRD-9210002

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: August 28, 1992

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

TITLE 28. Insurance

Part I. Texas Department of Insurance

Chapter 7. Corporate and Financial Regulation

Subchapter A. Examination and Financial Analysis

• 28 TAC §7.31

The State Board of Insurance of the Texas Department of Insurance proposes new §7.31, concerning the annual statement instructions used by farm mutual insurance companies. More specifically, new §7.31 addresses the filing of an actuarial opinion by farm mutual insurance companies subject to the provisions of Insurance Code, Chapter 16. New §7.31 is necessary to implement amendments to the Insurance Code, Article 1.11, occasioned by passage of House Bill 2,

72nd Legislature, effective September 1, 1991. The new section requires farm mutual insurance companies whose direct and assumed premiums are in excess of \$750,000 during a calendar year to file an actuarial opinion. Those farm mutual insurance companies with less than \$750,000 in direct and assumed premiums are not required to file an actuarial opinion unless requested to do so by the commissioner.

Craig A. Gardner, associate commissioner of the financial program, 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, and there will be no effect on local employment or local economy. Enforcement and administration will be performed by existing staff of the Texas Department of Insurance.

Mr. Gardner 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 more effective regulation of farm mutual insurers. On the basis of cost per hour of labor, there is no anticipated difference in cost of compliance between small and large businesses. There is no anticipated economic cost to persons or entities to whom the section pertains because the section as proposed provides an exception to filing requirements under the Insurance Code, Article 1.11(c).

Comments on the proposal to be considered by the State Board of Insurance must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, P. O. Box 149104, MC # 113-2A, Austin, Texas 787134-9104. An additional copy of the comment should be submitted to Betty Patterson, Manager, Financial Analysis Unit, Mail Code 303-1A, Texas Department of Insurance, 333 Guadalupe, P.O. Box 149099, Austin, Texas 78714-9099. Request for a public hearing on this proposal should be submitted separately to the Chief Clerk's Office.

The new section is proposed under the Insurance Code, Articles 1.11 and 1.04, and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article 1.11 requires an actuarial opinion to be filed as part of the annual statement. Article 1.04(b) authorizes the State Board of Insurance to determine rules in accordance with the laws of this state for uniform application. Texas Civil Statutes, Article 6252-13a, §4 and §5 authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures, and prescribe the procedures for adoption of rules of a state administrative agency. The proposed section affects the filing of an actuarial opinion with the annual statement by farm mutual insurers under the Insurance Code, Article 1.11.

§7.31. Annual Statement Instructions for Farm Mutual Insurance Companies. Companies operating under the Insurance Code, Chapter 16, which file the annual statement form adopted by the board for farm mutual insurance companies and

that have less than \$750,000 total direct plus assumed written premiums during a calendar year, are not required to comply with the Insurance Code, Article 1.11(c), by filing an actuarial opinion with the annual statement. Farm mutual insurance companies writing less than \$750,000 direct plus assumed written premium may be required to file an actuarial opinion if requested by the commissioner.

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 July 22, 1992.

TRD-9210015

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

Earliest possible date of adoption: August 28, 1992

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

Subchapter D. Risk-Based Capital and Surplus

• 28 TAC §7.401

The State Board of Insurance of the Texas Department of Insurance proposes new §7.401, concerning the regulation of risk-based capital and surplus requirements for life insurance companies, fraternal benefit societies, mutual life insurance companies, and stipulated premium companies. New §7.401 is necessary to facilitate implementation of amendments to the Insurance Code, Articles 3.02 and 22.13, occasioned by passage of House Bill 2, 72nd Legislature, effective September 1, 1991. The new section provides a formula to determine the minimum risk-based capital and surplus for life, accident and health insurers.

Craig A. Gardner, associate commissioner for the financial program, 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, and there will be no effect on local employment or local economy. Enforcement and administration will be performed by existing staff of the Texas Department of Insurance.

Mr. Gardner 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 more effective regulation of life insurance companies and greater assurance of the financial solvency of insurers for the protection of policyholders, within statutory limitations. The cost of compliance for small businesses cannot be determined at this time. On the basis of cost per hour of labor, there is no anticipated difference in cost of compliance between small and large business. There is no anticipated economic cost to persons who are required to comply with the section as proposed other than the amounts that may be

required to be added to current capital and surplus to comply with these minimum standards.

Comments on the proposal to be considered by the State Board of Insurance must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, P.O. Box 149104, MC# 113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Matthew Spinn, Financial Analysis Unit, Mail Code 303-1A, Texas Department of Insurance, 333 Guadalupe, P.O. Box 149099, Austin, Texas 78714-9099. Request for a public hearing on this proposal should be submitted separately to the Chief Clerk Office.

The new section is proposed under the Insurance Code, Articles 3.02, 22.13, and 1.04 and Texas Civil Statutes, Article 6252-13a, §§4 and 5. The Insurance Code, Articles 3.02 and 22.13 provides that the Texas Department of Insurance may adopt rules to require an insurer to maintain capital and surplus levels in excess of the statutory minimum. Article 1.04(b) authorizes the State Board of Insurance to determine rules in accordance with the laws of this state for uniform application. Texas Civil Statutes, Article 6252-13a, §4 and §5 authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures, and prescribe the procedures for adoption of rules by a state administrative agency. The proposed section affects the regulation of the capital and surplus requirements of life, accident, and health insurers under the Insurance Code, Article 3.02 and 22.13.

§7.401. Minimum Risk-Based Capital and Surplus Requirements for Life, Accident and Health Insurers.

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

(1) Annual statement—The annual statement (association edition) to be used by life insurance companies, as promulgated by the National Association of Insurance Commissioners (NAIC) and as adopted by the State Board of Insurance under the this chapter or any other annual statement blank adopted by the State Board of Insurance or requested to be filed by the Texas Department of Insurance.

(2) Asset valuation reserve (AVR)—A reserve applied to the specific risk characteristics of all the invested asset categories except cash, policy loans, premium notes, and collateral loans, and income receivables. Asset valuation reserves shall be calculated as prescribed by the NAIC.

(3) Asset value risk—The amount of risk based on the quality and liquidity of the investment portfolio for an insurance company.

(4) Asset class—The classifica-

tion for investment grade or noninvestment grade preferred stocks and bonds as defined by the NAIC's Securities Valuation Office (SVO).

(5) Board—The State Board of Insurance of the State of Texas.

(6) Commissioner—The commissioner of insurance of the Texas Department of Insurance, appointed under the Insurance Code, Article 1.09.

(7) Interest maintenance reserve (IMR)—A reserve applied to realized capital gains and losses on short-term and long-term fixed investments. These gains and losses are from the disposal of investments as reported in Schedule D, Part 1—Bonds, or Schedule B—Mortgage Loans of the current annual statement. The reserve captures the realized capital gains and losses resulting from changes in the general level of interest rates as prescribed by the NAIC.

(b) Scope. This section applies to any insurer authorized to do business in Texas as an insurance company that writes or assumes life insurance, annuity contracts or liability on, or indemnifies any one person for, any risk under a health, accident, sickness, or hospitalization policy, or any combination of those policies, in an amount in excess of \$10,000 including: capital stock companies, mutual life companies, fraternal benefit societies, and stipulated premium companies.

(c) Purpose. The purpose of implementing a risk-based capital and surplus provision is to require a minimum level of capital and surplus to absorb the financial, underwriting, and investment risks assumed by an insurer. In determining the adequacy of its capital and surplus, an insurer will be allowed credit for asset valuation reserves (AVR) and interest maintenance reserves (IMR) as defined in this section.

(d) Application of Form RBC/LIFE or Form RBC/FRAT. In determining the minimum risk-based capital and surplus, the department will utilize the form entitled

Minimum Risk-Based Capital and Surplus Requirements for Life Insurance Companies and Stipulated Premium Companies Licensed in Texas, hereinafter referred to as Form RBC/LIFE, and the form entitled Minimum Risk-Based Capital and Surplus Requirements for Fraternal Benefit Societies Licensed in Texas, hereinafter referred to as Form RBC/FRAT. Each insurer may use such form as appropriate to its operation, but no insurer is required to file a completed form with the department, unless specifically requested to do so by the department.

(1) Insurers will be evaluated in accordance with the formulas in Form RBC/LIFE or Form RBC/FRAT to determine the adequacy of capital and surplus.

(2) Form RBC/LIFE and Form RBC/FRAT provide for the calculation of six formulas. For Formulas 1, 2, 3, 4, and 6a, each described line item is multiplied by the indicated factor to derive an enumeration. The enumerations are then summed to obtain the total for each formula.

(A) Formula 1 determines the asset value risk of invested assets based on the total quality of bonds, stocks, mortgage loans, real estate, collateral loans, certificate loans or liens, other invested assets, and separate accounts. For purposes of this formula, the factor for affiliated common stocks shall be 0.20 for 1992, 0.40 for 1993, 0.60 for 1994, 0.80 for 1995, and 1.00 for 1996 and years thereafter.

(B) Formula 2 determines the insurance interest rate risks associated with individual annuity products, group annuity products, and guaranteed investment contracts.

(C) Formula 3 determines the risk associated with net accident and health premiums, limited to a minimum of zero; individual life reserves; group reserves; and credit life reserves.

(D) Formula 4 determines the risk associated with reinsurance including paid and unpaid losses recoverable; life, accident and health reserve credits ceded; unauthorized reinsurance funds withheld; and unauthorized reinsurance letters of credit associated with reinsurance with affiliated and unaffiliated reinsurers.

(E) Formula 5 determines the total risk-based capital and surplus by the summation of Formulas 1, 2, 3, and 4.

(F) Formula 6a determines the minimum risk-based capital and surplus requirements for an insurer based on 75% of the total risk-based capital and surplus calculated in accordance with formula 5.

(G) Formula 6b determines the statutory limitations for required increases in capital and surplus. The minimum risk-based capital and surplus requirements shall be for the protection of policyholders, but may not, according to the dates specified below, require that the total admitted assets of a company exceed the following percentages of its total liabilities:

- (i) as of December 31, 1992, 103%
- (ii) as of December 31, 1993, 103%
- (iii) as of December 31, 1994, 103%
- (iv) as of December 31, 1995, 104%
- (v) as of December 31, 1996, 105%; and
- (vi) as of December 31, 1997, 106%.

(e) Form RBC/LIFE, to be utilized by the department in calculating risk-based capital and surplus requirements and described in subsection (d) of this section, contains the provisions set forth as follows:

FORM RBC/LIFE
MINIMUM RISK-BASED CAPITAL AND SURPLUS REQUIREMENTS
FOR LIFE INSURANCE COMPANIES AND STIPULATED PREMIUM COMPANIES
LICENSED IN TEXAS

<u>Description</u>	<u>Annual Statement Source</u>	<u>Amount</u>	<u>Factor</u>	<u>Amount</u>
(References are to 1992 Annual Statement Blank)				
(P = Page; C = Column; L = Line)				
<u>Formula #1 - Asset Value Risk</u>				
1a Bonds				
(i) Class 3	Sch D - Part 1A, C7, L7.3	_____	0.03	_____
(ii) Class 4	Sch D - Part 1A, C7, L7.4	_____	0.04	_____
(iii) Class 5	Sch D - Part 1A, C7, L7.5	_____	0.2	_____
(iv) Class 6	Sch D - Part 1A, C7, L7.6	_____	0.3	_____
1b Preferred Stocks				
(i) Class 3	P48, C1, L11	_____	0.05	_____
(ii) Class 4	P48, C1, L12	_____	0.1	_____
(iii) Class 5	P48, C1, L13	_____	0.2	_____
(iv) Class 6	P48, C1, L14	_____	0.2	_____
1c Mortgage Loans				
(i) Current	Sch B - Part 2, Sec 1, C5, L999999	_____	0.025	_____
(ii) Delinquent	Sch B - Part 2, Sec 2, C5, L999999	_____	0.05	_____
(iii) In process of foreclosure	Sch B - Part 2, Sec 3, C5, L999999	_____	0.2	_____
1d Common Stocks				
(i) Affiliated	Sch D - Summary By Country C2, L54	_____	0.20**	_____
** 0.20 for 1992, 0.40 for 1993, 0.60 for 1994, 0.80 for 1995, and 1.00 for 1996 and subsequent years thereafter				
(ii) Unaffiliated	Sch D - Summary By Country C2, L52	_____	0.25	_____

(i) Acquired in satisfaction of debt	P2, C1, L4.2	_____	0.15	_____
(ii) Occupied by company	P2, C1, L4.1	_____	0.1	_____
(iii) Investment real estate	P2, C1, L4.3	_____	0.1	_____
1f Other Invested Assets	P2, C1, L9	_____	0.2	_____
1g Aggregate Write-Ins for Invested Assets	P2, C1, L10	_____	0.2	_____
1h Collateral Loans	P2, C1, L7	_____	0.2	_____
1i Separate Accounts				
(i) Assets in separate accounts	P2, C1, L23	_____	0.1	_____
(ii) Liabilities in separate accounts	P3, C1, L27	_____	-0.1	_____
Total Formula #1	(Sum of 1a through 1i)			(1) _____

Formula #2 - Interest Rate Risk

2a Individual Annuity Reserves	P7, C4, L15, PART A	_____	0.03	_____
2b Group Annuity	P7, C8, L15, PART A	_____	0.04	_____
2c Guaranteed Interest Contracts	P7, C1, L8, PART B	_____	0.04	_____
Total Formula #2	(Sum of 2a through 2c)			(2) _____

Formula #3 - Business Risk

3a Net A&H Premiums (Limited to a Minimum of Zero)	P6, C9 + C10 + C11, L1	_____	0.25	_____
3b Individual Life Reserves	P7, C2 + C3 + C5, L15	_____	0.03	_____
3c Group Life Reserves	P7, C7, L15	_____	0.03	_____
3d Credit Life Reserves	P7, C6, L15	_____	0.03	_____
Total Formula #3	(Sum of 3a through 3d)			(3) _____

Formula #4 - Reinsurance Risk

4a Affiliated Paid and Unpaid Losses Recoverable	Sch S - Part 1, C3 + C4, L019999 + L049999	_____	0.01	_____
4b Non-Affiliated Paid and Unpaid	Sch S - Part 1, C3 + C4,			

Losses Recoverable	L029999 + L059999	_____	0.01	_____
4c Affiliated A&H Reserve Credits	Sch S - Part 2, C5 + C6, L019999	_____	0.01	_____
4d Non-Affiliated A&H Reserve Credits	Sch S - Part 2, C5 + C6, L029999	_____	0.01	_____
4e Affiliated Life Reserve Credits	Sch S - Part 3A, C5a, L019999	_____	0.01	_____
4f Non-Affiliated Life Reserve Credits	Sch S - Part 3A, C5a, L029999	_____	0.01	_____
4g Unauthorized Reinsurance Funds Withheld	Sch S - Part 3B, C5c, L079999	_____	0.01	_____
4h Unauthorized Reinsurance Letters of Credit	Sch S - Part 3B, C5a, L079999	_____	0.01	_____
Total Formula #4	(Sum of 4a through 4h)			(4) _____

Formula #5 - Total Risk-Based Capital and Surplus

5a Total Risk-Based Capital and Surplus	Sum Total of Formulas 1, 2, 3 and 4			(5) _____
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Formula #6 - Minimum Risk-Based Capital and Surplus Requirements

Note: In determining the adequacy of an insurer's capital and surplus, credit will be allowed for asset valuation reserves (AVR) and interest maintenance reserves (IMR) as defined in this section. The adequacy of an insurer's capital and surplus will therefore be determined by a comparison of minimum capital and surplus requirements as calculated under Formula #6 with the total of an insurer's capital, surplus, AVR, and IMR.

6a Calculated Minimum Risk-Based Capital and Surplus	Total Risk-Based Capital and Surplus ((5) of this form)	_____	0.75	(6a) _____
6b <u>STATUTORY LIMITATIONS:</u>				
(i) Assets	P2, C1, L24	_____		
(ii) Liabilities	P3, C1, L28	_____		
Total Formula (6b) ((i) / (ii) x 100)				(6b) _____

If Total Formula (6b) is equal to or greater than the following limitations for the annual statement year ended,

December 31, 1992	103%;
December 31, 1993	103%;
December 31, 1994	103%;
December 31, 1995	104%;
December 31, 1996	105%;
December 31, 1997	106%;

then no additional capital and surplus is required by this section. However, if a company is found to be in hazardous financial condition under the Insurance Code, Article 1.32, these limitations may not apply.

(f) Calculating risk-based capital and surplus requirements. Form RBC/FRAT, to be utilized by the department in calculating risk-based capital and surplus requirements and described in subsection (d) of this section, contains the provisions set forth as follows:

FORM RBC/FRAT

**MINIMUM RISK-BASED CAPITAL AND SURPLUS REQUIREMENTS
FOR FRATERNAL BENEFIT SOCIETIES LICENSED IN TEXAS**

<u>Description</u>	<u>Annual Statement Source</u>	<u>Amount</u>	<u>Factor</u>	<u>Amount</u>
(References are to 1992 Annual Statement Blank)				
(P = Page; C = Column; L = Line)				
<u>Formula #1 - Asset Value Risk</u>				
1a Bonds				
(i) Class 3	Sch D - Part 1A, C7, L7.3	_____	0.03	_____
(ii) Class 4	Sch D - Part 1A, C7, L7.4	_____	0.04	_____
(iii) Class 5	Sch D - Part 1A, C7, L7.5	_____	0.2	_____
(iv) Class 6	Sch D - Part 1A, C7, L7.6	_____	0.3	_____
1b Preferred Stocks				
(i) Class 3	P35B, C1, L5.3	_____	0.05	_____
(ii) Class 4	P35B, C1, L5.4	_____	0.1	_____
(iii) Class 5	P35B, C1, L5.5	_____	.2	_____
(iv) Class 6	P35B, C1, L5.6	_____	.2	_____
1c Mortgage Loans				
(i) Current	Sch B - Part 2, Sec 1, C5, L999999	_____	0.025	_____
(ii) Delinquent	Sch B - Part 2, Sec 2, C5, L999999	_____	0.05	_____
(iii) In process of foreclosure	Sch B - Part 2, Sec 3, C5, L999999	_____	0.2	_____
1d Common Stocks				
(i) Affiliated	Sch D - Summary By Country C2, L54	_____	0.20**	_____
** 0.20 for 1992, 0.40 for 1993, 0.60 for 1994, 0.80 for 1995, and 1.00 for 1996 and years thereafter				
(ii) Unaffiliated	Sch D - Summary By Country C2, L52	_____	0.25	_____

(i) Acquired in satisfaction of debt	P2, C1, L4.2	_____	0.15	_____
(ii) Occupied by company	P2, C1, L4.1	_____	0.1	_____
(iii) Investment real estate	P2, C1, L4.3	_____	0.1	_____
1f Other Invested Assets	P2, C1, L10	_____	0.2	_____
1g Aggregate Write-Ins for Invested Assets	P2, C1, L9	_____	0.2	_____
1h Collateral Loans	P2, C1, L6	_____	0.2	_____
Total Formula #1	(Sum of 1a through 1h)			(1) _____

Formula #2 - Interest Rate Risk

2a Annuity Reserves	Analysis of Increase in Reserves and Fund Deposits During the Year - Part A, C3, L15	_____	0.04	_____
2b Supplemental Contracts	Analysis of Increase in Reserves and Fund Deposits During the Year - Part A, C4, L15	_____	0.04	_____
Total Formula #2	(Sum of 2a and 2b)			(2) _____

Formula #3 - Business Risk

3a Net A&H Premiums (Limited to a Minimum of Zero)	Analysis of Operations by Lines of Business C3, L1	_____	0.25	_____
3b Life Reserves	Analysis of Increase in Reserves and Fund Deposits During the Year - Part A, C2, L15	_____	0.03	_____
Total Formula #3	(Sum of 3a and 3b)			(3) _____

Formula #4 - Reinsurance Risk

4a Paid and Unpaid Losses Recoverable	Sch S - Part 1, C3 + C4, L079999	_____	0.01	_____
4b A&H Reserve Credits	Sch S - Part 2, C4 + C5 L039999	_____	0.01	_____
4c Life Reserve Credits	Sch S - Part 3A, C5a, L039999	_____	0.01	_____
4d Unauthorized Reinsurance Funds Withheld	Sch S - Part 3B, C5c, L079999	_____	0.01	_____
4e Unauthorized Reinsurance Letters of Credit	Sch S - Part 3B, C5a, L079999	_____	0.01	_____
Total Formula #4	(Sum of 4a through 4e)			(4) _____

Formula #5 - Total Risk-Based Capital and Surplus

5a Total Risk-Based Capital and Surplus Sum Total of Formulas 1, 2, 3 and 4 (5) _____

Formula #6 - Minimum Risk-Based Capital and Surplus Requirements

Note: In determining the adequacy of an insurer's capital and surplus, credit will be allowed for asset valuation reserves (AVR) and interest maintenance reserves (IMR) as defined in this section. The adequacy of an insurer's capital and surplus will therefore be determined by a comparison of minimum capital and surplus requirements as calculated under Formula #6 with the total of an insurer's capital, surplus, AVR, and IMR.

6a Calculated Minimum Risk-Based Capital and Surplus Total Risk-Based Capital and Surplus ((5) of this form) _____ 0.75 (6a) _____

6b STATUTORY LIMITATIONS:

(i) Assets P2, C1, L21 _____

(ii) Liabilities P3, C1, L24 _____

Total Formula (6b) ((i) / (ii) x 100) (6b) _____

If Total Formula (6b) is equal to or greater than the following limitations for the annual statement year ended,

December 31, 1992	103%;
December 31, 1993	103%;
December 31, 1994	103%;
December 31, 1995	104%;
December 31, 1996	105%;
December 31, 1997	106%;

then no additional capital and surplus is required by this section. However, if a company is found to be in hazardous financial condition the Insurance Code, Article 1.32, these limitations may not apply.

(g) Calculation using forms. After the end of each calendar year, or more frequently if the commissioner deems it necessary, the formulas contained in Form RBC/LIFE or RBC/FRAT shall be used to calculate the minimum risk-based capital and surplus requirements based on specified financial information as filed with the NAIC or as available through the examination or financial analysis process. Financial information required to complete calculations in Form RBC/LIFE and RBC/FRAT shall include the same information for 1992 and subsequent years, regardless of changes in page, line, or column number of the association statement blanks adopted by the board or otherwise requested by the department.

(h) Actions of commissioner. The commissioner of insurance may take the following actions against an insurer who fails to maintain, at a minimum, capital and surplus equivalent to the amount calculated in accordance with Form RBC/LIFE or Form RBC/FRAT:

(1) place the insurer in supervision or conservation;

(2) determine the insurer to be in hazardous financial condition as provided by the Insurance Code, Article 1.32 and 28 TAC §8.3 (relating to Hazardous Conditions) regardless of percentage of assets in excess of liabilities;

(3) determine the insurer to be impaired as provided by the Insurance Code, Article 3.60; or

(4) subject the insurer to any other applicable sanctions provided by the Texas Insurance Code or Texas Administrative Code, Title 28.

(i) Limitations. In no event shall the requirements of this section reduce the amount of capital and surplus otherwise required by provisions of the Texas Insurance Code or the Texas Administrative Code, or by authority of the commissioner of insurance.

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 July 22, 1992.

TRD-9210016 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Earliest possible date of adoption: August 28, 1992

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

• 28 TAC §7.410

The State Board of Insurance of the Texas Department of Insurance proposes new §7.410, concerning the regulation of risk-based capital and surplus requirements for all insurers subject to the provisions of the Texas Insurance Code, Articles 2.02, 2.20, and 21.44. New §7.410 is necessary to facilitate implementation of amendments to the Insurance Code, Articles 2.02 and 2.20, occasioned by passage of House Bill 2, 72nd Legislature, effective September 1, 1991. The new section requires a minimum level of policyholders' surplus appropriate to the underwriting, financial, and investment risks of a property/casualty insurer. It also sets forth the formulas which the agency will use in calculating the risk-based capital and surplus of an insurer.

Craig A. Gardner, associate commissioner of the financial program, 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, and there will be no effect on local employment or local economy. Enforcement and administration will be performed by existing staff of the Texas Department of Insurance.

Mr. Gardner 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 more effective regulation of property and casualty insurers and greater assurance of the financial solvency of insurers for the protection of policyholders, within statutory limitations. The cost of compliance for small businesses cannot be determined at this time. On the basis of cost per hour of labor, there is no anticipated difference in cost of compliance between small and large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed other than the amounts that may be required to be added to current capital and surplus to comply with these minimum standards.

Comments on the proposal to be considered by the State Board of Insurance must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, P.O. Box 149104, MC# 113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Betty Patterson, Manager, Financial Analysis Unit, Mail Code 303-1A, Texas Department of Insurance, 333 Guadalupe, P.O. Box 149099, Austin, Texas 78714-9099. Request for a public hearing on this proposal should be submitted separately to the Chief Clerk's Office.

The new section is proposed under the Insurance Code, Articles 2.01, 2.02, 2.20, 1.10, and 1.04 and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Articles 2.01, 2.02, and 2.20 provides that the Texas Department of Insurance may adopt rules to require an insurer to maintain capital and surplus levels in excess of statutory levels to assure the financial solvency of insurers for the protection of policyholders. Article

1.10, §5 addresses the duties of the board when a company's surplus is impaired. Article 1.04(b) authorizes the State Board of Insurance to determine rules in accordance with the laws of this state for uniform application. Texas Civil Statutes, Article 6252-13a, §4 and §5 authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures, and prescribe the procedures for adoption of rules by a state administrative agency. The proposed section affects the regulation of the capital and surplus requirements of property and casualty insurers under the Insurance Code, Article 2.20.

§7.410. Minimum Risk-Based Capital and Surplus Requirements for Property/Casualty Insurers.

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

(1) Adjusted gross written premium—The total direct and assumed written premiums of any insurer:

(A) after adjustment for additional or return premiums; and

(B) after deduction of those premiums ceded to affiliates of the insurer. No deduction shall be made for premiums ceded to non-affiliates except as provided in subsection (d)(4)(B)(iv) of this section.

(2) Adjusted policyholders' surplus—The total capital and surplus of an insurer, reduced by the applicable percentage of investments in affiliate common and preferred stocks. The applicable percentages of affiliated stock investments shall be 20% for 1992, 40% for 1993, 60% for 1994, 80% for 1995, and 100% for 1996 and years thereafter.

(3) Annual statement—The annual statement (association edition) to be used by fire and casualty (property/casualty) insurance companies, as promulgated by the National Association of Insurance Commissioners (NAIC) and as adopted by the State Board of Insurance under 28 TAC Chapter 7 or any other annual statement blank adopted by the State Board of Insurance or requested to be filed by the Texas Department of Insurance.

(4) Best's Aggregates & Averages—The most recent edition by A.M. Best Company of the publication entitled Best's Aggregates & Averages Property-Casualty.

(5) Board—The State Board of Insurance of the State of Texas.

(6) Commissioner—The commissioner of insurance of the Texas Department of Insurance, appointed under the Insurance Code, Article 1.09.

(7) Industry average—The number calculated using consolidated industry totals for each annual statement amount referenced in Form RBC/PC(S) of this section. The consolidated industry totals shall be obtained from Best's Aggregates & Averages for all property-casualty organizations or, at such time as they may be available, from aggregate industry financial information determined by the NAIC.

(8) Mid/low investment quality bonds—All bonds designated as Class 3, 4, 5, or 6 by the Securities Valuation Office (SVO) of the NAIC and which should be reported as such on Schedule D—Part 1A of the association blank. Bonds that have not been valued by the SVO should be included in this category.

(9) Policyholders' surplus—The total capital and surplus of a stock property/casualty insurer and the aggregate surplus of a property/casualty mutual, Lloyd's, or reciprocal insurer.

(10) Property/casualty insurers—All insurance companies or other entities admitted to do business and authorized to write property or casualty insurance in this state other than farm mutual insurance companies, but including county mutual insurance companies, mutual insurance companies other than mutual life insurance companies, Lloyd's plan companies, and reciprocal or interinsurance exchanges.

(b) Scope. This section applies to all domestic, foreign, and alien companies subject to the provisions of the Insurance Code, Articles 2.02, 2.20, and 21.44.

(c) Purpose. The purpose of implementing this risk-based capital and surplus provision is to require a minimum level of policyholders' surplus appropriate to the underwriting, financial, and investment risks assumed by an insurer.

(d) Application of Form RBC/PC(S). In determining the minimum risk-based capital and surplus, the department will utilize the form entitled "Minimum Risk-Based Capital and Surplus Requirements for Capital Stock Property and Casualty Companies Licensed in Texas," hereinafter referred to as Form RBC/PC(S). Each insurer may use the form, but no insurer is required to file a com-

pleted form with the department, unless specifically requested to do so by the department.

(1) The minimum level of policyholders' surplus appropriate to the underwriting, financial, and investment risks assumed by a capital stock insurer subject to this section shall be calculated by the Texas Department of Insurance in accordance with Form RBC/PC(S).

(2) Form RBC/PC(S) provides for the calculation of three ratios and for the comparison of the insurer's results of those ratios with those of the industry averages as defined in this section.

(A) Ratio 1 determines the percentage of net written premium (limited to a minimum of zero) plus total liabilities (limited to a minimum of zero) to adjusted policyholders' surplus as defined in this section.

(B) Ratio 2 determines the percentage of adjusted gross written premium, as defined in this section, to net written premium.

(C) Ratio 3 determines the percentage of the total of stocks, mortgage loans, real estate, mid/low investment quality bonds, as defined in subsection (a)(8) of this section, collateral loans, and other invested assets to policyholders' surplus.

(3) Calculations in Form RBC/PC(S) determine required policyholders' surplus to the extent that the sum of the insurer's results for ratios 1, 2, and 3 exceed the sum of:

(A) twice the industry average, as defined in this section, for ratio 1, limited to a maximum of 14.00;

(B) the industry average, as defined in this section, for ratio 2; and

(C) the industry average, as defined in this section, for ratio 3;

(4) Exceptions to the calculations in Form RBC/PC(S) may apply in the following situations:

(A) Ratio 1. When loss reserve discounts, other than those implicit in tabular reserves for workers' compensation or long-term disability claims for which specific segregated investments have been established have reduced liabilities, such discounts shall be added back to total liabilities for purposes of the calculation. The commissioner shall have the authority to determine the appropriateness of, and may disapprove, discounts taken as regards tabular reserves for workers' compensation or long-term disability claims.

(B) Ratio 2.

(i) When net written premium is zero or negative, the company's ratio 2 will be the ratio of adjusted gross written premium, as defined in subsection (a)(1) of this section, to policyholders' surplus.

(ii) When net written premium is less than policyholders' surplus, the company's ratio 2 will be the ratio of adjusted gross written premium, as defined in subsection (a)(1) of this section, to policyholders' surplus.

(iii) When adjusted gross written premium, as defined in subsection (a)(1) of this section, is zero or negative, the company's ratio 2 will be zero.

(iv) When ratio 2 is critical to the determination of whether a company meets its minimum risk-based capital and surplus requirement, the ratio may be reduced, subject to the commissioner's approval, by reducing direct written premiums by the portion of crop insurance premiums 100% reinsured by the Federal Crop Insurance Corporation, by the portion of flood premiums 100% reinsured by the Federal Emergency Management Act, or by state pools to the extent that participation is mandatory.

(e) Form RBC/PC(S). The Form RBC/PC(S) is to be utilized by the department in calculating risk-based capital and surplus requirements and which is described in subsection (d) of this section, contains the provisions set forth as follows.

FORM RBC/PC(S)

MINIMUM RISK-BASED CAPITAL AND SURPLUS REQUIREMENTS

FOR CAPITAL STOCK PROPERTY AND CASUALTY COMPANIES LICENSED IN TEXAS

<u>Description</u>	<u>Annual Statement Source</u>	<u>Amount</u>
(References are to 1992 Annual Statement Blank) (P = Page; C = Column; L = Line)		
Ratio 1:		
1a Net Written Premium (limited to minimum of zero)	P8 - Part 2B, C4, L32	_____
1b Total Liabilities (limited to minimum of zero)	P3, C1, L22	_____
1c Policyholders' Surplus	P3, C1, L26	_____
1d Affiliated Stock Investments	P20, C1, L34 + L35	_____
1e Affiliated Stock Investments (1d multiplied by Applicable % (20% for 1992))		_____
1f Company Ratio 1: (1a + 1b) divided by (1c - 1e)		-----
1g Industry Average Ratio 1 (calculated from <u>Best's Aggregates & Averages</u> , deducting 100% of Affiliated Stock Investments (limited to maximum of 7.00))		-----
Ratio 2:		
2a Direct Written Premium	P8 - Part 2B, C1, L 32	_____
2b Assumed Written Premium	P8 - Part 2B, C2a + C2b, L32	_____
2c Reinsurance Ceded to Affiliates	P8 - Part 2B, C3a, L32	_____
2d Adjusted Gross Written Premium: (2a + 2b - 2c)		_____
2e Net Written Premium	P8 - Part 2B, C4, L32	_____
2f Company Ratio 2: (2d divided by 2e)		-----
2g Industry Average Ratio 2 (calculated from <u>Best's Aggregates & Averages</u>)		-----
Ratio 3:		
3a Class 3, 4, 5, & 6 Bonds (Include all bonds not valued by SVO)	P31, C7, L7.3 thru L7.6	_____
3b Preferred Stocks	P2, C1, L2.1	_____
3c Common Stocks	P2, C1, L2.2	_____
3d Mortgage Loans	P2, C1, L3	_____
3e Real Estate	P2, C1, L4.1 + L4.2	_____

3f	Collateral Loans	P2, C1, L5	_____
3g	Other Invested Assets	P2, C1, L7 + L8	_____
3h	Total of (3a through 3g)		_____
3i	Policyholders' Surplus	P3, C1, L26	_____
3j	Company Ratio 3: (3h divided by 3i)		-----
3k	Industry Average for Ratio 3 (calculated from <u>Best's Aggregates & Averages</u>)		-----

Calculation 4 - Minimum Risk-Based Capital and Surplus Requirement:

4a Maximum Allowable Company Ratio 1:

- (i) Industry Average for Ratio 1 (1g of this form) multiplied by 2, limited to maximum of 14.00 _____
- (ii) Plus: Industry Average for Ratio 2 (2g of this form) _____
- (iii) Plus: Industry Average for Ratio 3 (3k of this form) _____
- (iv) Less: Company Ratio 2 (2f of this form) _____
- (v) Less: Company Ratio 3 (3j of this form) _____
- (vi) Equals: Maximum Allowable Company Ratio 1 ((i) + (ii) + (iii) - (iv) - (v)) _____

NOTE: In some extreme cases the above calculation will produce a negative result for 4a(vi).
If this occurs, the company's capital and surplus is not sufficient to meet risk-based capital and surplus requirements, and other manual calculations are required to determine the amount of the deficiency.

4b Ratio of Adjusted Risk-Based Capital and Surplus to Adjusted Actual Capital and Surplus:

- (i) Max. Allow. Company Ratio 1 (4a(vi)) divided by Company Ratio 1 (1f of this form) _____

NOTE: In some extreme cases the calculation for Ratio 1 will produce a negative result.
If this occurs, the company's capital and surplus is not sufficient to meet risk-based capital and surplus requirements, and other manual calculations are required to determine the amount of the deficiency.

4c Adjusted Minimum Risk-Based Capital and Surplus:

- (i) Policyholders' Surplus (1c of this form); _____
- (ii) minus: affiliated stock investments multiplied by applicable % (1e of this form) _____
- (iii) divided by: the ratio of Adjusted Minimum Risk-Based Capital and Surplus to Adjusted Actual Capital and Surplus (4b(i) of this form) -----
- (iv) equals: Adjusted Minimum Risk-Based Capital and Surplus _____

4d Minimum Risk-Based Capital and Surplus Requirement:

Adjusted Minimum Risk-Based Capital and Surplus excluding
Affiliated Stock Investments (4c(iv))

Add: Affiliated Stock Investments multiplied by applicable %

(1e of this form)

Minimum Risk-Based Capital and Surplus Requirement

(f) Application of Form RBC/PC(NS). In determining the minimum risk-based surplus, the department will utilize the form entitled "Minimum Risk-Based Surplus Required for Property and Casualty Companies Licensed in Texas Not Required to Have Capital Stock," hereinafter referred to as Form RBC/PC(NS). Each insurer may use the form, but no insurer is required to file a completed form with the department, unless specifically requested to do so by the department.

(1) The minimum level of policyholders' surplus appropriate to the underwriting, financial, and investment risks assumed by an insurer subject to this section and not required by law to have capital stock shall be calculated by the Texas Department of Insurance in accordance with Form RBC/PC(NS). Financial information required by Form RBC/PC(NS) shall include the same information for 1992 and subsequent years, regardless of changes in page, line, or column numbers of the statement blanks adopted by the board or otherwise requested by the department.

(2) Form RBC/PC(NS) provides that the required minimum surplus for a company not required by law to have capital stock is the greater of:

(A) that required of the insurer immediately prior to September 30, 1991; or

(B) one-third of the company's net written premium for the preceding 12 months, after deducting lawfully ceded reinsurance and policy fees, if any, not ceded to reinsurers. The commissioner may adjust ceded reinsurance to the extent such reinsurance agreements fail to comply with the Texas Insurance Code or 28 TAC Chapter 7. Policy fees shall be considered as zero unless separate notification is made to the Financial Analysis Unit, Mail Code 303-1A, Texas Department of Insurance, William P. Hobby State Office Building, P.O. Box 149099, Austin, Texas 78714-9099, and until such time as they may be required to be reported on annual or interim financial statements filed with the NAIC. The commissioner shall further have

the authority to adjust policy fees for any amount that is subject to policy risks.

(3) When loss reserve discounts, other than those implicit in tabular reserves for workers' compensation or long-term disability claims for which specific segregated investments have been established, have reduced liabilities, the adequacy of an insurer's surplus shall be determined after reducing the insurer's surplus by such discounts and comparing the resulting reduced surplus with the minimum risk-based surplus requirements calculated in accordance with RBC/PC(NS). The commissioner shall have the authority to determine the appropriateness of, and may disapprove, discounts taken as regards tabular reserves for workers' compensation or long-term disability claims.

(g) Form RBC/PC(NS). The Form RBC/PC(NS) is to be utilized by the department in calculating risk-based surplus requirements and which is described in subsection (f) of this section, contains the provisions set forth as follows.

FORM RBC/PC(NS)

MINIMUM RISK-BASED SURPLUS REQUIREMENTS

FOR PROPERTY AND CASUALTY COMPANIES LICENSED IN TEXAS

NOT REQUIRED TO HAVE CAPITAL STOCK

- 1 Required Minimum Surplus as of September 1, 1991 _____
- 2 Calculation 1:

<u>Description</u>	<u>Annual Statement Source</u>	<u>Amount</u>
(References are to 1992 Annual Statement Blank)		
(P = Page; C = Column; L = Line)		
2a Net Written Premium	P8 - Part 2B, C4, L32	_____
2b Policy Fees included in 2a	(Not currently reported)	_____
2c Net Written Premium after Deducting Reinsurance and Policy Fees (2a - 2b)		_____
2d One-third of Net Written Premium after Deducting Reinsurance and Policy Fees (2c divided by 3)		_____

Minimum Risk-Based Surplus Requirement:

The larger of (1) of this form or (2d) of this form _____

(h) Calculation using forms. After the end of each calendar year, or more frequently if the commissioner deems it necessary, the formulas contained in Form RBC/PC(S) or Form RBC/PC(NS) shall be used to calculate minimum policyholders' surplus based on the specified financial information as filed with the NAIC or as available through the examination or financial analysis process. Financial information required to complete calculations in Form RBC/PC(S) or Form RBC/PC(NS) shall include the same information for 1992 and subsequent years, regardless of changes in page, line, or column number of the association statement blanks adopted by the board or otherwise requested by the department.

(i) Actions of commissioner. The commissioner may take the following ac-

tions against an insurer who fails to maintain, at a minimum, policyholders' surplus equivalent to the amount calculated in accordance with Form RBC/PC(S) or Form RBC/PC(NS):

- (1) order the insurer to cease writing new business;
- (2) place the insurer in supervision or conservation;
- (3) determine the insurer to be in hazardous financial condition as provided by the Insurance Code, Article 1.32 and §8.3 of this title (relating to Hazardous Conditions);
- (4) determine the insurer to be impaired as provided by the Insurance Code, Article 1.10, §5; or
- (5) apply any other sanctions provided by the Texas Insurance Code or 28 TAC.

(j) Limitations. In no event shall the requirements of this section reduce the amount of capital and surplus otherwise required by provisions of the Texas Insurance Code or Texas Administrative Code, or by authority of the commissioner of insurance.

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 July 22, 1992.

TRD-9210017 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Earliest possible date of adoption: August 28, 1992

For further information, please call: (512) 483-6327

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 15. Medicaid Eligibility

Subchapter A. General Information

The Texas Department of Human Services (DHS) proposes amendments to §§15.100, 15.435, 15.441, and 15.442, concerning definitions, liquid resources, real property, and personal property, in its Medicaid Eligibility chapter. The purpose of the amendments is to comply with federal regulations titled "Resources and Exclusions; Exclusion From Resources of Funds Set Aside for Burial and Burial Spaces."

Burton F. Raiford, 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 compliance with the federal regulations and consistent application of policy statewide. 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.

Questions about the content of the proposal may be directed to Judy Coker at (512) 450-3227 in DHS's Long Term Care Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-121, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

• 40 TAC §15.100

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

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

Burial space—A burial plot, grave site, crypt, mausoleum, urn, casket, niche, or other repository customarily and traditionally used for the deceased's bodily remains. The term also includes necessary and reasonable improvements

or additions to these spaces, including, but not limited to, vaults, headstones, markers, or plaques; burial containers; arrangements for opening and closing of grave site; and contracts for care and maintenance of the grave site. Contracts for care and maintenance are sometimes referred to as endowment or perpetual care. [A grave site, urn, casket, headstone, crypt, mausoleum, or other repository for the remains of the deceased.]

Deemor—A person (spouse or parent of a client) whose income or resources are available to the client.

Refund value—The amount that a client would receive upon revocation or liquidation of his burial contract. The refund value is considered an available resource.

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 July 20, 1992.

TRD-9209938

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

Proposed date of adoption: October 15, 1992

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

Subchapter D. Resources

• 40 TAC §§15.435, 15.441, 15.442

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

§15.435. Liquid Resources.

(a)-(g) (No change.)

(h) Prepaid burial contracts. The amount that a client would receive upon revocation or liquidation of his prepaid burial contract is considered an available resource.

(1) Burial space items can be excluded only when the contract has been paid in full; or the contract specifies that burial space items are paid before funeral service items, and the refund value equals or exceeds the value of burial space items specified in the contract. Otherwise, the amount paid toward the contract is treated as burial funds. If the contract has been paid in full or if the contract specifies that burial space items are paid first, burial space items must be separately itemized in the contract for the exclusion to apply.

(2) A refund value is considered an available resource.

(3) A refund penalty, often 10%, may be assessed for cancellation of a contract.

(4) If life insurance is used to fund a burial contract, the client owns a life insurance policy. The contract has no value and is merely an instrument that explains the burial arrangement. Because the client purchased insurance and not the actual funeral service or merchandise items that may be listed in a burial arrangement, the client does not own the funeral service or merchandise items. The burial space items are not excluded. Some burial arrangements funded with life insurance have the life insurance ownership or proceeds assigned to a funeral director or home or a trust-type instrument. These assignments may be either revocable or irrevocable.

(A) Revocable assignment.

If the assignment is revocable, the life insurance cash value is an accessible resource. Therefore, if the face value exceeds \$1,500, the cash value is a countable resource. The burial space items are not excluded, but the \$1,500 designated burial fund exclusion may apply.

(B) Irrevocable assignment.

If assignment of ownership is irrevocable, the life insurance is not a resource because it is no longer owned by the client. The prepaid burial contract also is not a resource because it has no value independent of the life insurance policy. If the terms of the contract itemize the burial space items that have been purchased, the value of those items is disregarded in determining the amount of the irrevocable arrangement that reduces the \$1,500 allowable burial fund exclusion. Irrevocable assignment of life insurance policy ownership to the funeral home or director or to a trust-type instrument is not a transfer of resources.

(i)-(m) (No change.)

§15.441. Real Property.

(a) (No change.)

(b) Other real property. The equity value of a client's ownership or part ownership in real property other than the home is a resource.

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

(6) burial spaces. A burial space or agreement that represents the purchase of a burial space held for the burial of the client, his spouse, or any other member of his immediate family is an excluded resource, regardless of value. The burial space or purchase agreement

must be owned by the client or by a person whose resources are deemed to the client. [The cost of opening and closing a grave and a burial space owned by a client, or by a person whose resources are deemed to the client, are excluded as long as the burial space is intended for the client, the client's spouse, or any member of the client's immediate family. Immediate family includes the client's minor and adult children, stepchildren, adopted children, brothers, sisters, parents, adoptive parents, and the spouses of those individuals. It does not include grandchildren or the client's spouse's immediate family. If a client owns a burial space that is not excludable, the department counts the equity value of the space as a resource. The department excludes from income and resource determinations the interest that is earned on the value of the agreement to purchase excluded burial spaces and that is left to accumulate.]

(A) If items that serve the same purpose, the Texas Department of Human Services (DHS) excludes only one per person.

(B) Immediate family includes the client's spouse, minor and adult children, stepchildren, adopted children, brothers, sisters, parents, adoptive parents, and the spouses of those individuals. It does not include grandchildren or the client's spouse's immediate family. If the relative's relationship to the client is by marriage only, the marriage must be in effect for the burial space exclusion to apply.

(C) If a client owns a burial space that is not excludable, DHS counts the equity value of the space as a resource.

(D) A burial space is "held for" a client when he or a deemor currently has:

(i) title to or possesses a burial space intended for the client's use, or

(ii) a contract with a funeral service company for specified burial spaces for the client's burial. The agreement must represent the client's current right to the use of the items at the amount shown.

(E) Until the purchase price is paid in full, a burial space is not "held for" a client under an installment sales contract or similar device if:

(i) the client does not currently own the space;

(ii) the client does not currently have the right to use the space; and

(iii) the seller is not currently obligated to provide the space.

(F) Until all payments are made on the contract, DHS considers the amounts already paid as burial funds.

(G) DHS excludes from income and resource determinations the interest that is earned on the value of the agreement to purchase excluded burial spaces and that is left to accumulate.

§15.442. Personal Property.

(a)-(d) (No change.)

(e) Burial funds.

(1) The Texas Department [department] of Human Services (DHS) excludes up to \$1,500 per person for funds that have been set aside and designated for the burial expenses of a client, his spouse, or a parent or parent's spouse whose resources are deemed to a minor child. To be excluded, the client's funds must be:

(A) liquid resources;

(B)[A] separately identifiable and not combined with other funds; and

(C)[B] specifically designated for burial expenses.

(2) Burial funds are [If a client designates a whole life policy (or policies) for burial expenses, he must designate the total cash value of each policy.]

(A) revocable burial contracts;

(B) revocable burial trusts;

(C) other revocable burial arrangements (including the value of certain installment sales contracts for burial spaces);

(D) cash;

(E) financial accounts; or

(F) other financial instruments with a definite cash value.

(3) These funds must be clearly designated for the client's or spouse's burial, cremation, or other burial-related expenses. Property other

than that listed in this subsection is not considered burial funds and may not be excluded under the burial funds provision. [For life insurance policies, the beneficiary (unless the beneficiary is a funeral home) must submit a statement that the cash value of the policy be used for the client's burial expenses.]

(A) The client or his responsible party meets requirements for excluding burial funds by:

(i) including a specific statement about the designation on a financial institution's records or on other ownership documents; or

(ii) providing a written statement or DHS's designation of burial funds form, that the resource is designated for burial expenses. The client or his responsible party must include in this statement the following information:

(I) type of resource set aside and designated;

(II) name of the financial institution or company;

(III) account or policy number;

(IV) amount of money in or value of the resource; and

(V) effective date of designation.

(B) An exclusion of burial funds does not continue from one period of eligibility to another across a period of ineligibility. If a client reapplies after he has been denied, and there is a break in coverage, DHS applies the burial fund exclusion as if it had never existed before. The exclusion is subject to the \$1,500 maximum and the provisions of this subsection.

(C) If a client designates a whole life policy (or policies) for burial expenses, he must designate the total cash value of each policy.

(4) For life insurance policies, the beneficiary (unless the beneficiary is a funeral home) must submit a statement that the cash value of the policy be used for the client's burial expenses.

(5) If the client's resources exceed program limits, DHS does not deny the case before determining if excess resources can be designated as burial funds and allowing the client the opportunity to

do so. A client may designate funds for burial at any time, not just at the point of ineligibility.

(6) DHS accepts the client's statement about the date he considered the funds set aside for burial, unless there is evidence of tampering, as specified in paragraphs (11) and (12) of this subsection. The effective date of designation can be retroactive to the month of application, or prior months, if all criteria for designation are met at that time.

(7) DHS excludes from income and resource determinations interest that accumulates and becomes a part of excludable burial funds or appreciation in the value of an excludable burial fund. Interest and/or appreciation on excluded burial funds is not included in determining if the \$1,500 maximum has been reached. Also excluded is the increased cash value of life insurance policies excluded under this policy, but payments made on a prepaid burial contract that increases the value of the contract are not excluded as appreciation.

(8) If the value of a resource increased because of client action, DHS determines the countable amount of the resource as specified following.

(A) If the value of a resource previously excluded under burial designation fund exclusion was less than or equal to the allowable \$1,500 at the time of designation, and the amount designated increased because of client action, such as additional payments, the increased amount which exceeds \$1,500 is a countable resource.

(B) If the amount designated exceeded \$1,500 and increased in value due to client action, such as making monthly payments on a prepaid burial contract, the amount in excess of \$1,500 is a countable resource.

(9) DHS excludes from income and resource determinations interest that accumulates and becomes part of excludable burial funds.

(10) If the amount designated for burial funds increased to over \$1,500 because of client action plus accrued interest, dividends, or inflation, DHS must first determine the date of the additional payment and the date interest or dividends were paid.

(11) If a client designates funds for burial, he is establishing that the funds will not be used for any other purpose. Therefore, if the designated funds are used for purposes other than the client's burial, they are really not designated for burial. The asset becomes a countable resource as of 12:01 a.m. of the first day of the month following the

month the funds were used for other purposes.

(12) DHS does not consider that a client tampered with burial funds if he:

(A) adds funds to a resource that is designated for burial; or

(B) converts the total amount in a designated burial fund to another designated burial fund.

[(f) Interest on burial funds. The department excludes from income and resource determinations interest that accumulates and becomes a part of excludable burial funds or appreciation in the value of an excludable prepaid burial contract. Also excluded is the increased cash value of life insurance policies excluded under this policy.

[(g) Burial contracts. Funds set aside for burial expenses include burial contracts and trusts, and any separately identifiable assets that are clearly designated for burial expenses.

[(1) For prepaid burial contracts, the department considers the refund value of the contract. The burial space exclusion described in subsection (a) of this section also applies to written agreements including, but not limited to, prepaid burial contracts or trusts, if the value of the burial space is separately identifiable from other items in the agreement that do not meet the definition of a burial space. The value of the other items is applied toward the \$1,500 exclusion of funds for burial expenses. If the value of the burial space cannot be separately identified from other items in the agreement, the entire value of the agreement is counted toward the \$1,500 exclusion.

[(2) The department reduces the amount of burial funds that can be excluded by the amount of funds held in irrevocable trusts, contracts, or other arrangements designated to meet burial expenses. These include irrevocable arrangements, owned by someone other than the client, for the client's burial expenses. Revocable arrangements owned by someone else are not part of the client's designated burial funds and are therefore not countable. The department also reduces the amount that can be excluded by the face value of any whole life insurance policy excluded in determining the individual's countable resources. Burial insurance policies, generally ranging from \$100 to \$200, were issued by some funeral homes before 1965. These policies are considered irrevocable burial funds and must be considered as part of the \$1,500 that can be excluded. If no excludable burial funds are available, these policies are not countable.

If the policies have been purchased by life insurance companies and converted to term life insurance, they are treated as any other term insurance.]

[(f) [(h)] Livestock. Livestock that is maintained as part of a trade or business or exclusively for home consumption is not counted; otherwise, the livestock's current market value is a countable resource.

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 July 20, 1992.

TRD-9209939

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

Proposed date of adoption: October 15, 1992

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

Chapter 48. Community Care for Aged and Disabled

Medicaid Waiver Program for Persons with Related Condi- tions

The Texas Department of Human Services (DHS) proposes new §§48.2110, 48.2208, 48.2415, and 48.2812, concerning provider requirements, in its Community Care for Aged and Disabled chapter. The purpose of the new sections is to comply with the Patient Self-Determination Act provisions of the Omnibus Budget Reconciliation Act (OBRA) of 1990.

Burton F. Raiford, 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 to allow individuals the right to make decisions about their medical treatment. 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.

Questions about the content of the proposal may be directed to Gerardo Cantu at (512) 450-3693 in DHS's Community Care Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-167, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

• 40 TAC §48.2110

The new section is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with

the authority to administer public and medical assistance programs.

§48.2110. Provider Requirement. Beginning December 1, 1991, program providers must comply with the Omnibus Budget Reconciliation Act of 1990, 42 United States Code, §1396a(w)(1), regarding advanced directives under state plans for medical assistance.

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 July 20, 1992.

TRD-9209940 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services.

Proposed date of adoption: October 1, 1992

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

◆ ◆ ◆
Home and Community-Based Services

◆ ◆ ◆
• 40 TAC §48.2208

The new section is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§48.2208. Other Provider Requirements. Beginning December 1, 1991, home and community-based services (HCS) providers must comply with requirements of the Omnibus Budget Reconciliation Act of 1990, 42 United States Code, §1396a(w)(1), regarding advanced directives under state plans for medical assistance.

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 July 20, 1992.

TRD-9209941 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: October 1, 1992

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

◆ ◆ ◆
Medicaid Home and Community-Based Waiver Services for Persons with Mental Retardation and/or Related Conditions Requiring Alternatives to Nursing Facility Placement

◆ ◆ ◆
• 40 TAC §48.2415

The new section is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§48.2415. Other Provider Requirements. Beginning December 1, 1991, home and community-based services-OBRA (HCS-O) providers must comply with requirements of the Omnibus Budget Reconciliation Act of 1990, 42 United States Code, §1396a(w)(1), regarding advanced directives under state plans for medical assistance.

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 July 20, 1992.

TRD-9209942 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: October 1, 1992

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

◆ ◆ ◆
Program for All-Inclusive Care for the Elderly (PACE)

◆ ◆ ◆
• 40 TAC §48.2812

The new section is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§48.2812. Provider Requirements. Beginning December 1, 1991, the agency providing waiver program services must meet requirements of the Omnibus Budget Reconciliation Act of 1990, 42 United States Code, §1396a(w)(1), regarding advanced directives under state plans for medical assistance.

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 July 20, 1992.

TRD-9209943 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: October 1, 1992

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

◆ ◆ ◆
Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure and Texas Register Act, Article 6252-13a, Texas Civil Statutes, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street,

Austin, Texas 78714-9104.)

The State Board of Insurance, at a public hearing scheduled for 9 a.m., September 9, 1992, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider a proposal filed on behalf of the Texas Logging Council of the Texas Forestry Association. The Texas Logging Council proposed revisions to the Texas Basic Manual of Rules, Classifications and Rates for Workers' Compensation and Employers' Liability with respect to the Workers' Compensation Classifications applicable to the logging industry. The amendment was proposed in a petition (Reference Number W-0792-46), filed by the Texas Logging Council on May 26, 1992. According to the Texas Logging Council's petition, these reclassifications outlined in their petition are necessary to aid in properly maintaining records on the

three distinct logging jobs in Texas today and to recognize the hazard differences of the various types of logging operations.

The proposed reclassifications are as follows.

Code 2719-Logging or Lumbering & Drivers-Mechanized Felling Exclusively would be established as a new workers' compensation classification to be used upon specific assignment of the Texas Department of Insurance to employers meeting specific criteria;

Code 6044-Logging or Lumbering and Drivers and Mechanized Felling and Delimiting including, Chipping Operations Exclusively would be available only upon specific assignment of the Texas Department of Insurance to employers meeting specific criteria;

Code 2702-Logging or Lumbering and Drivers continue to be used for employers that

perform logging operations with 100% chainsaw felling and delimiting of trees and therefore not eligible for Code 2719 or Code 6044.

A copy of the petition containing the full text of the proposed amendment to the rule is available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the petition, please contact Tammie Waites at (512) 463-6527, (refer to Reference Number W-0792-46).

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

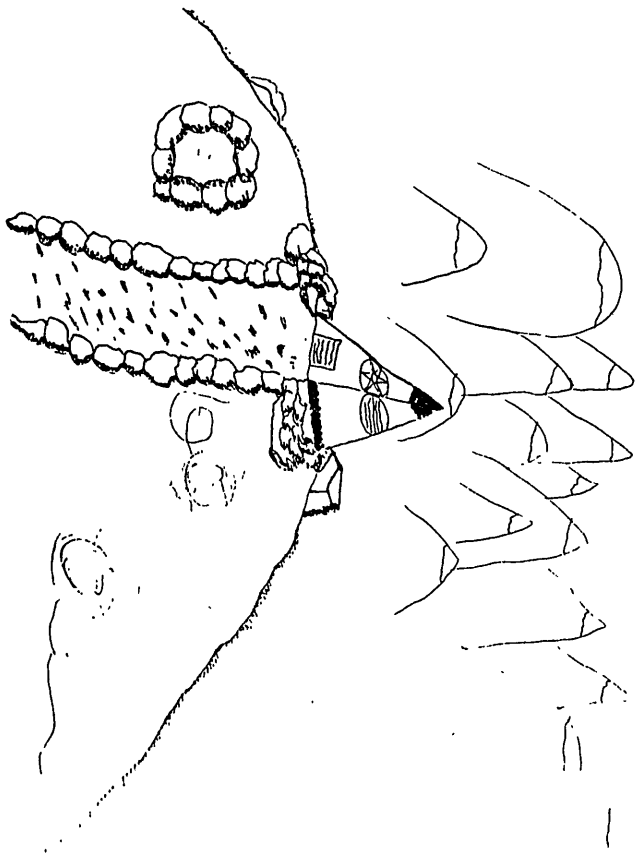
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 22, 1992.

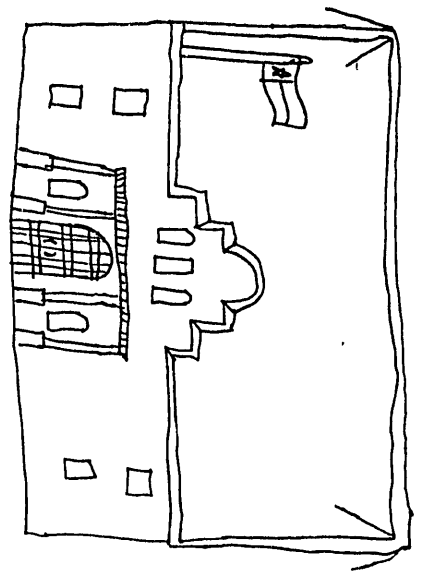
TRD-9210018 Linda K. von Quintus-Dorn
 Chief Clerk
 Texas Department of
 Insurance

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

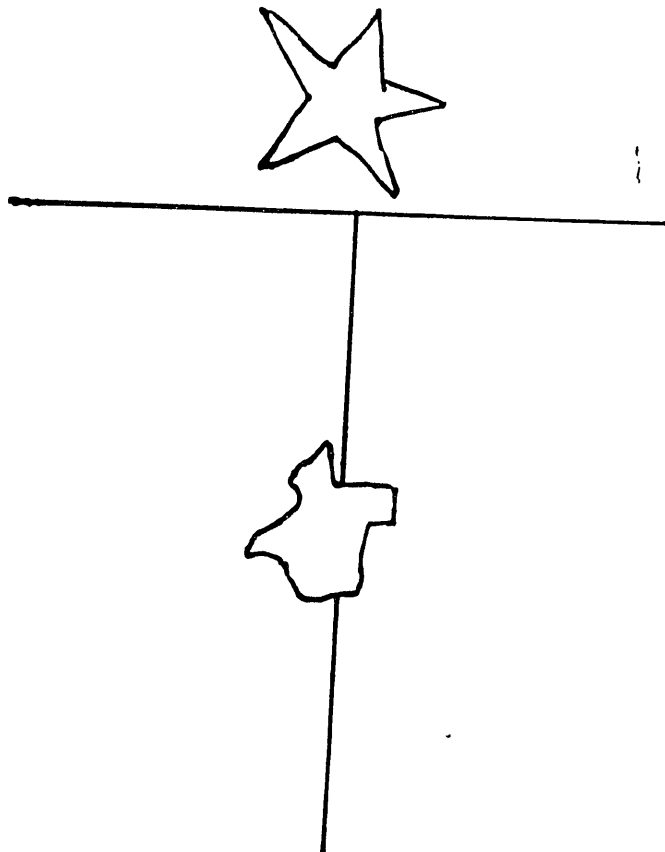
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Adopted Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

• 16 TAC §§3.5, 3.14, 3.69, 3.100

The Railroad Commission of Texas (commission) adopts amendments to §3.5, concerning applications to drill (Statewide Rule 5); §3.14, concerning well plugging (Statewide Rule 14); and §3.69, concerning definitions of terms commonly used in the industry (Statewide Rule 79). The commission also adopts new §3.100 (Statewide Rule 100), concerning plugging procedures for seismic holes and core holes. Section 3.100 is adopted with changes to the proposed text as published in the March 17, 1992, issue of the *Texas Register* (17 TexReg 1971). The amendments to §§3.5, 3.14, and 3.69 are adopted without changes and will not be republished. This new section and the amended sections will become effective September 1, 1992.

Section 3.100 defines terms used in the section and requires operators to plug all seismic holes and core holes, including those that do not penetrate the base of usable quality water. This section is proposed to prevent pollution of ground water from unplugged seismic holes or core holes. The amendments to §§3.5, 3.14, and 3.79 prevent conflicts between the requirements of those rules and §3.100.

In subsection (a)(4), the phrases "or depths" and "or isolated" were inserted to indicate that the Texas Water Commission may recommend that more than one depth requires protection or isolation from other depths. References throughout the section to "the protection depth" were changed to "any protection depth."

In subsection (f)(1), the requirement that the seismic hole be plugged before the drilling equipment is moved was changed by substituting the phrase "after the hole is loaded with explosives." There is no need to have the drilling rig present to plug the seismic hole.

Subsection (f)(1)(A) and (B) was combined to eliminate the distinction between those holes where water is encountered and those where no water is encountered. Whether water is encountered or not, the seismic holes need to be properly plugged. Instead of requiring a

solid bentonite plug from total depth to a depth within six feet of the surface for holes described in subsection (f)(1)(A) of the proposed section, the commission believes that a hole will be adequately plugged if it is filled with drill cuttings, bentonite or a mixture of bentonite and drill cuttings from total depth to within 16 feet of the surface and topped by a 10-foot bentonite plug.

Many commenters expressed concern that the Texas Water Commission would not promptly provide the letter listing the protection depth as required by the section. Several commenters suggested that the Texas Water Commission make available a means of identifying protection depths, perhaps on maps, without the need for a written request. However, industry representatives did acknowledge that they had no prior experience with such requests from the Texas Water Commission. Other Railroad Commission permits also require a letter stating the protection depth, and the Texas Water Commission responds promptly to requests for protection depth letters. The commission relies on its experience with past requests and declines any change in the requirement for a protection depth letter.

There was general support for the use of bentonite as a plugging material. The commission believes that bentonite provides an adequate seal and, therefore, affords sufficient protection to ground water zones. The section as adopted allows bentonite as a plugging material, but the bentonite must meet the geophysical industry standard for bentonite established by the International Association of Geophysical Contractors.

Alternative methods of plugging seismic holes or the use of a bentonite slurry were suggested by some commenters. The commission believes that §100(f)(1)(B) permits the use of alternative materials or procedures when the operator has satisfactorily demonstrated that the alternatives will protect usable quality water. Some commenters noted that seismic holes in coastal marshes may be difficult to plug because the holes may collapse and plug themselves. When circumstances require different procedures, §100(f)(1)(B) allows the necessary flexibility.

One commenter noted that there is no need to have the drilling rig on location to plug the seismic hole as seismic holes are plugged after loading and before setting off the explosive to ensure that the force of the shot is directed downward. The commission agrees and has changed the requirement that seismic holes be plugged before the drilling equipment is moved.

A number of commenters were concerned that the costs associated with plugging holes

with bentonite from total depth to within six feet of the surface would far exceed the amount estimated in the proposed section. The commission has addressed this concern by changing the section to allow for plugging with drill cuttings, bentonite, or a mixture of drill cuttings and bentonite topped by a 10-foot bentonite plug, which will reduce the costs of plugging while ensuring adequate protection of groundwater.

The following commenters stated their support for the use of bentonite and caps with the name of the operator: International Association of Geophysical Contractors and Oryx Energy Company. On the basis of increased compliance costs, the following commenters expressed their dissatisfaction with the section as proposed: International Association of Geophysical Contractors, Shell Western E & P Inc., Redfern Consultant Agency, Inc., West Central Texas Oil & Gas Association, and Maxus Exploration Company.

The new section and amendments are adopted under the Texas Natural Resources Code, Title 3, §91.101 and §141.012, which authorizes the commission to adopt rules to prevent pollution of surface or subsurface water in the state; and §89.011, which requires an operator of a well to properly plug the well in accordance with the commission's rules that are in effect at the time of plugging.

§3.100. Seismic Holes and Core Holes.

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

(1) Seismic hole—Any hole drilled for the purpose of securing geophysical information to be used in the exploration or development of oil, gas, geothermal, or other mineral resources.

(2) Core hole—Any hole drilled for the purpose of securing geological information to be used in the exploration or development of oil, gas, geothermal, or other mineral resources, except coal or uranium. For regulations governing coal exploratory wells, see §11.221 of this title (relating to State Program Regulations) (Statewide Rules 816.331-816.333), and for regulations governing uranium exploratory wells, see §§11.136-11.139 of this title (relating to Notice of Exploration Involving Hole Drilling, Permit, Reclamation and Plugging Requirements, and Reporting).

(3) Project area—The geographic area in which an exploratory survey involving one or more seismic holes or core holes is carried out.

(4) Protection depth—Depth or depths at which usable quality water must be protected or isolated, as determined by the Texas Water Commission.

(5) Operator—The person who contracts for the services of a seismic crew or core hole drilling contractor or, if the seismic survey or core hole testing is not performed on a contract basis, but is performed by an exploration and production company or by a geophysical contractor for speculative purposes, the person who drills the seismic holes or core holes.

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

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

(c) Exemption. Any seismic hole or core hole drilled to a depth of 20 feet or less is not subject to the requirements of this section.

(d) Determination of protection depth. Before drilling any seismic hole or core hole in a project area, an operator shall obtain a letter from the Texas Water Commission stating the protection depth or depths in the project area.

(e) Drilling permits.

(1) Holes that do not penetrate any protection depth. A seismic hole or core hole that does not penetrate any protection depth does not require a drilling permit.

(2) Holes that penetrate any protection depth. A seismic hole or core hole that penetrates any protection depth requires a drilling permit to satisfy the requirements for exploratory wells described in §3.5(g) of this title (relating to Application to Drill, Deepen, Reenter, or Plug Back) (Statewide Rule 5).

(f) Plugging.

(1) Holes that do not penetrate any protection depth. A seismic hole or core hole that does not penetrate any protection depth must be plugged in accordance with subparagraph (A) or (B) of this paragraph. Seismic holes must be plugged after the hole is loaded with explosives. Core holes must be plugged immediately after completion of coring the hole.

(A) The operator shall adequately plug the hole by filling it from total

depth to a depth of no more than 16 feet below the surface with drill cuttings and/or bentonite. Immediately above the drill cuttings and/or bentonite, the operator shall place a bentonite plug no less than 10 feet in length. A plastic cap imprinted with the name of the operator shall be set above the bentonite plug no less than three feet below the surface. The remainder of the hole shall be filled with drill cuttings or native soil. All precautions should be taken to prevent bentonite from bridging over.

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

(2) Holes that penetrate any protection depth. A seismic hole or core hole that penetrates any protection depth must be plugged in accordance with the requirements of §3.14 of this title (relating to Plugging) (Statewide Rule 14) and a plastic cap imprinted with the name of the operator shall be set in the hole no less than three feet below the surface.

(g) Physical requirements for bentonite plugging materials. Bentonite materials used to plug seismic or core holes shall be derived from naturally occurring, untreated, high swelling sodium bentonite that is composed of at least 85 montmorillonite clay and that meets the International Association of Geophysical Contractors (IAGC) recommended geophysical industry standard dated January 24, 1992, for the physical characteristics of bentonite used in seismic shot hole plugging.

(h) Reporting.

(1) Holes that do not penetrate any protection depth. Within 30 days of plugging the last hole in the project area, the operator shall submit a letter to the commission stating that each seismic hole or core hole in the project area has been plugged in accordance with subsection (f)(1) of this section. The letter must include the plugging date for each hole and the name and address of the operator. A plat of the project area identifying seismic or core hole locations, counties, survey lines, scale, and northerly direction must be attached. A United States Geological Survey map of the project area with hole locations marked will satisfy the plat requirement. In addition, a letter from the Texas Water Commission stating the protection depth or depths must be attached.

(2) Holes that penetrate any protection depth. For any seismic or core hole that penetrates any protection depth, a plugging record shall be filed in accordance with §3.14 of this title.

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 July 21, 1992.

TRD-9210030

Lena Guerrero
Chairman
Railroad Commission of
Texas

Effective date: September 1, 1992

Proposal publication date: March 17, 1992

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

Chapter 5. Transportation Division

Subchapter B. Operating Certificates, Permits, and Licenses

• 16 TAC §5.28

The Railroad Commission of Texas adopts an amendment to §5.28, concerning specialized motor carriers of petroleum products, without changes to the proposed text as published in the May 12, 1992, issue of the *Texas Register* (17 TexReg 3443).

The amendment is adopted to further clarify the scope of authority held by carriers of petroleum products, and to avoid delay in processing requests to add to the commission's list.

The amendment will add four commodities (generally liquid fertilizers) to the list of petroleum products in subsection (a). The amendment will also delete subsection (c), which directs a carrier to file a rate application to establish whether a commodity is a liquid derivative of a hydrocarbon and a petroleum product.

Four comments were received regarding the proposed rule. The comments were all in support of the proposed changes, but all suggested additional changes: other commodities to be added to the list, a general definition in lieu of a list, or a clarification that the list is not exhaustive.

Commenting in favor of the proposed amendment was the Texas Tank Truck Carriers Association.

The agency disagrees with the comments received that requested additional action. Addition of other commodities would require notice to the public not given in this proceeding. Parties wishing to add to the current list should petition the commission for another rulemaking. Similarly, the replacement of the list with a definition of "petroleum products" would require additional notice to the public. Finally, while it is true that the current list is not (nor does it purport to be) exhaustive, further clarification of that fact does not appear to be necessary.

The amendment is adopted under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b §4(a)(1), which authorizes the commission to prescribe all rules and regulations necessary for the governing of public service rendered by motor carriers.

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 July 20, 1992.

TRD-9210006

Lena Guerrero
Chairman
Railroad Commission of
Texas

Effective date: August 11, 1992

Proposal publication date: May 12, 1992

For further information, please call: (512) 463-7094

Subchapter R. Registration of Interstate Operating Authority

• 16 TAC §§5.331-5.355

The Railroad Commission of Texas adopts the repeal of §§5.331-5.355, without changes to the proposed text as published in the May 29, 1992, issue of the *Texas Register* (17 TexReg 3883).

The commission wants to make its rules regarding registration of interstate operations more efficient.

The repeal of §§5.331-5.355, and the adoption of new sections, will consolidate the rules for all interstate operations, whether or not regulated by the Interstate Commerce Commission, in one subchapter.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the commission to regulate motor carriers in all matters.

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 July 20, 1992.

TRD-9210009

Lena Guerrero
Chairman
Railroad Commission of
Texas

Effective date: August 11, 1992

Proposal publication date: May 29, 1992

For further information, please call: (512) 463-7094

• 16 TAC §§5.331-5.349

The Railroad Commission of Texas adopts new §§5.331-5.349, comprising Subchapter R, without changes to the proposed text as published in the May 29, 1992, issue of the *Texas Register* (17 TexReg 3884). The new sections pertain to registration of interstate operations.

The commission wants to make its rules regarding registration of interstate operations more efficient.

The new sections will change a registration fee and will consolidate the rules for all interstate operations, whether or not regulated by the Interstate Commerce Commission, in one subchapter.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, and the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, both of which authorize the commission to regulate motor carriers in all matters, 49 United States Code, §11506, which authorizes state regulatory agencies to establish registration requirements for interstate motor carriers, and Texas Civil Statutes, Article 6701d §139(c), which authorize the commission to require a filing fee for proof of insurance.

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 July 20, 1992.

TRD-9210008

Lena Guerrero
Chairman
Railroad Commission of
Texas

Effective date: August 11, 1992

Proposal publication date: May 29, 1992

For further information, please call: (512) 463-7094

Subchapter T. Registration of Operations Exempt from ICC Regulation

• 16 TAC §§5.371-5.393

The Railroad Commission of Texas adopts the repeal of §§5.371-5.393, comprising Subchapter T, without changes to the proposed text as published in the May 29, 1992, issue of the *Texas Register* (17 TexReg 3886).

The commission wants to make its rules regarding registration of interstate operations more efficient.

The repeal of §§5.371-5.393, and the adoption of new sections, will consolidate the rules for all interstate operations, whether or not regulated by the Interstate Commerce Commission, in one subchapter.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the commission to regulate motor carriers in all matters.

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 July 21, 1992.

TRD-9210011

Lena Guerrero
Chairman
Railroad Commission of
Texas

Effective date: August 11, 1992

Proposal publication date: May 29, 1992

For further information, please call: (512) 463-7094

Subchapter W. Registration of Commercial Carriers

• 16 TAC §5.507

The Railroad Commission of Texas adopts an amendment to §5.507, with changes to the proposed text as published in the May 29, 1992, issue of the *Texas Register* (17 TexReg 3887).

The amendment is adopted to ensure compliance by international commercial carriers with the commission's insurance requirements. For clarity, the second sentence of subsection (c)(2), relating to a filing fee of \$10 and a registration fee of \$10, will be deleted. The \$20 fee for each international registration stamp includes the filing and registration fees, so the reference to such fees is not necessary. Also, a provision prohibiting insurance agents or their designees from charging more than \$20 for each international registration stamp sold to international commercial carriers was added.

The amendment allows agents selling international registration stamps to take stamps on consignment from the commission and subsequently to remit collected fees to the commission upon sale of the stamps. The amendment sets forth the requirements to be met and procedures to be followed by agents selling the stamps.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 91b, §4(a) (13), which require all commercial motor vehicles to be registered with the commission and to pay a registration fee of \$10 per vehicle, and under Texas Civil Statutes, Article 6701d, §139(c), which require all commercial motor vehicles to file proof of insurance with the commission and to pay a fee for those filings. The amendment is also adopted under House Bill 1, First Called Session, 72nd Legislature, which directed the commission to raise the fee for international stamps to \$20 per stamp.

§5.507. Temporary Registration of International Commercial Carriers.

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

(c) Procedures.

(1) In lieu of maintaining registration as a commercial motor vehicle in accordance with §§5.501-5.506 of this title (relating to Definitions; Applications for Registration of Commercial Motor Vehicles; Liability Insurance for Commercial Carriers; Cab Cards; Identification Decals; Cancellation of Registration; and Implementation), and upon providing proof of insurance at or above the levels required by the commission, an international commercial carrier shall purchase, for each commercial motor vehicle operating in this state, an international registration stamp.

The fee for each stamp is \$20, and will be good for one trip of up to seven days in duration.

(2) An insurance agent that has filed evidence of a master liability policy under which temporary insurance policies are issued shall obtain international registration stamps from the commission. Stamps shall be ordered on a form approved by the director. Once the evidence of the master insurance policy is filed with the commission, an identification number will be assigned to that policy and to all stamps issued under that policy. Stamps may be obtained, in lots of five stamps per lot, either:

(A) by purchase, at a cost of \$20 per stamp; or

(B) by consignment from the commission, with monies collected upon the sale of the stamps to be remitted to the commission as provided in paragraph (7) of this subsection.

(3) Only insurance agents who are duly licensed in this state and who maintain evidence of master insurance policies on file with the commission will be permitted to obtain and sell international registration stamps on consignment from the commission.

(4) For each international registration stamp sold by the insurance agent, the insurance agent or his designee shall record the name of the company to whom the stamp is sold, the vehicle identification number, the year, the make, and the license number of the vehicle for which the stamp is sold, the date of sale, the port of entry, the trip policy number, and the effective period of the temporary insurance policy. This information shall be recorded on a form approved by the director. Neither an insurance agent nor its designee shall charge an international commercial carrier more than \$20 for each international registration stamp.

(5) The insurance agent shall file the information recorded for each international registration stamp sold with the commission no later than 30 days after the sale of the stamp by the insurance agent.

(6) The international registration stamp shall be affixed to the temporary insurance policy, and shall be carried in the vehicle at all times the commercial vehicle is operated in this state.

(7) An insurance agent selling international registration stamps on consignment shall file a surety bond in a form approved by the director, issued by a corporate surety authorized to do business in this state. The bond shall ensure the return of all unused stamps, and shall ensure full and

timely remittance of monies collected on the sale of stamps. The amount of the bond shall be at least two times the total value of stamps held on consignment at any given time. Written notice of renewal of a bond shall be given to the commission before international stamps may be taken on consignment from the commission.

(8) An insurance agent selling international registration stamps on consignment shall remit to the commission the fee collected from the sale of a stamp no later than 30 days from the date the stamp is sold. If an insurance agent fails to remit monies to the commission by the due date, the commission shall discontinue issuing stamps to the agent on consignment, and may seek to enforce payment of the surety bond. No stamp shall be held on consignment for a period exceeding one year from its date of consignment by the commission.

(9) Within 90 days of the sale of a stamp to a carrier, the agent shall submit to the commission evidence of the sale, including the information required by paragraph (4) of this subsection.

(10) In the event of a design change on international registration stamps, the commission shall redeem all unused stamps sold by the commission, and shall exchange for new stamps all unused stamps consigned by the commission. If a design change occurs, agents holding unused stamps shall send the stamps to the commission for refund or exchange within 60 days after the effective date of the design change. Stamps not returned within the 60-day period are void.

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 July 20, 1992.

TRD-9210007

Lena Guerrero
Chairman
Railroad Commission of
Texas

Effective date: August 11, 1992

Proposal publication date: May 29, 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 §23.21

The Public Utility Commission of Texas adopts an amendment to §23.21, concerning cost of service, with changes to the proposed text as published in the February 18, 1992, issue of the *Texas Register* (17 TexReg 1376). Section 23.21 as amended establishes

a contingency factor of 10% to be used in establishing an electric utility's cost of service and requires a utility to provide a copy of the decommissioning study and any redeterminations to the Commission's Electric Division.

El Paso Electric Company and Texas Utilities Electric Company supported the establishment of a 25% contingency factor. El Paso Electric Company commented that the rule would allow for a consistent basis for establishing decommissioning costs between the Texas utilities; reduce litigation costs; provide the ability to adjust the contingency factor on a timely basis in the future; and, provide consistency with FERC and other state's findings on decommissioning. Texas Utilities comments were similar to those of El Paso Electric Company. It added that the rule would reduce rate case expenses, shorten the hearings, and remove one item from the issues that the commission must decide.

Central Power and Light Company, the City of El Paso, the Office of Public Counsel, and Texas Industrial Energy Consumers commented that the commission should not establish a 25% contingency factor. Instead, the comments stated that the factor is a factual issue that should be determined on a case-by-case basis. Office of Public Counsel, the City of El Paso, and Texas Industrial Energy Consumers stated that the industry is relatively inexperienced in decommissioning nuclear units, and as experience is gathered the cost estimates should become better. The Office of Public Utility Counsel and the City of El Paso also stated that the estimates are dependent on such factors as the type of reactor that is in place, whether the estimate is site specific, and the method of decommissioning the unit. Texas Industrial Energy Consumers and the City of El Paso commented that the rule currently provides for a decommissioning study with the best available estimates be filed every five years. Because such studies provide the best available estimate for decommissioning, a contingency factor is unnecessary. CPL states that in order to assure adequate funding the contingency factor should be determined on a case-by-case basis.

The commission disagrees with these comments. The definition and purpose of the contingency factor is different from that assumed by these comments. The majority of the utilities in Texas use Thomas La Guardia to perform the decommissioning studies for the nuclear units. He consistently recommends a 25% contingency factor, and justifies the contingency factor on the basis of force majeure type occurrences. He cites situations such as adverse weather causing delay in the shipment of waste; tool breakdown; material delivery delays due to adverse weather, material shortages, production problems, shipping damage; scheduling of manpower due to illness, variability of individual productivity, work stoppages, or strikes; material removal delays; and, changing regulatory requirements.

These type of occurrences do not change depending on the type of unit involved, the type of study performed, or the method of decommissioning anticipated to be used. Furthermore, experience gained in the industry over time will not impact these types of fac-

tors. The commission strongly believes that it is of utmost importance that the funds to decommission the nuclear plants that are regulated by the commission be in place at the time that decommissioning begins. Force majeure occurrences should be anticipated and funds established to pay for such occurrences.

OPC also states that there is no unanimity to the amount of the contingency factor. Different amounts have been argued in dockets by various parties and the commission has established differing levels. TIEC also states that the rule would be inconsistent with a recent rate case ruling.

The commission agrees that it has established differing levels for the contingency factor for the different utilities under its jurisdiction. The commission also agrees with El Paso Electric Company's comments that the rule will provide needed consistency between the utilities regulated by the commission. As previously stated, the factor is included in rates in anticipation of force majeure type occurrences. Such occurrences do not change drastically between differing utilities. Therefore, the commission believes that it is in the public interest to establish the factor through rule.

OPC also states that the rule will not reduce litigation costs and that there must be a factual basis in the rulemaking for the establishment of a 25% contingency factor. TIEC states that the current ratepayers are shouldering the burden of high capital costs for the nuclear plants with which future ratepayers will not have to be burdened. Therefore, future ratepayers should have to shoulder future burdens of decommissioning if the funds are found to be lacking because the burden of ratebase is less.

The commission believes that the establishment of the factor through rule will reduce litigation costs. After a review of the rate cases that utilities have filed since the request for inclusion of the nuclear power plants in rates, the issue has been litigated in every docket. Many times the contingency factor was the sole issue litigated on the decommissioning study. While large amounts of time have not been spent on the subject, there has been time and effort spent by the parties, general counsel, the hearings division, and the commissioners on the issue. Because the issue is basically the same for each docket, it is more efficient to establish a definitive level.

OPC's comment that there is no factual basis in this proceeding for establishing a contingency factor is without merit. Rulemaking is a legislative function that does not require an evidentiary record as in the case of a contested proceeding. The rulemaking procedure is one that allows the commission to establish policy and use all information before it in the process. The commission has considered a number of dockets in which the level of the contingency factor was an issue, so it is familiar with the issue.

As to the level of the contingency factor, the commission believes at this time that 10% is the appropriate level. This level will provide

more security in having adequate funds for decommissioning. The money contributed cannot be spent by the utilities, but instead is maintained in external, irrevocable trusts. Based on current information, the commission believes 10% to be the appropriate level.

The City of El Paso comments that the finding of no financial impact on small businesses or local government is incorrect. The commission disagrees with this comment. As stated by the city in its comments, the fiscal impact of the contingency factor is upon the ratepayers. Therefore, the fiscal impact on small businesses and local government is as ratepayers. The statement in a preamble is that there is no fiscal impacts on such entities in enforcing and administering the rule. Thus, the statement within the preamble is not incorrect.

The Central Power and Light Company, El Paso Electric Company, Office of Public Counsel, and Texas Utilities Company commented that the proposed rule should be amended to provide copies of the nuclear decommissioning studies or redeterminations to the commission's electric division. This portion of the rule has been adopted as published.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16(a), which authorize the Public Utility Commission of Texas to make and enforce rules that are reasonably required in the exercise of its powers and jurisdiction.

§23.21. Cost of Service.

(a) (No change.)

(b) Allowable expenses. Only those expenses which are reasonable and necessary to provide service to the public shall be included in allowable expenses. In computing a utility's allowable expenses, only the utility's historical test year expenses as adjusted for known and measurable changes will be considered, except as provided for in any section of these rules dealing with fuel expenses.

(1) Components of allowable expense. Allowable expenses, to the extent they are reasonable and necessary, and subject to the rules in this section, may include, but are not limited to, the following general categories:

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

(F) Nuclear decommissioning expense. The following restrictions shall apply to the inclusion of nuclear decommissioning costs that are placed in a utility's cost of service.

(i) An electric utility owning or leasing an interest in a nuclear-fueled generating unit shall include its cost of nuclear decommissioning in its cost of service. Funds collected from ratepayers for decommissioning shall be deposited

monthly in irrevocable trusts external to the utility, in accordance with §23.59 of this title (relating to Nuclear Decommissioning Trusts). All funds held in short-term investments must bear interest. The level of the annual cost of decommissioning for ratemaking purposes will be determined in each rate case based on an allowance for contingencies of 10 percent of the cost of decommissioning, the most current information reasonably available regarding the cost of decommissioning, the balance of funds in the decommissioning trust, anticipated escalation rates, the anticipated return on the funds in the decommissioning trust, and other relevant factors. The annual amount for the cost of decommissioning determined pursuant to the preceding sentence shall be expressly included in the cost of service established by the commission's order.

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

(iv) An electric utility shall perform, or cause to be performed, a study of the decommissioning costs of each nuclear generating unit that it owns or in which it leases an interest. A study or a redetermination of the previous study shall be performed at least every five-years. The study or redetermination should consider the most current information reasonably available on the cost of decommissioning. A copy of the study or redetermination shall be filed with the commission and copies provided to the commission's general counsel and electric division and the Office of Public Utility Counsel. A utility's most recent decommissioning study or redeterminations shall be filed with the commission within 30 days of the effective date of this subsection. The five year requirement for a new study or redetermination shall begin from the date of the last study or redetermination.

(G) (No change.)

(2) (No change.)

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

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

Issued in Austin, Texas, on July 20, 1992.

TRD-9209957

Marta Graytok
Commissioner
Public Utility Commission

Effective date: August 10, 1992

Proposal publication date: February 18, 1992

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

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Customer Service and Protection

• 16 TAC §23.59

The Public Utility Commission of Texas adopts an amendment to §23.59, concerning nuclear decommissioning trusts, with changes to the proposed text as published in February 18, 1992, issue of the *Texas Register* (17 TexReg 1376). Section 23.59 as amended clarifies that a utility does not need to seek a good cause exception for funds deemed by the Internal Revenue Service to be non-qualified. In addition the amendment requires a utility to provide a copy of the trust agreement, investment management agreement, and/or any amendments to the commission's general counsel and operations review division and the Office of Public Counsel.

Central Power and Light Company and Texas Utilities Company commented that the proposed rule should be adopted as published. El Paso Electric Company did not oppose the requirement to provide copies of the nuclear decommissioning trust or investment management agreements and amendments to General Counsel, the Operations Review Division, and Office of Public Counsel. El Paso Electric Company commented that the published language concerning the good cause exception was not clear and should be altered. The commission agrees with El Paso Electric Company's comment and has used the suggested language from the comment.

Office of Public Counsel commented that the rule should not be amended to clarify that good cause waivers are not required for investments in non-qualified trusts of the portion of decommissioning funds determined by the Internal Revenue Service to be "non-qualified" under the Internal Revenue Code, §468A. OPC believes that the proposed rule allows for investment in "non-qualified" investments with "qualified" funds.

The commission rejects this comment. The current rule provides for the investment of "qualified" funds in "non-qualified" investments upon a good cause exception is not necessary for those funds that the Internal Revenue Service find to not be qualified. The utilities must still request and receive a good cause exception for investments made in non-qualified assets with qualified assets with qualified funds.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16(c), which authorize the Public Utility Commission of Texas to make and enforce rules that are reasonably required in the exercise of its powers and jurisdiction.

§23.59. Nuclear Decommissioning Trusts.

(a) (No change.)

(b) Agreements between the electric utility and the institutional trustee or investment manager.

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

(3) A copy of the trust agreement, any investment management agreement, and any amendments shall be filed with the commission within 30 days after the execution or modification of the agreement, and copies provided to the commission's general counsel and operations review division and the Office of Public Utility Counsel. All previously executed agreements and amendments must be filed within 30 days of the effective date of this section.

(4) (No change.)

(c) Trust investments.

(1) Decommissioning trust agreements shall comply with all requirements of the Nuclear Regulatory Commission. The utility may invest the decommissioning funds by means of a qualified or unqualified nuclear decommissioning trusts; however, the utility shall, to the extent permitted by the Internal Revenue Service, invest its decommissioning funds in "qualified" nuclear decommissioning trusts, in accordance with the Internal Revenue Service Code, §468A. The utility may request from the commission a good cause waiver to invest funds in non-qualified trusts for those amounts determined by the Internal Revenue Service to be eligible for investment in "qualified" funds. The utility need not request a good cause waiver for amounts deposited into a "non-qualified" trust which are in excess of amounts that the Internal Revenue Service determines to be eligible for investment in "qualified" trusts.

(2) (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 July 20, 1992.

TRD-9209958

John M. Renfrow
Secretary
Public Utility Commission
of Texas

Effective date: August 10, 1992

Proposal publication date: February 18, 1992

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

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 523. Continuing Professional Education

Mandatory Continuing Education (CE) Program

• 22 TAC §523.63

The Texas State Board of Public Accountancy adopts the repeal of §523.63, concerning mandatory CE attendance, without changes to the proposed text as published in the May 29, 1992, issue of the *Texas Register* (17 TexReg 3893).

The rule is being repealed in order to simplify the adoption process for its replacement.

The rule is being repealed and replaced by another rule with the same identification number.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to mandatory continuing education requirements.

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 July 17, 1992.

TRD-9209931

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: August 10, 1992

Proposal publication date: May 29, 1992

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

The Texas State Board of Public Accountancy adopts new §523.63, concerning mandatory CE attendance, with changes to the proposed text as published in the May 29, 1992, issue of the *Texas Register* (17 TexReg 3893).

The rule is necessary in order to ensure that CPAs are technically competent.

The rule establishes the requirements for continuing professional education.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to mandatory continuing education requirements.

§523.63. Mandatory CE Attendance.

(a) A licensee shall complete at least 120 hours of continuing professional education every three years. The individual shall complete at least 20 hours of continuing professional education each year.

(1) An initial licensee, one who is paying the license fee during the first biennium, shall be exempt from the requirement for the biennial period during which the applicant was first licensed.

(2) A former licensee whose certificate or registration shall have been revoked for failure to pay the license fee and who makes application for reinstatement, shall pay the required fees and penalties and shall accrue the minimum CE credit hours missed.

(3) The board will consider granting an exemption from the continuing education requirement on a case-by-case basis if:

(A) a licensee completes and forwards to the board a sworn affidavit indicating retirement status during the biennium for which the exemption is requested. A licensee who has been granted this exemption and who reenters the work force shall be required to accrue continuing education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(B) a licensee completes and forwards to the board a sworn affidavit indicating no association with accounting work. The affidavit shall include, as a minimum, a brief description of the duties performed, job title, and verification by the licensee's immediate supervisor.

(i) For purposes of this section, the term "association with accounting work" shall include the following:

(I) working or supervising work performed in the areas of financial accounting and reporting; tax compliance, planning or advice; management advisory services; data processing; treasury, finance, or audit;

(II) representing to the public, including an employer, that the licensee is a CPA or public accountant in connection with the sale of any services or products, including such designation on a business card, letterhead, promotional brochure, advertisement, or office ;

(III) offering testimony in a court of law purporting to have expertise in accounting and reporting, auditing, tax, or management advisory services;

(IV) for purposes of making a determination as to whether the licensee fits one of the categories listed in this subclause and subclauses (I)-(III) of this clause, the questions shall be resolved in favor of inclusion of the work as "association with accounting work."

(ii) A licensee who has been granted this exemption and who loses the exemption shall accrue continuing education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(C) a licensee not residing in Texas, and submits a sworn statement to the board that the continuing education requirement of the resident jurisdiction have been met;

(D) a licensee shows reasons of health, certified by a medical doctor, that prevent compliance with the CE requirement. A licensee must petition the board for the exemption and provide documentation that clearly establishes the period of disability and the resulting physical limitations;

(E) a licensee is on extended active military duty, does not practice public accountancy during the biennium for which the exemption was granted, and files a copy of orders to active military duty with the board; or

(F) a licensee shows reason which prevents compliance, that is acceptable to the board.

(4) A licensee who has been granted the retired or disabled status under §515.8 of this title (relating to Retirement Status or Permanent Disability) is not required to accrue continuing 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 July 17, 1992.

TRD-9209932 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: August 10, 1992

Proposal publication date: May 29, 1992

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

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 65. Wildlife

Subchapter N. Early Season Migratory

• 31 TAC §§65.311-65.316

The Texas Parks and Wildlife Department in a regularly scheduled public hearing on July 9, 1992, adopted the repeal of §§65.311-65.316, concerning the Early Season Migratory Game Bird Proclamation, without changes to the proposed text as published in the June 2, 1992, issue of the *Texas Register* (17 TexReg 3969). The repeal will permit the adoption of new rules which will clarify and organize appropriate text into a new section entitled general rules.

The repeal was necessary to permit adoption of new rules that more clearly reflect changing populations of migratory game birds.

The repeal will permit adoption of new rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Parks and Wildlife Code, Chapter 64, Subchapter C, which provide the Texas Parks and Wildlife Department with the authority to regulate seasons, means, methods, and devices for taking and possessing migratory game bird wildlife resources.

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 July 20, 1992.

TRD-9209973 Paul M. Shinkawa
Director, Legal Services
Texas Parks and Wildlife
Department

Effective date: September 1, 1992

Proposal publication date: June 2, 1992

For further information, please call: 1 (800) 792-1112, ext. 4433 or (512) 389-4433

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• 31 TAC §§65.311-65.317

The Texas Parks and Wildlife Commission, in a regularly scheduled public hearing on July 9, 1992, adopted new §§65.311-65.317, concerning the Early Season Migratory Game Bird Proclamation. Sections 65.312, 65.314, and 65.317 are adopted with changes to the proposed text as published in the June 2, 1992, issue of the *Texas Register* (17 TexReg 3969). Sections 65.311, 65.313, 65.315, and 65.316 are adopted without changes and will not be republished.

The first three changes at §65.312 clarify text concerning pen-reared mallards, valid collection or depredation permits, and full-feathered wing requirements. The fourth change at §65.314 reinstates the special exception required by the United States Fish and Wildlife Service which limits the daily bag to no more than two white-winged doves during the regular dove season in Cameron, Hidalgo, Starr, and Willacy Counties. The fifth and sixth changes also at §65.314 moves the opening date of the September teal season from the third Saturday in September to the second Saturday and changes the shooting hours for teal from sunrise to sunset to one-half hour before sunrise to sunset as permitted by federal regulations. The final change at §65.317 corrects a reference concerning the Texas Parks and Wildlife Code, "§64.027" to read "§64.026."

The commission also repealed last year's rules, 31 TAC §§63.311-65.316, relating to the Early Season Migratory Game Bird Proclamation.

Fluctuations in migratory game bird populations, changes in federal frameworks, and the need to provide better hunting opportunities for sportsmen require the Parks and Wildlife Commission to adopt new regulations for 1992-1993 hunting seasons. The United States Fish and Wildlife Service reinstated the nine-day September teal season (with shooting hours beginning at one-half hour before sunrise), reinstated the four-day white-wing season, and permitted changes in dove zone boundaries. The service did not agree to a Texas request to increase the number of whitewings permitted in the daily bag in the Lower Rio Grande Valley during the regular dove season.

The rules allow the taking of early season migratory game bird wildlife resources consistent with their populations.

A total of 27 comments, including 15 letters, eight telephone calls, three public hearing comments, and one personal contact have been received by the department prior to the public hearing concerning Early Season Migratory Game Bird Hunting Regulations. Of the varied comments received two wanted the dove season to open earlier in the South Zone, three wanted the dove season to open on Saturday, three wanted half-day dove hunting, six supported reestablishment of a September Teal Season, and two were opposed to the required use of steel shot for waterfowl hunting. All comments are available for public inspection at the Texas Parks and Wildlife Department Headquarters Complex, 4200 Smith School Road, Austin, Texas 78744, 1 800 792-1112, extension 4778 or (512) 389-4778.

Two public comments were made during the public hearing. A state representative from La Grange and a hunting guide from Eagle Lake supported the department's proposals but requested that the teal season begin on the second Saturday rather than the third Saturday of September.

The Texas Parks and Wildlife Commission disagreed with some recommendations made by the public because they were judged not to be consistent with recognized wildlife man-

agement principles and regulations as published in the federal frameworks. Use of steel shot to take waterfowl is a United States Fish and Wildlife Service nationwide requirement. The commission as a result of public comments adopted a nine-day teal season that begins on the second Saturday rather than the third Saturday in September. The rules as adopted are based upon scientific studies and investigations which monitor trends in relative abundance and permit optimum harvest of the wildlife resources.

The new sections are adopted under the Texas Parks and Wildlife Code, Chapter 64, Subchapter C, which provides the Texas Parks and Wildlife Commission with authority to regulate seasons, means, methods, and devices for taking and possessing migratory game bird wildlife resources.

§65.312. Means, Methods, and Special Requirements.

(a) The following means and methods are lawful, subject to control of subsection (b) of this section, in the taking of migratory game birds:

(1) dogs, artificial decoys, manual or mouth-operated birdcalls, longbow and arrows, legal shotguns as defined in §65.311 of this title (relating to Definitions), and by means of falconry;

(2) positions in the open or from a blind or other place of concealment except a sinkbox on land, or water;

(3) taking from floating craft (other than a sinkbox) which is beached, at anchor, or tied within or alongside a fixed hunting blind, except that rails may be taken from a craft unaffected at the time of taking by any source of propulsion other than paddle, oars, or pole;

(4) taking on or over unbaited areas;

(5) taking by the use of power boats, sailboats, or other craft when used solely as a means of picking up dead or injured birds; and

(6) paraplegics and single or double amputees of the legs may take migratory game birds from any stationary motor vehicle or motor-driven land conveyance.

(b) The following means and methods are unlawful in the taking of migratory game birds:

(1) trap, snare, net, crossbow, fish hook, poison, drug, explosive, or stupefying substance;

(2) any firearm other than a legal shotgun as defined in §65.311 of this title (relating to Definitions);

(3) from, or by means, aid, or use of sinkbox, motor-driven conveyance, motor vehicle, or aircraft of any kind;

(4) from or by means of a sailboat or floating device having a motor attached unless such device is beached, resting at anchor, or fastened within or immediately alongside a fixed hunting blind, or is used solely as a means of picking up dead or injured birds;

(5) by the use of recorded or electrically amplified birdcalls or sounds;

(6) by the use of live birds as decoys;

(7) by the means or aid of motor-driven land, water, or air conveyance or sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory game bird; and

(8) by the aid of baiting, or on or over any baited area, or where migratory birds are lured, attracted, or enticed by bait. However, nothing in this subsection shall prohibit:

(A) the taking of migratory game birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

(B) the taking of migratory game birds, except waterfowl, on or over lands where shelled, shucked, or unshucked corn, wheat, or other grain, salt, or other feed that has been distributed or scattered as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes; provided that manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown.

(c) No person may possess shotgun shells containing any shot material, or loose shot for muzzleloading firearms, other than nontoxic shot as defined in §65.311 of this title (relating to Definitions) while taking or killing or attempting to take or kill waterfowl (ducks, geese, brant, and coots) anywhere in Texas, including the shooting of privately owned banded pen-reared mallards on licensed private bird hunting areas.

(d) Nothing in these rules applies to persons taking birds pursuant to valid collection or depredation permits when operating within the terms of such permits.

(e) The following identification requirements must be met.

(1) One fully feathered wing must remain attached to all migratory game

birds while being transported by any means from Mexico into Texas and must remain attached until reaching the final destination as defined in §65.311 of this title (relating to Definitions).

(2) One fully feathered wing must remain attached on dressed migratory game birds while being transported between the place where taken and the final destination as defined in §65.311 of this title (relating to Definitions).

(3) Paragraph (2) of this subsection does not apply to doves except in the South Zone and the special white-winged dove area.

(f) Tagging requirements.

(1) No person shall give, put, or leave any migratory game birds at any place or in the custody of another person or receive, possess, or give to another any freshly killed migratory game bird as a gift, except at the personal abode of the donor or donee, unless the birds are tagged by the hunter with the following information:

(A) the hunter's signature;

(B) the hunter's address;

(C) the total number of each species of birds involved; and

(D) the dates such birds were killed.

(2) Tagging is required if the transfer or receipt of birds constitutes a number of birds in excess of the daily bag or possession limit, the birds are being transported by another person for the hunter, or if the birds have been left for cleaning, storage (including temporary storage), shipment, or taxidermy services.

(g) Importation of migratory game birds.

(1) Documentation required. It is unlawful to import or possess migratory game birds taken in another state or country unless a verification document accompanies the wildlife. Documentation is required if:

(A) the species is required to be tagged in this state;

(B) the number possessed exceeds the possession limit in this state; or

(C) the size limits do not comply with size limits in this state.

(2) Legible document required. A separate legible document is required for each species and must contain:

(A) license number from the state or country where the wildlife was taken;

(B) number and species of wildlife taken;

(C) location wildlife was taken (nearest town, county, parish, name of area such as landowner's name, public hunting area name); and

(D) signature, printed name, address, and telephone number of person verifying where wildlife was taken.

(3) Substitute for verification document. In lieu of this verification document, a statement from the United States Customs Officer at the port of entry showing that the wildlife was brought from Mexico is required.

(4) Defense to prosecution. It is a defense to prosecution if the person receiving the wildlife resource does not exceed any possession limit or possess a wildlife resource or a part of a wildlife resource that is required to be tagged if the wildlife resource or part of the wildlife resource is tagged.

§65.314. *Open Seasons, Shooting Hours, Bag and Possession Limits.*

(a) Rails. Statewide:

(1) dates: September 1-November 9;

(2) shooting hours: from one-half hour before sunrise to sunset;

(3) daily bag and possession limits;

(A) large rails (king and clapper rails): 15 in the aggregate per day; 30 in the aggregate in possession;

(B) small rails (sora and Virginia rails): 25 in the aggregate per day; 25 in the aggregate in possession;

(b) Mourning doves.

(1) North zone: That portion of the state north of a line beginning at the International Bridge south of Fort Hancock; thence north along FM 1088 to State Highway 20; thence west along State Highway 20 to State Highway 148; thence north along State Highway 148 to Interstate Highway 10 at Fort Hancock; thence east along Interstate Highway 10 to Interstate Highway 20; thence northeast along Interstate Highway 20 to Interstate Highway 30 at Fort Worth; thence northeast along Interstate

Highway 30 to the Texas-Arkansas state line:

(A) dates: September 1-November 9;

(B) shooting hours: from one-half hour before sunrise to sunset;

(C) daily bag and possession limits: 12 mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate including no more than six white-winged doves and two white-tipped doves per day; 24 mourning doves, white-winged doves, and white-tipped doves in the aggregate including no more than 12 white-winged doves and four white-tipped doves in possession.

(2) Central zone: That portion of the state between the north zone and the south zone.

(A) dates: September 1-October 31 and beginning on the first Saturday in January for nine consecutive days;

(B) shooting hours: from one-half hour before sunrise to sunset;

(C) daily bag and possession limits: 12 mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate including no more than six white-winged doves and two white-tipped doves per day; 24 mourning doves, white-winged doves, and white-tipped doves in the aggregate including no more than 12 white-winged doves and four white-tipped doves in possession.

(3) South zone: That portion of the state south of a line beginning at the International Toll Bridge in Del Rio; thence northeast along U.S. Highway 277 Spur to U.S. Highway 90 in Del Rio; thence east along U.S. Highway 90 to Interstate Highway 10 at San Antonio; thence east along Interstate Highway 10 to the Texas-Louisiana State Line:

(A) dates: beginning on September 20, for 54 consecutive days (50 consecutive days in the special white-winged dove area) and beginning on the first Saturday in January, for 16 consecutive days;

(B) shooting hours: from one-half hour before sunrise to sunset;

(C) daily bag and possession limits: 12 mourning doves, white-winged doves, and white-tipped (white-fronted)

doves in the aggregate including no more than six white-winged doves and two white-tipped doves per day; 24 mourning doves, white-winged doves, and white-tipped doves in the aggregate including no more than 12 white-winged doves and four white-tipped doves in possession;

(D) special exception: in Cameron, Hidalgo, Starr and Willacy Counties, the bag and possession limits are: 12 mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate including no more than two white-winged doves and two white-tipped doves per day; 24 mourning doves, white-winged doves, and white-tipped doves in the aggregate including no more than four white-winged doves and four white-tipped doves in possession.

(c) White-winged doves. Special white-winged dove area: That portion of the state south and west of a line beginning at the International Toll Bridge in Del Rio; thence northeast along U.S. Highway 277 Spur to U.S. Highway 90 in Del Rio; thence east along U.S. Highway 90 to United States Highway 83 at Uvalde; thence south along U.S. Highway 83 to State Highway 44; thence east along State Highway 44 to State Highway 16 at Freer; thence south along State Highway 16 to State Highway 285 at Hebronville; thence east along State Highway 285 to FM 1017; thence southeast along FM 1017 to State Highway 186 at Linn; thence east along State Highway 186 to the Mansfield Channel at Port Mansfield; thence east along the Mansfield Channel to the Gulf of Mexico.

(1) dates: the first two complete weekends (both Saturday and Sunday) in September;

(2) shooting hours: noon to sunset;

(3) daily bag and possession limits: 10 white-winged doves, mourning doves, and white-tipped (white-fronted) doves, in the aggregate to include no more than five mourning doves and two white-tipped doves per day; 20 white-winged doves, mourning doves, and white-tipped doves in the aggregate to include no more than 10 mourning doves and four white-tipped doves in possession.

(d) Gallinules (Moorhen or common gallinule and purple gallinule), statewide:

(1) dates: September 1-November 9;

(2) shooting hours: from one-half hour before sunrise to sunset;

(3) daily bag and possession limits: 15 in the aggregate per day; 30 in the aggregate in possession.

(e) teal ducks (blue-winged, green-winged, and cinnamon), statewide:

(1) dates: nine consecutive days beginning on the second Saturday in September.

(2) shooting hours: from one-half hour before sunrise to sunset;

(3) daily bag and possession limits: four in the aggregate per day; eight in the aggregate in possession.

(f) Red-billed pigeons, and band-tailed pigeons. No open season.

(g) Shorebirds. No open season.

§65.317. *Penalties.* The penalty provided by law for violation of these sections is prescribed by the Texas Parks and Wildlife Code, §64.027.

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 July 20, 1992.

TRD-9209974

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

Effective date: September 1, 1992

Proposal publication date: June 2, 1992

For further information, please call: 1 (800) 792-1112, ext. 4433 or (512) 389-4433

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 1. Organization and Administration

Electronic Funds Transfers

• 37 TAC §1.241

The Texas Department of Public Safety adopts new §1.241, concerning electronic funds transfers of payments, with changes to the proposed text as published in the June 9, 1992, issue of the *Texas Register* (17 TexReg 4159).

The adoption of this section will decrease the amount of time for banking activities with the Texas Department of Public Safety. The \$25,000 amount shown in the first sentence of the section was submitted in error on the proposed rule. A correction of error was published in the June 19, 1992, issue of the *Texas Register* (17 TexReg 4479) correcting the amount to \$250,000.

In compliance with the Texas Government Code, §404.095(c), this section will require electronic funds transfers for payments to the Texas Department of Public Safety which are in excess of \$10,000. Electronic funds transfers for payments will increase the speed of depositing revenue from large remitters to the state, increase interest income for the state, and provide a safer and more efficient method for remitters to transmit what they owe to the state.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Government Code, §404.095(c) and §411.006(4), which provides the Texas Department of Public Safety with the authority to adopt a rule to require funds transfers for payments to the department in excess of \$10,000 or more due in a category of payments if the person paid the agency a total of \$250,000 or more in that category of payments. The director has the authority to adopt rules, subject to commission approval, considered necessary for the control of the department.

§1.241. *Electronic Funds Transfer for Payments.* If during the preceding year a person paid the department a total of \$250,000 or more in a category of payments and the department reasonably anticipates that during the current state fiscal year the person will pay the department \$250,000 or more in a category of payments, the person is required to transfer payment amounts of \$10,000 or more due the department by one or more of the means of electronic funds transfer approved by the state treasurer.

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 July 13, 1992.

TRD-9209990

James R. Wilson
Director
Texas Department of
Public Safety

Effective date: August 11, 1992

Proposal publication date: June 9, 1992

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

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*.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Advisory Board of Athletic Trainers

Sunday, August 2, 1992, 11 a.m. The Advisory Board of Athletic Trainers will meet at 8407 Wall, the Exchange Building, Room S-402, Austin. According to the agenda, the board will discuss approval of July 21, 1992, meeting; discuss and possibly act on order concerning Terry Alan Bunker, license number AT1108; and hear announcements and comments not requiring action.

Contact: Becky Berryhill, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6615.

Filed: July 22, 1992, 4 p.m.

TRD-9210052

Texas Department on Aging

Wednesday, July 29, 1992, 9:30 a.m. The Texas Board on Aging of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH 35, Third Floor Conference Room, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of minutes of June 11, 1992 meeting; receive public testimony; executive director's report; financial report; discuss approval of personnel policies; procedure for appeals review pursuant to 40 TAC 257.20; committee reports to include: adopt intrastate funding formula; discuss revised ombudsman service standards; adopt resolution on minority elderly issues; adopt policies to promote increased visibility of the aging network; and approve the agency state plan; meet in executive session to conduct performance review of executive director; hear general announcements; and adjourn.

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

Filed: July 21, 1992, 1:10 p.m.

TRD-9209997

Wednesday-Thursday, July 29-30, 1992, 2 p.m. and 8 a.m. respectively. The Texas Board on Aging of the Texas Department on Aging will meet at the Omni Austin Hotel, 700 San Jacinto, Austin. According to the agenda, the board will call the meeting to order; overview of departmental reorganization; proposed amendments to the older Americans act; review/discussion/adoption of position papers on the following topics: health care reform, long term care, support to family caregivers, nursing facility care, board and care homes, elder abuse, access to information and assistance and case management, access to proper nutrition, access to transportation, access to and availability of affordable, safe housing, system access for older people with disabilities, elderly as a resource, corporate eldercare, state employee assistance programs; review/revision of board committees; and adjourn.

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

Filed: July 21, 1992, 1:10 p.m.

TRD-9209996

Texas Department of Agriculture

Tuesday-Wednesday, August 4-5, 1992, 1 p.m. and 8 a.m. respectively. The Texas Wheat Producers Board of the Texas Department of Agriculture will meet at 6801 I-40 W-East of Coulter, Fifth Season West, Amarillo Room, Amarillo. According to the agenda summary, on August 4, 1992 the

board will hear minutes of May meeting; discuss financial statement; crop assessments and projection; quarterly activities; hear reports from TDA Commissioner and other producer boards; update on Texas Seed Laws; Texas A&M extension funding request; Texas Tech funding request; TDA request for State Fair participation. August 5, 1992 the board will hear reports on NAWG foundation development board meeting; NAWG foundation directors meeting; U.S. Wheat directors meeting; Wheat Industry Resource Committee; Wheat Leadership Development Conference, United States Wheat Long Range Planning Committee; Texas Ag Forum; Wheat Foods Council activities and meeting; set date for next quarterly meeting; and report of activities and new business.

Contact: Bill Nelson, Suite 803, 2201 Civic Circle, Amarillo, Texas 79109, (806) 352-2191.

Filed: July 23, 1992, 9:46 a.m.

TRD-9210064

Thursday, August 13, 1992, 9 a.m. (Rescheduled from July 14, 1992, 9 a.m.) The Office of Hearings of the Texas Department of Agriculture will meet in the Stephen F. Austin Building, Texas Department of Agriculture, 1700 North Congress Avenue, Room 928B, Austin. According to the agenda, the office will conduct an administrative hearing to review alleged violation of 4 Texas Administrative Code §§6.1-6.4 and Texas Agriculture Code §74.003 and §74.006 (Vernon Supplement 1992) by James Gavranovic.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: July 22, 1992, 9:26 a.m.

TRD-9210028

Tuesday, October 20, 1992, 9 a.m. (Rescheduled from July 14, 1992, 9 a.m.) The Office of Hearings of the Texas Department of Agriculture will meet Stephen F. Austin Building, Texas Department of Agriculture, 1700 North Congress Avenue, Room 928B, Austin. According to the agenda, the office will conduct an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §76.116(a)(1) (Vernon Supplement 1992) and 4 Texas Administrative Code §7.22 by Ed Shores.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: July 22, 1992, 9:26 a.m.

TRD-9210027

Tuesday, October 20, 1992, 1 p.m. (Rescheduled from July 14, 1992, 9 a.m.) The Office of Hearings of the Texas Department of Agriculture will meet in the Stephen F. Austin Building, Texas Department of Agriculture, 1700 North Congress Avenue, Room 928B, Austin. According to the agenda, the office will conduct an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §76.116(a)(1) and 4 Texas Administrative Code §7.22 by Ed Shores.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: July 22, 1992, 9:26 a.m.

TRD-9210026

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**Texas Council on
Alzheimer's Disease and
Related Disorders**

Wednesday, August 26, 1992, 9:45 a.m. The Texas Council on Alzheimer's Disease and Related Disorders will meet at 1100 West 49th Street, Texas Department of Health, Room M-652, Austin. According to the agenda, the council will hear opening remarks; discuss approval of minutes of previous meeting; consider retirement of Morris H. Craig, Ph.D.; elect secretary; discuss and possibly act on: Texas Department of Health's Bureau of chronic disease prevention new organizational structure; nursing home standards and reimbursement task force; biennial report; alternative care; and hear council input.

Contact: Rhonda Gage, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673.

Filed: July 22, 1992, 4 p.m.

TRD-9210053

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**Texas Commission for the
Blind, Texas Rehabilitation
Commission**

Monday-Tuesday, August 10-11, 1992, 9 a.m. The State Independent Living Council of the Texas Commission for the Blind, Texas Rehabilitation Commission will meet in the Doubletree Hotel, 6505 IH 35 North, Austin. According to the agenda summary, on Monday the council will call the meeting to order; discuss update on health and human services organization; hear public comments; discuss report of council member liaison with agencies. Tuesday the council will discuss strategic plans by Texas Commission for the Blind and Texas Rehabilitation Commission; updates on pilot project; receive recommendations for new council members; recognize retiring council members; and adjourn.

Contact: Robert Packard, P.O. 12866, Austin, Texas 78756, (512) 459-2588.

Filed: July 21, 1992, 9:20 a.m.

TRD-9210058

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Texas Cancer Council

Wednesday, August 5, 1992, 9 a.m. Board of Directors of the Texas Cancer Council will meet at 1100 West 49th Street, Texas Department of Health, Room M-739, Austin. According to the agenda, the board will call the meeting to order; discuss adoption of minutes of the May 26, 1992 meeting; hear announcements; hear executive director's report; discuss policy considerations; discuss fiscal year 1992-1993 budget considerations; fiscal year 1994-1995 legislative appropriations request; other business; and adjourn.

Contact: Emily F. Untermyer, 211 East Seventh Street, Suite 710, Austin, Texas 78701, (512) 463-3190.

Filed: July 22, 1992, 2:18 p.m.

TRD-9210036

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**Texas Board of Criminal
Justice**

Monday, August 3, 1992, 10 a.m. The Subcommittee on Health Care of the Texas Board of Criminal Justice will meet at the San Antonio State Chest Hospital, 2303 South East Military Drive, San Antonio. According to the agenda, the subcommittee will call the meeting to order; discuss approval of minutes; presentation by American Corrections Health Services Association; impact of Ruiz settlement on TDCJ-ID health services; hear report on interactive

video; make introduction of new staff; discuss prior pending business; new business; and adjourn.

Contact: Andrea Scott, P.O. Box 99, Huntsville, Texas 77342, (409) 294-2931.

Filed: July 22, 1992, 10:47 a.m.

TRD-9210032

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**Texas Commission for the
Deaf and Hearing Im-
paired**

Friday, July 31, 1992, 9:30 a.m. The Texas Commission for the Deaf and Hearing Impaired will meet at 1524 South IH 35, #200, Austin. According to the agenda, the commission will call the meeting to order; hear chairperson's report; discuss approval of minutes; operations reports budget/financial issues and revision of TCDHI personnel manual; TCDHI commission meeting schedule fiscal year 1993; program projects report on interpreter certification; hearing impaired task force; information items; public hearings; and adjourn.

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

Filed: July 22, 1992, 3:40 p.m.

TRD-9210049

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Texas Education Agency

Thursday-Friday, July 30-31, 1992, 9 a.m. The Texas Education Agency will meet at 1701 North Congress Avenue, William B. Travis Building, Room 1-110, Austin. According to the agenda, on Thursday the agency will take roll call; discuss approval of minutes of April 30, 1992, meeting; information items, Texas Christian University-request for pilot program for student teaching in Puebla, Mexico; hear reports from the following institutions: East Texas State University, Marshall; Sam Houston State University, Huntsville; Schreiner College, Kerrville; Southern Methodist University, Dallas; Texas A&M University, College Station; Texas Tech University, Lubbock; the University of Texas at Arlington; the University of Texas at Austin; the University of Texas at Dallas; the University of Texas at El Paso; and the University of North Texas, Denton; *presentation of design for staffing the instructional delivery team for the Texas public schools (professional development continuum) by Dr. Nolan Wood; lunch; *progress report from consortium of state organizations for teacher education on outcomes-based standards for teachers; *progress report from Texas Professors of Educational Administration on outcomes-based standards for school administrators. July 31, 1992: discussion of suggestions for rule

governing commission on standards for the teaching profession, assignment of commission members, and review of outcomes.

Contact: Edward Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: July 22, 1992, 3:49 p.m.

TRD-9210050

◆ ◆ ◆
Texas Higher Education Co-ordinating Board

Friday, July 31, 1992, 10 a.m. The Campus Planning Committee of the Texas Higher Education Coordinating Board will meet at the First City Tower, 1001 Fannin Street, Suite 3700, Houston. According to the agenda, the committee will discuss matters relating to establishing priorities and procedures for handling construction requests and assisting the institutions in managing their facilities.

Contact: Don Brown, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: July 23, 1992, 9:20 a.m.

TRD-9210059

◆ ◆ ◆
Texas Department of Insurance

Tuesday, July 28, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. Docket Number 11523. According to the agenda, the commissioner will conduct a public hearing to consider whether the certificate of authority issued to Bankers Protective Life Insurance Company by the Texas Department of Insurance should be cancelled.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby 3, Austin, Texas 78701, (512) 475-2983.

Filed: July 20, 1992, 4:05 p.m.

TRD-9209966

Tuesday, July 28, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. Docket Number 1896. According to the agenda, the commissioner will reopen a public hearing to consider the appeal of Houston General Insurance Company and Hartford Accident and Indemnity Company from a decision of the Texas Workers' Compensation Insurance Facility.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby 3, Austin, Texas 78701, (512) 475-2983.

Filed: July 20, 1992, 4:05 p.m.

TRD-9209967

Wednesday, July 29, 1992, 9 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, Room 100, 333 Guadalupe Street, Austin. According to the agenda summary, the board will discuss personnel; litigation; solvency; commissioner's orders; consider annual review to determine compliance of the exemption from membership to the Texas Workers' Compensation Facility for: First Employees Insurance Company; Highlands Casualty Company; British American Insurance Company, Montfort Insurance Company, Food Industry Insurance Exchange, Sunbelt Insurance Company, Texas Hospital Insurance Exchange, Financial Casualty and Surety, Inc., American Risk Funding Insurance Company, Bell Indemnity Company, and Texas Citrus and Vegetable Insurance Exchange; consider proposal for decision in Docket 1867 concerning an appeal by Aetna Casualty and Surety Company, from a decision of the Workers' Compensation Facility regarding Aetna's claim for servicing carrier fee from a premium collected from Tra-Jax, Inc.

Contact: Angelia Johnson, 333 Guadalupe Street, Austin, Texas 78701, (512) 463-6527.

Filed: July 21, 1992, 1:52 p.m.

TRD-9210001

Thursday, July 30, 1992, 10 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. Docket Number 11531. According to the agenda, the commissioner will conduct a public hearing to consider the matter of cease and desist order Number 920558 to American Autoplan, Inc.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby 3, Austin, Texas 78701, (512) 475-2983.

Filed: July 22, 1992, 3:58 p.m.

TRD-9210051

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Texas Department of Licensing and Regulation

Monday, August 10, 1992, 9 a.m. The Inspections and Investigations, Manufactured Housing of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, Room 1012, Austin. According to the agenda, the department will hold an administrative hearing to consider a disputed claim by Herman E. Plattner of one 1973 Durango manufactured home, motor/vehicle identification number DT52394, title number 85945849;

Texas Civil Statutes, Articles 5221f, §2 and §9100.

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

Filed: July 22, 1992, 2:09 p.m.

TRD-9210035

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Public Utility Commission of Texas

Friday, July 31, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the agenda, the division will conduct a prehearing conference in Docket Number 10921, Brazos Electric Power Cooperative, Inc. standard avoided cost calculation for the purchase of firm energy and capacity from qualifying facilities pursuant to substantive rule 23. 66(h).

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 22, 1992, 2:33 p.m.

TRD-9210042

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Monday, September 21, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the agenda, the division will conduct a hearing in Docket Number 11177: application of Southwestern Bell Telephone Company to offer common channel signaling/signaling system seven "CCS/SS7" Interconnection service as an intrastate access service offering.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 21, 1992, 2:39 p.m.

TRD-9210004

◆ ◆ ◆
Texas Southern University

Wednesday, July 29, 1992, 4 p.m. (Rescheduled from July 30, 1992) The Finance Committee Board of Regents of the Texas Southern University will meet at the Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the agenda, the committee will consider matters relating to financial reporting systems, and budgets; fiscal reports from the administration; investments; and informational items.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: July 23, 1992, 9:20 a.m.

TRD-9210057

◆ ◆ ◆
Texas State Technical College

Saturday, July 25, 1992, 9:45 a.m. The Board of Regents of the Texas State Technical College met at TSTC Waco Campus, System Administration Conference Room, Waco. According to the agenda summary, the board will add two items: status of revenue bond issue and easement for electrical power to central chiller at TSTC Harlingen.

Contact: Sandra J. Krumnow, 3801 Campus Dr., Waco, Texas 76705 (817) 867-4890.

Filed: July 21, 1992, 10:01 a.m.

TRD-9209989

◆ ◆ ◆
Texas Department of Transportation

Wednesday, July 29, 1992, 9:30 a.m. The Texas Transportation Commission of the Texas Department of Transportation will meet at the Dewitt C. Greer Building, 125 East 11th Street, First Floor, Austin. According to the agenda summary, the commission will conduct public hearings on highway matters in various counties; discuss approval of minutes; executive contract awards, rejections, defaults and/or assignments; hear routine minute orders. Authorize: eminent domain proceedings; right of way leasing; IH, US, SH and FM Road projects; contract with the State of Arizona. Consider: approval of State Public Transportation funds; revision to aviation project; previous public hearing matters; and project overruns. Meet in Executive Session with legal counsel and for realty matters; hear staff reports. Rulemaking: 43 TAC Part 1, Chapter 11.

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

Filed: July 21, 1992, 1:23 p.m.

TRD-9209998

◆ ◆ ◆
University Interscholastic League

Wednesday, August 5, 1992, 9:30 a.m. The Standing Committee on Music of the University Interscholastic League will meet at the Omni Hotel, Eighth and San Jacinto, Austin. According to the agenda summary, the committee will discuss general requirements to begin meeting; discussion of proposals and staff recommendations, public

hearing of proposals for amendments to the constitution and contest rules; discuss old and new business; and hear announcements.

Contact: Dick Floyd, 2622 Wichita Street, Austin, Texas 78705, (512) 471-5883.

Filed: July 22, 1992, 11:18 a.m.

TRD-9210033

◆ ◆ ◆
Texas Water Commission

Thursday, September 10, 1992, 9:30 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Colorado County Courthouse, District Courtroom, 400 Spring, Columbus. According to the agenda summary, the Tricil Environmental Response, Inc has applied to the commission for a new hazardous waste permit (proposed permit number HW50346). The proposed hazardous waste facility is to be located adjacent to Highway 71, two miles north of Altair in Colorado County.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78723, (512) 463-7875.

Filed: July 22, 1992, 2:31 p.m.

TRD-9210040

Thursday, September 17, 1992, 9:30 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the UT Health Science Center, Hudnell Auditorium, Highway 155 and 271 North, Tyler. According to the agenda summary, the Gibraltar Chemical Resources, Inc. has applied for a new hazardous waste permit (proposed permit number WDW-186). The proposed hazardous waste facility is to be located north of Tyler on Highway 155, approximately 1/2 mile north of I-20 in Smith County.

Contact: Linda Sorrells, P.O. Box 13087, Austin, Texas 78723, (512) 463-7875.

Filed: July 22, 1992, 2:31 p.m.

TRD-9210041

◆ ◆ ◆
Texas Water Development Board

Friday, July 31, 1992, 10:30 a.m. The Attorney of the Texas Water Development Board will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the agenda, the attorney will conduct a public hearing on the board's proposed federal fiscal year 1993 intended use plan for wastewater treatment projects under the State Water Pollution Control Fund; and take testimony from interested persons.

Contact: Frank R. Forsyth, Jr., P.O. Box 13231, Austin, Texas 78711, (512) 463-8423.

Filed: July 16, 1992, 3:24 p.m.

TRD-9209800

◆ ◆ ◆
Regional Meetings

Meetings Filed July 21, 1992

The Golden Crescent Regional Review Committee will meet at the Victoria Public Library, Bronte Room, 302 North Main, Victoria, July 29, 1992, at 1:30 p.m. Information may be obtained from Patrick Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9209992.

The Golden Crescent Regional Planning Commission Executive Committee will meet at the Regional Airport, GCRPC Conference Room, Building 102, Victoria, July 29, 1992, 4 p.m. Information may be obtained from Patrick Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9209993.

The Golden Crescent Regional Planning Commission Board of Directors will meet at the Regional Airport, GCRPC Board Room, Building 102, Victoria, July 29, 1992, 5 p.m. Information may be obtained from Patrick Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9209994.

The Heart of Texas Council of Governments Executive Committee will meet at 300 Franklin Avenue, HOTCOG Board Room, Waco, July 30, 1992, at 10 a.m. Information may be obtained from Donna Teat, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9210003.

The Henderson County Appraisal District Board of Directors met at 716 East Tyler, Austin, July 24, 1992, noon. Information may be obtained from Helen Marchbanko, 1751 Enterprise, Athens, Texas 75751, (903) 675-9296. TRD-9209995.

The Kendall Appraisal District Kendall Appraisal Review Board will meet at the Kendall Appraisal Office, 121 South Main Street, Boerne, July 27-31, 1992, at 9 a.m. Information may be obtained from J. P. Davis, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9210005.

Meetings Filed July 22, 1992

The Ark-Tex Council of Governments Board of Directors will meet at the Fish Nest Restaurant, Texarkana, July 30, 1992, at 6:30 p.m. Information may be obtained from Laurie Dean, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9210029.

The Brazos Valley Development Council Personnel Committee Meeting will meet at the Council Office, 3006 East 29th Street, Bryan, July 31, 1992, at 9 a.m. Information may be obtained from Glenn J. Cook, P.O.

Drawer 4128, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9210044.

The Comal Appraisal District Board of Directors will meet at 430 West Mill Street, New Braunfels, July 28, 1992, at 5:30 p.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9210024.

The Fisher County Appraisal Board Appraisal Review Board will meet at the Fisher County Commissioner's Courtroom, Roby, July 31, 1992, at 9 a.m. Information may be obtained from Teddy Kral, P.O. Box 516, Roby, Texas 79543, (915) 776-2733. TRD-9210021.

The Hamilton County Appraisal District will meet at the Hamilton County Appraisal District Boardroom, 119 East Henry, Hamilton, August 11, 1992, at 7 a.m. Information may be obtained from Doyle Roberts, 119 East Henry, Hamilton, Texas 76531, (817) 386-8945, fax (817) 386-8947. TRD-9210022.

The Johnson County Rural Water Supply Corporation Special Called Board Meeting met in a revised agenda at JCRWSC Office, Highway 171 South, Cleburne, July 27, 1992, at 10 a.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76031, (817) 645-6646. TRD-9210054.

The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, July 28, 1992, at 7 p.m. Information may be obtained from

Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9210019.

The Panhandle Regional Planning Commission Board of Directors will meet at 2736 West Tenth, PRPC Board Room, Amarillo, July 30, 1992, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9210023.

The Quality Work Force Planning-Brazos Valley The Committee will meet at 301 Post Office Street, Bryan, July 28, 1992, at 11:30 a.m. Information may be obtained from Patty Groff, 301 Post Office Street, Bryan, Texas, (409) 823-4988. TRD-9210037.

The State Securities Board State Office of Administrative Hearings will meet at 300 West 15th Street, Fourth Floor, Room 408, Austin, August 6, 1992, at 1 p.m. Information may be obtained from John Morgan, 221 West Sixth Street, Suite 330, Austin, Texas 78701, (512) 474-2233. TRD-9210034.

The Upper Rio Grande, Quality Work Force Planning-Region VIII will meet at 1155 Westmoreland, Suite 211, El Paso, August 7, 1992, at 1:30 p.m. Information may be obtained from URG Quality Work Force Planning-Region VIII, 1155 Westmoreland, #235, El Paso, Texas 79925, (915) 779-6623. TRD-9210020.

Meetings Filed July 23, 1992

The Alamo Area Council Governments Board of Directors will meet at 118 Broad-

way, Suite 420, San Antonio, July 28, 1992, at 1 p.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9210060.

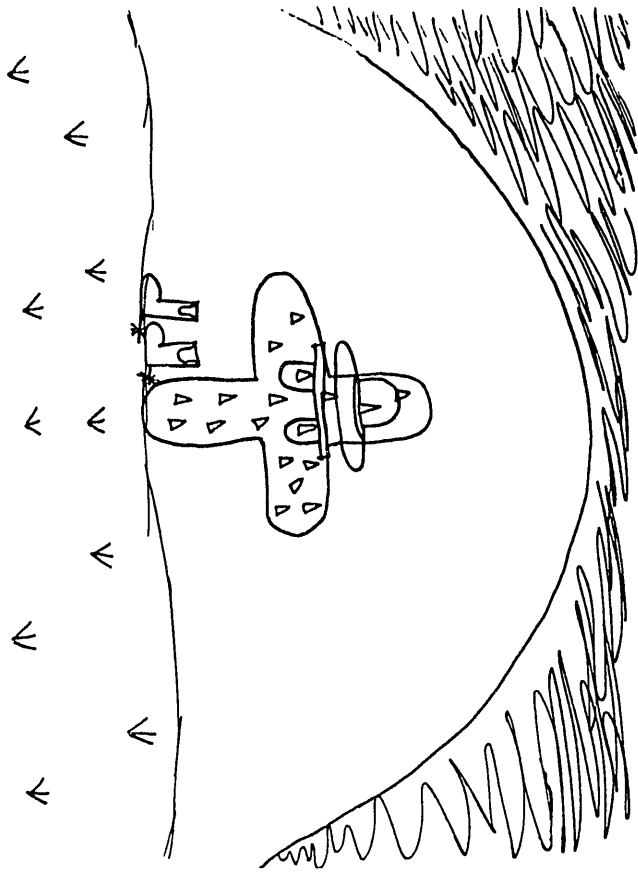
The Dallas Area Rapid Transit Board of Directors' Budget Retreat met in an emergency meeting at the Garrett Creek Ranch, Route 2, Paradise, July 25, 1992, at 9 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9210061.

The Dallas Area Rapid Transit Board of Directors' Budget Retreat met in an emergency meeting at the Garrett Creek Ranch, Route 2, Paradise, July 24, 1992, at 9:15 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9210062.

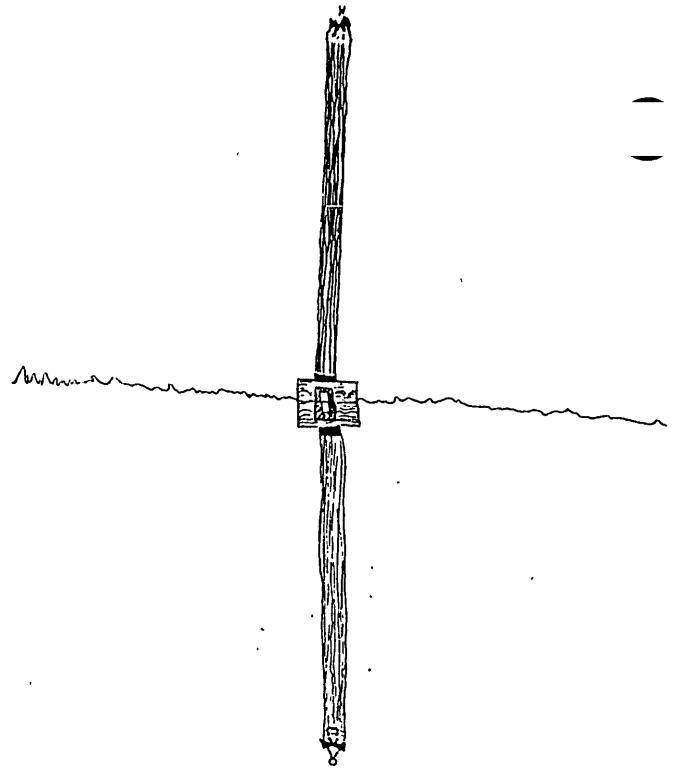
The Jack County Appraisal District Board of Directors will meet at 210 North Church Street, JCAD Conference Room, Jackson, July 28, 1992, at 7 p.m. Information may be obtained from Donna Hartzell, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301. TRD-9210063.

The Texas Council Risk Management Fund Executive Committee will meet at the Westpark Building 3, Suite 240, Conference Room, Austin, July 31, 1992, at 10 a.m. Information may be obtained from Spencer McClure, Westpark Building 3, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 794-9268. TRD-9210055.

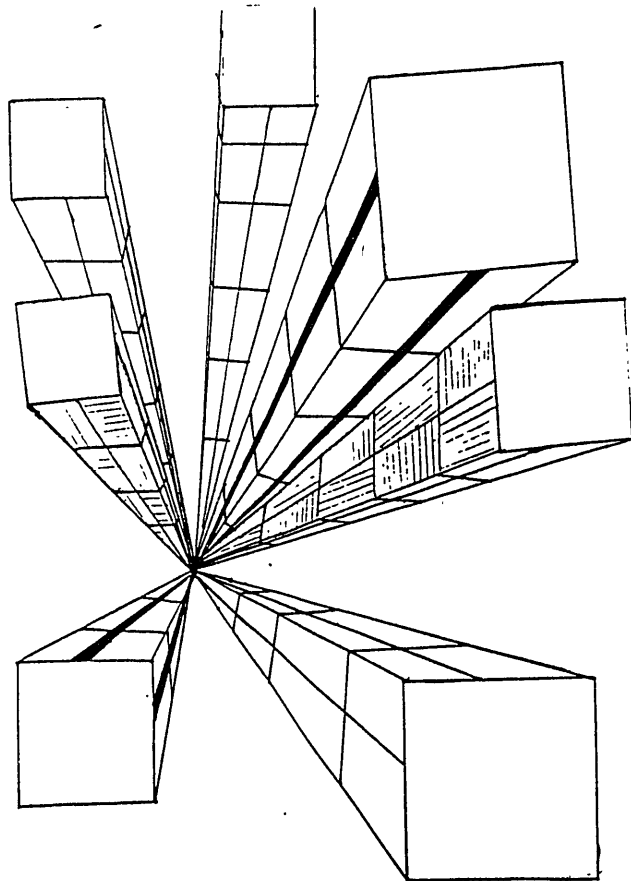




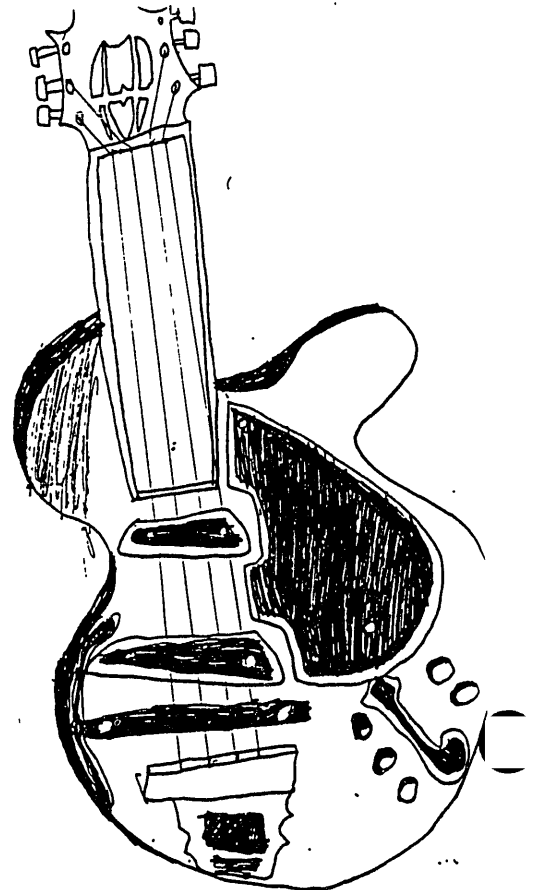
4-123



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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.

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u>	<u>Commercial(2) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	07/27/92-08/02/92	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	08/01/92-08/31/92	10.00%	10.00%

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

Issued in Austin, Texas, on July 20, 1992.

TRD-8210025 Al Endaley
Consumer Credit Commissioner

Filed: July 22, 1992

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

Texas Department of Health

Notice of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Crowley Animal Clinic [registrant-R19526 (pending)] of Crowley to cease and desist using any sources of radiation in its possession until all violations found during a recent inspection of the facility have been corrected and all appropriate fees for registration have been paid. The bureau determined that the continued use of unregistered sources of radiation at this facility constitutes a threat to public health and safety. The registrant is further required to provide written evidence satisfactory to the bureau regarding the actions to correct the violations and the methods to prevent their recurrence.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on July 20, 1992.

TRD-8208948 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: July 20, 1992

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

Notice of Intent to Revoke Certificates of Registration

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: Ronda G. Green, D.D.S., Baytown, R17227; O.J. Jacob, D.D.S., Houston, R14581; Joe C. Edwards, D.D.S., San Antonio, R05931; James D. Key, M.D., Dallas, R09259; Arlington Chiropractic Center, Arlington, R11564; Michael L. Vickers, D.V.M., Falfurrias, R11696; Seagraves Clinic, Seagraves, R01394; Mark D. Barnett, D.D.S., Dallas, R10866; Jack M. Thomas, M.D., Denison, R09302; Douglas E. Pierce, D.C., Denton, R17232; Grapevine Chiropractic Clinic, Dallas, R17187; Raphael Emanuel, M.D., P.A., Dallas, R11547.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing

must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificates of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on July 20, 1992.

TRD-9209950 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: July 20, 1992

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

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**Notice of Preliminary Report for
Assessment of Administrative Penalties
and Notice of Violation**

Notice is hereby given that the Bureau of Radiation Control issued a notice of violation and assessed an administrative penalty to Ethel Sands, D.P. M., Houston, holder of Certificate of Registration Number R-14477. A penalty of \$16,500 was assessed the individual for violations of the Texas Regulations for Control of Radiation.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on July 20, 1992.

TRD-9209947 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: July 20, 1992

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

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Notice of Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Cease and Desist Order issued June 11, 1992, to Roger Clifford, D.C., 5519 Arapaho, Suite 108, Dallas, Texas 75248, holder of Certificate of Registration Number R19073.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on July 20, 1992.

TRD-9209949 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: July 20, 1992

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

Heart of Texas Council of Governments

Request for Proposals

The Heart of Texas Council of Governments (HOTCOG), Waco, will receive sealed proposals for the provision of bus transportation for up to eight people (i.e., two trips per day, Monday-Friday) between HOTCOG offices, 300 Franklin Avenue, Waco, and Texas State Technical College, Waco campus, so Job Training Partnership Act participants can attend scheduled training. Proposals should include a budget section, highlighting all cost reimbursement areas and providing full justification for each area.

Requests for proposals are available at the Heart of Texas Council of Governments, c/o Director of Administration, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822, on Monday-Friday, 8:30 a.m. to 4:30 p.m.

Responses must be received by HOTCOG no later than 4:30 p.m., Tuesday, August 11, 1992. HOTCOG reserves the right to reject any or all proposals received in response to this RFP.

Issued in Waco, Texas, on July 20, 1992.

TRD-9209999 Leon A. Willhite
Executive Director
Heart of Texas Council of Governments

Filed: July 21, 1992

For further information, please call: (817) 756-7822

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The Heart of Texas Council of Governments (HOTCOG), Waco, will receive sealed proposals for provision of a basic skills development course for HOTCOG case managers to enable them to more effectively and efficiently serve and assess the needs, abilities, and aptitudes of program participants. Course discussion/study may include, but is not limited to, the following: definition of communications process and principles; the effects of ethnicity and cultural diversity in the interview process; appropriate interview techniques; development of listening skills; inquiry identification and formulation; identification of discrepancies in client communication; definition of case management process; effective outreach prescreening and orientation; comprehensive assessment; career plan development; techniques for cultivating relationships with other community resources. Effort would be envisioned to encompass approximately 25 hours of class contact time. The time, optimally, would be spread over 10-15 class sessions. Proposals should include a budget section, highlighting all cost reimbursement areas and providing full justification for each area.

Requests for proposals are available at the Heart of Texas Council of Governments, c/o Director of Administration, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822, on Monday-Friday, 8:30 a.m. to 4:30 p.m.

Responses must be received by HOTCOG no later than 4:30 p.m., Monday, August 10, 1992. HOTCOG reserves the right to reject any or all proposals received in response to this RFP.

Issued in Waco, Texas, on July 15, 1992.

TRD-9210000 Leon A. Willhite
Executive Director
Heart of Texas Council of Governments

Filed: July 21, 1992

For further information, please call: (817) 756-7822

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**Texas Department of Housing and
Community Affairs**

Public Notice

As part of the public information consultation and public hearings requirements for federal block grant funds, the Texas Department of Housing and Community Affairs (TDHCA) is conducting four public hearings. The purpose of the hearings is to solicit comments on the proposed use and distribution of federal fiscal year (FFY) 1993 funds provided under the community services block grant (CSBG), including the department's intent to change the formula for allocating CSBG funds, and the Low-Income Energy Assurances Program (LIHEAP) block grant. TDHCA plans to use the state's allocation of LIHEAP funds to support the Weatherization Assistance, the Energy Crisis, Home Energy Assistance Program, proposed alternative utility assistance programs, and proposed LIHEAP leveraging activities. Comments also will be solicited on the state's intended use of Dependent Care Development Grant Program funds. At these hearings, intended use reports will be provided and public comments will be received for use in the preparation of final state block grant plans and the department's fiscal year 1994-1995 legislative appropriation request. In addition, the department will discuss the September 1, 1992, transfer of the LIHEAP and the Emergency Nutrition/Temporary Emergency Relief Program (ENTERP) from the Texas Department of Human Services (TDHS) to TDHCA. During the first transition year of the ENTERP program, TDHCA intends to maintain the same administrative procedures as TDHS.

The four public hearings have been scheduled as follows: Tuesday, August 25, 1992, at 5:30 p.m., Mahon Library, Community Room, 1306 9th Street, Lubbock; Tuesday, August 25, 1992, at 5:30 p.m., Corpus Christi Library, La Retama Room, 805 Comanche, Corpus Christi; Wednesday, August 26, 1992, at 1:30 p.m., North Central Texas Council of Governments, Centerpoint Two Building, 616 Six Flags Drive, Arlington; Wednesday, August 26, 1992, at 1:30 p.m., Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Austin.

A representative from TDHCA will be present to explain the planning process and receive comments from interested citizens and affected groups regarding the proposed plans. Intended use reports may be obtained on or about August 11, 1992, by contacting TDHCA, Community Affairs and Economic Development Division, P.O. Box 13941, Austin, Texas 78711-3941. For questions, contact the Community Service Section at (512) 475-3899 or the Energy Assistance Section at (512) 475-3859.

Comments on the intended use of funds may be in the form of written comments or oral testimony at the hearings. Written comments may be submitted to TDHCA at the time of the hearings or by mail no later than August 31, 1992.

Individuals who require auxiliary aids or services for this meeting should contact Ed Blankenship at (512) 574-3983 or Relay Texas at 1 (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

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

TRD-9210014 Susan J. Leigh
Executive Director
Texas Department of Housing and
Community Affairs

Filed: July 22, 1992

For further information, please call: (512) 475-3917

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Notice of Correction

The Texas Department of Human Services announced an open solicitation period for contracted Medicaid nursing home or hospital beds for Upshur County in the July 21, 1992, issue of the *Texas Register* (17 TexReg 5151). The closing date was published incorrectly. The closing date should have been August 21, 1992, instead of August 17, 1992. The primary selection process will be completed on September 1, 1992, instead of August 28, 1992. If you have further questions, please call Gail Calhoun at (512) 450-3840.

Issued in Austin, Texas, on July 22, 1992.

TRD-9210012 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: July 22, 1992

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

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Notice of Public Hearing

The Texas Department of Human Services (TDHS) will conduct a public hearing to receive comments on the department's proposed reimbursement rates for the following programs: Diagnostic Services for Persons with Potential of Mental Retardation; Rehabilitative Services for Persons with Mental Illness; Case Management for Individuals with Mental Retardation or a Related Condition; Case Management for Persons with Chronic Mental Illness; and Case Management for High-Risk Pregnant Women and High-Risk Infants. The hearing is held in compliance with 40 TAC §24.102(j), which requires a public hearing on proposed reimbursement rates for medical assistance programs. The public hearing will be held on August 11, 1992, at 9 a.m. in the department's public hearing room of the John H. Winters Center (701 West 51st Street, Austin, First Floor, East Tower). Interested parties may request to have mailed to them or may pick up a briefing package concerning the proposed reimbursement rates on or after July 28, 1992, by contacting Kathy E. Hall, MC E-601, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3702.

Issued in Austin, Texas, on July 22, 1992.

TRD-9210013 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: July 22, 1992

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

1992 Publication Schedule for the Texas Register

Listed below are the deadline dates for the September-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.
52 Friday, July 10	Monday, July 6	Tuesday, July 7
Tuesday, July 14	Wednesday, July 8	Thursday, July 9
53 Friday, July 17	SECOND QUARTERLY INDEX	
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 Friday, January 1	Monday, December 28	Tuesday, December 29

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