

Texas Register

Volume 17, Number 57, July 31, 1992

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Texas Register, ISSN 0362-4781, is published semi-weekly 100 times a year except February 28, November 6, December 1, December 29, 1992. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78711. Subscriptions costs: one year - printed, \$95 and electronic, \$90; six-month - printed, \$75 and electronic, \$70. Single copies of most issues are available at \$5 per copy.

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- Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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



a section of the
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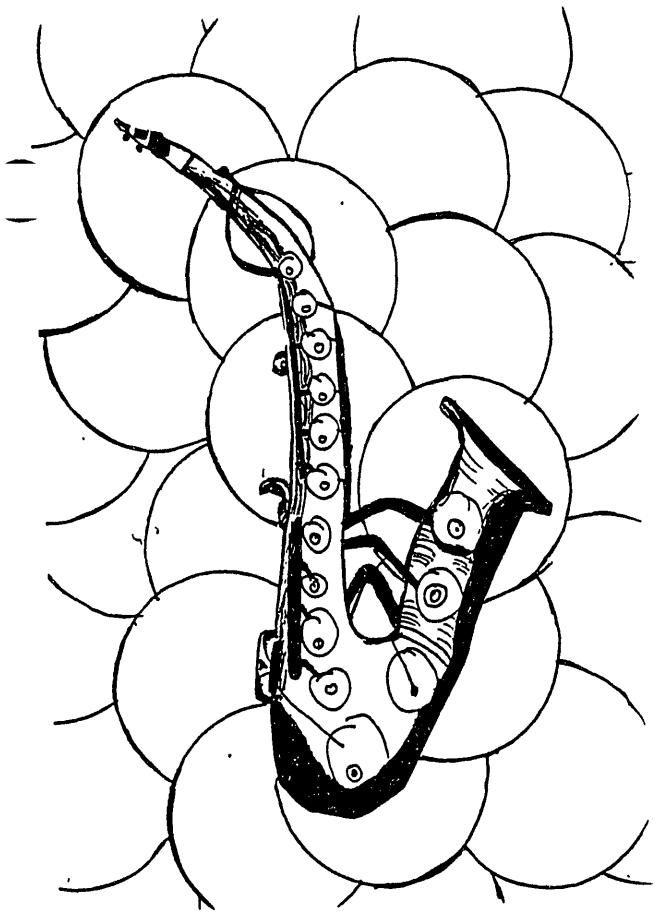
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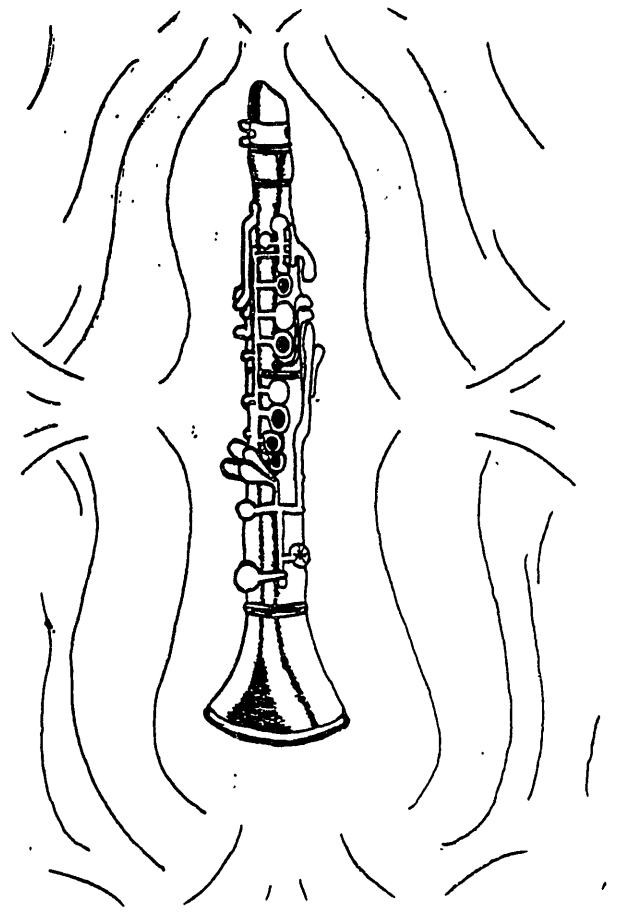
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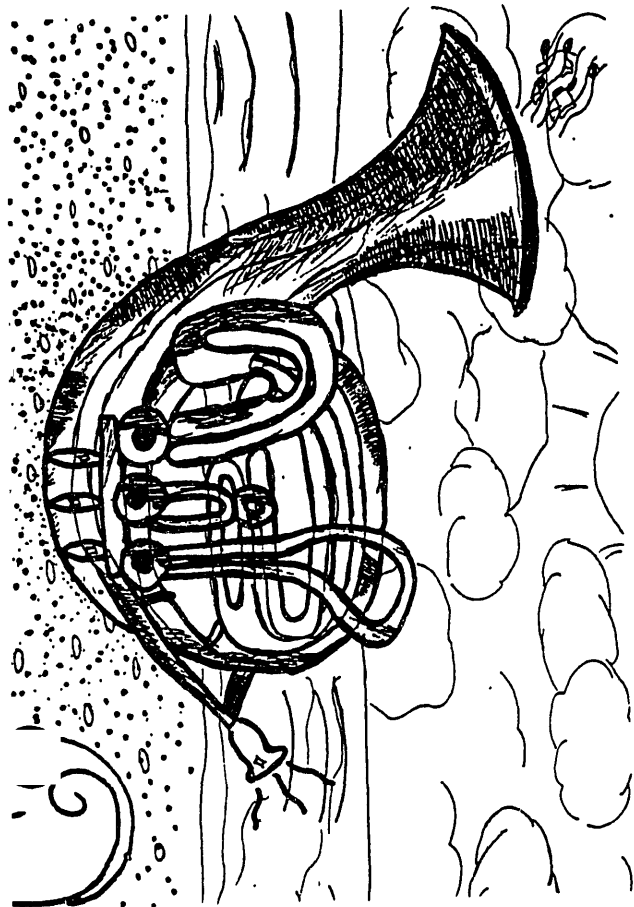
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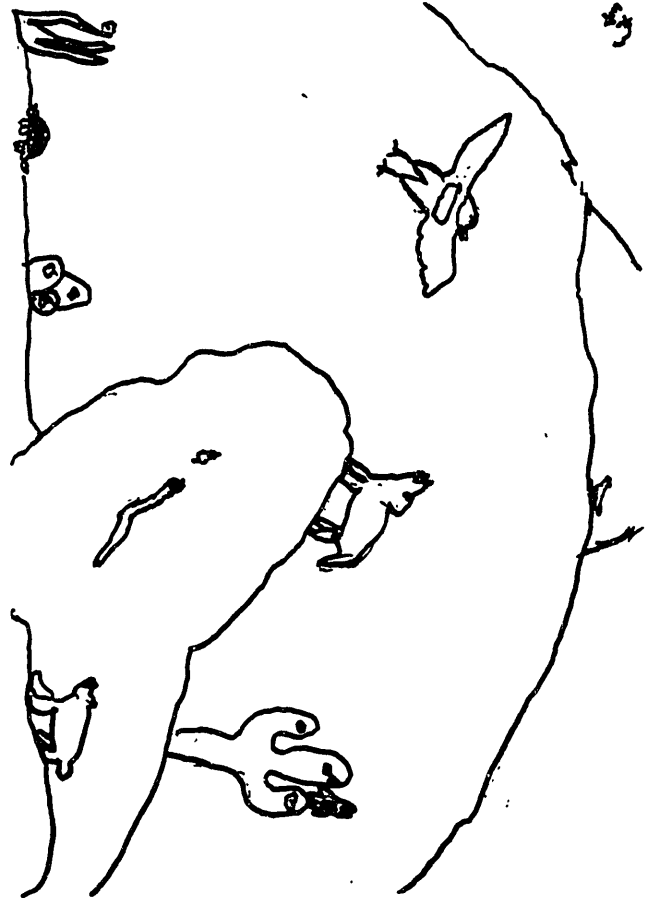


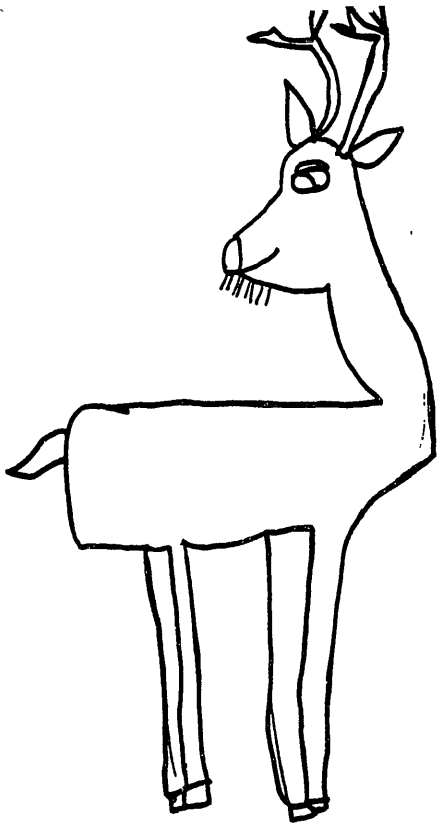
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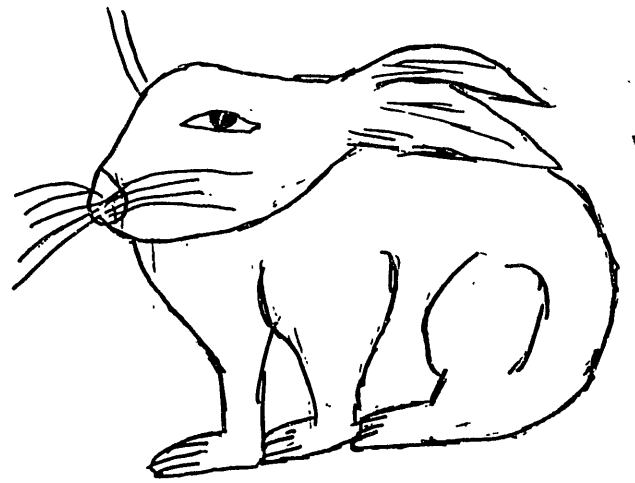
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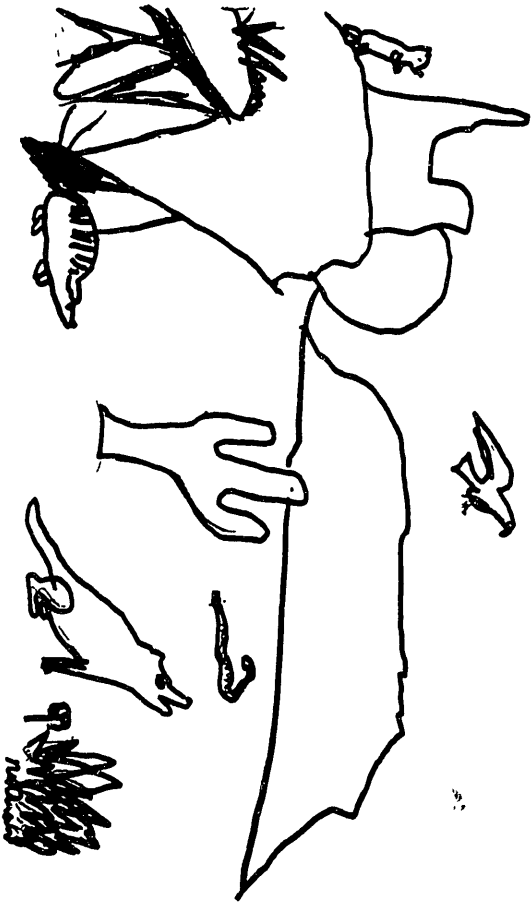




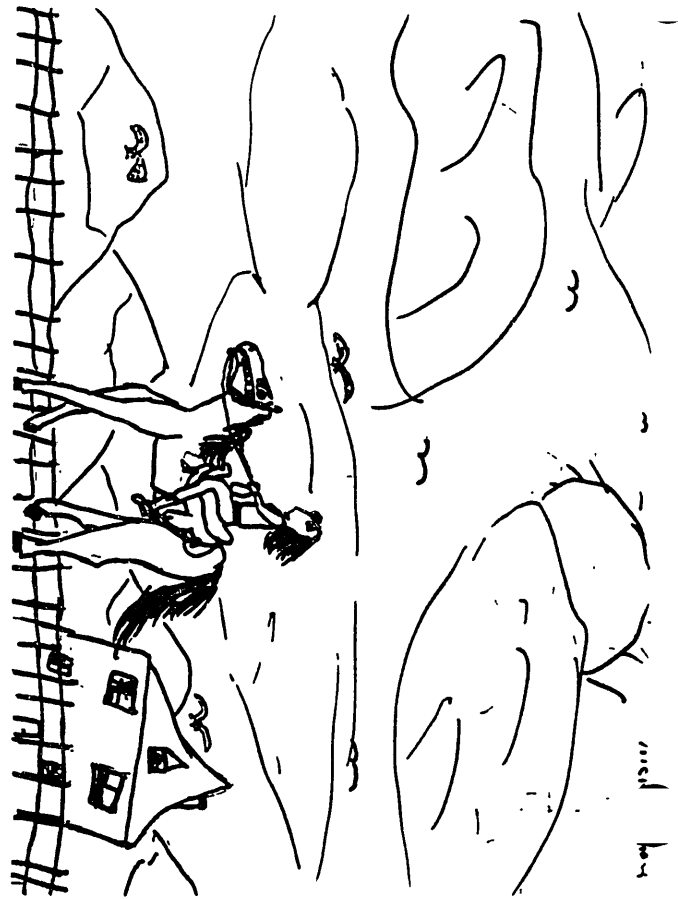
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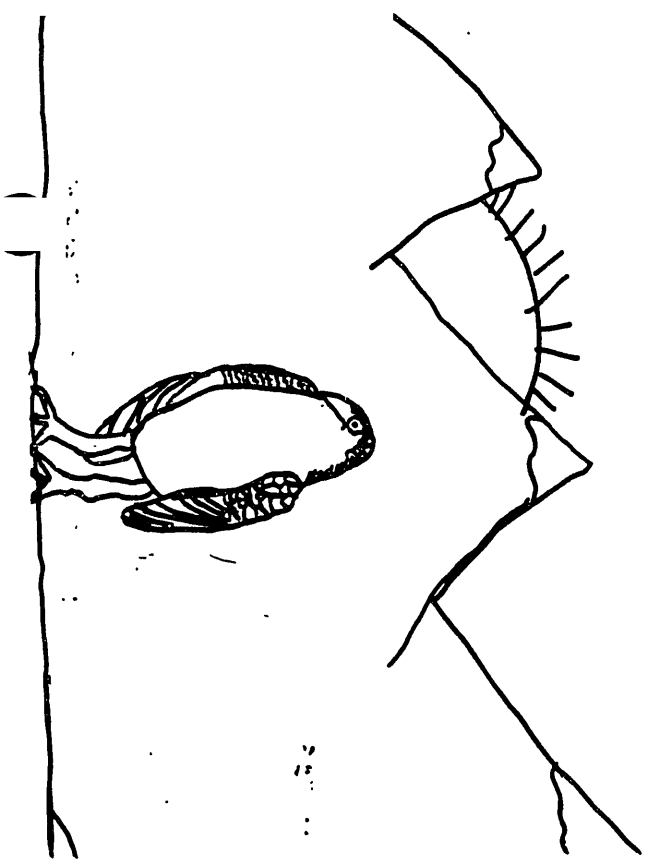
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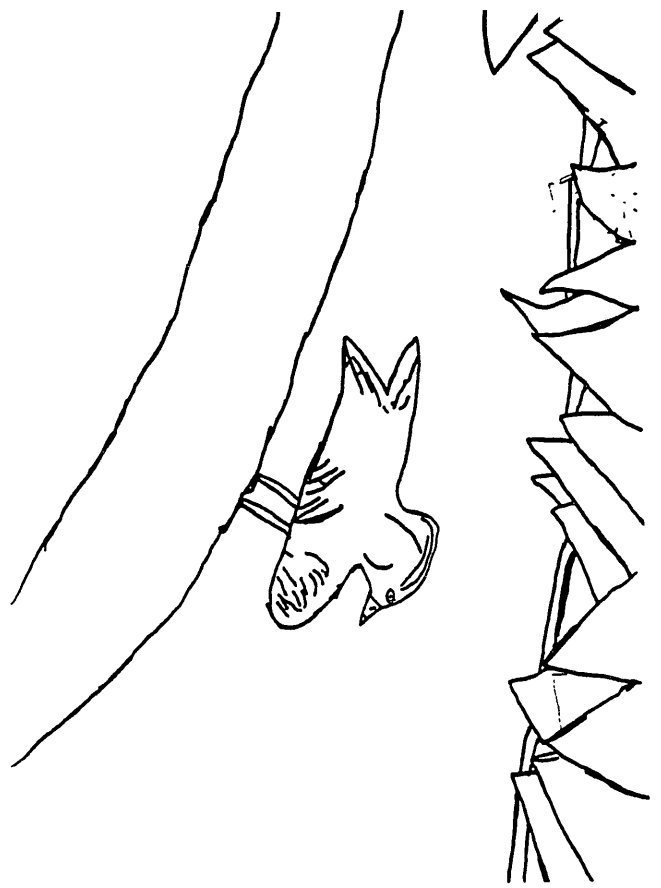
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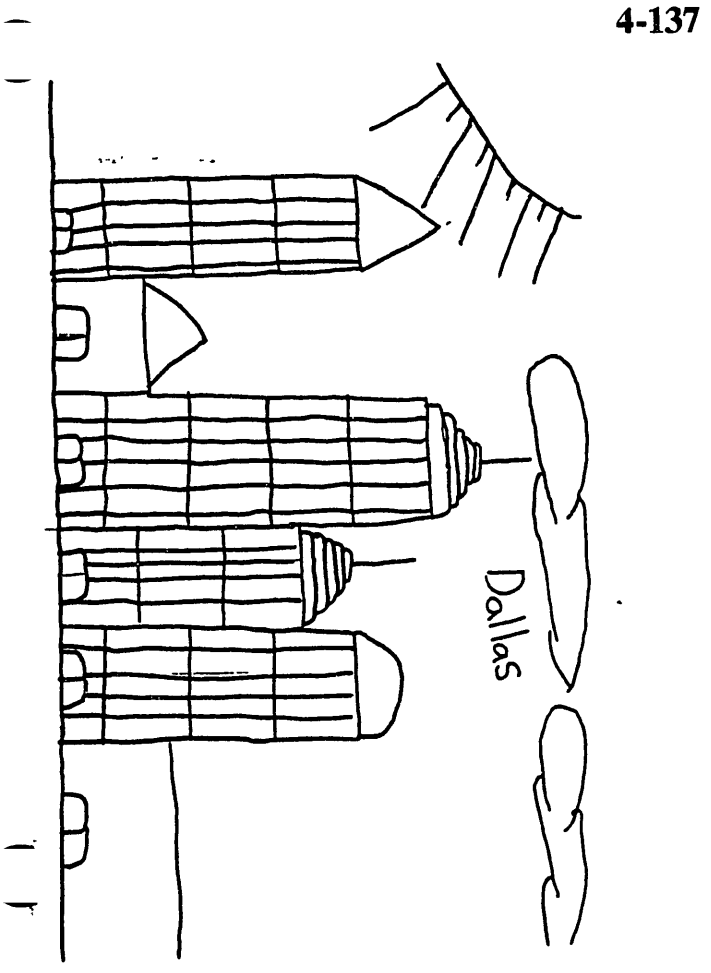
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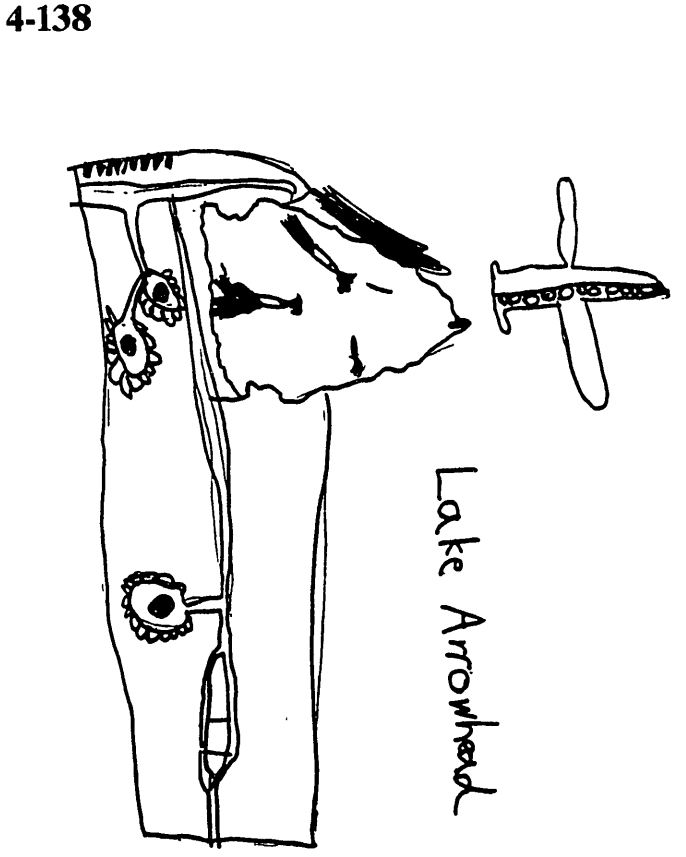
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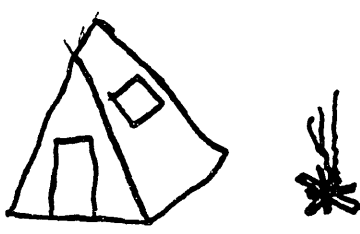
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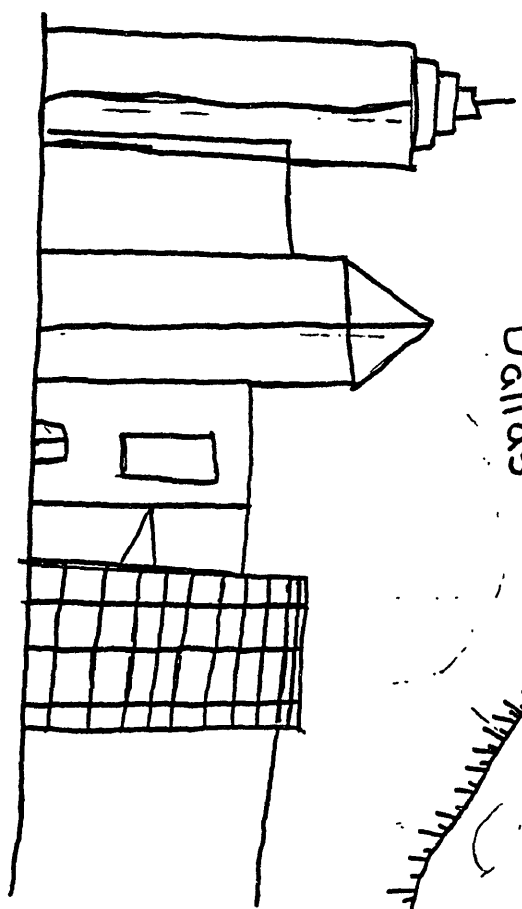
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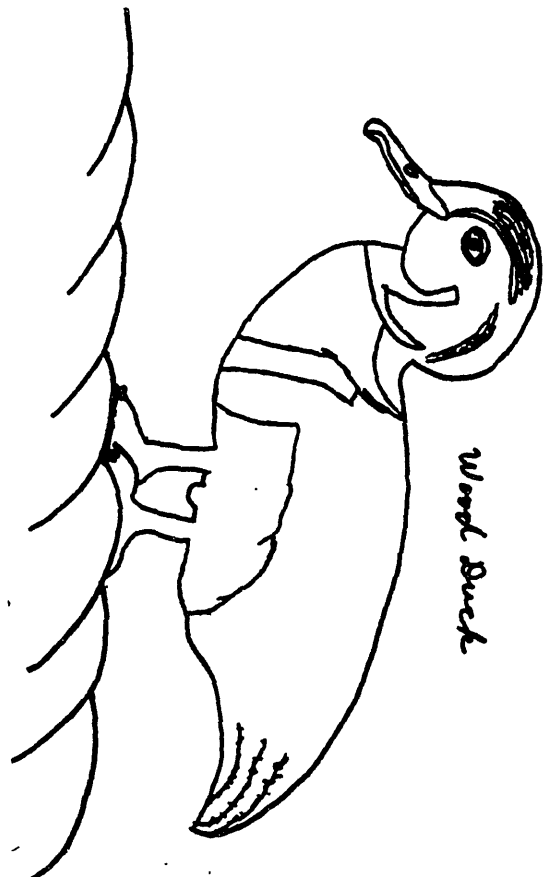
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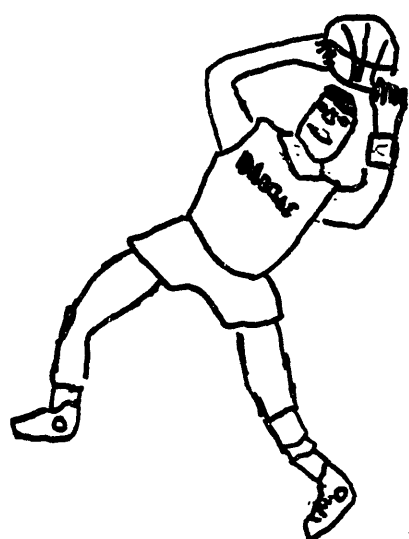
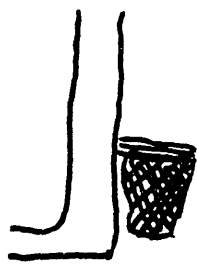
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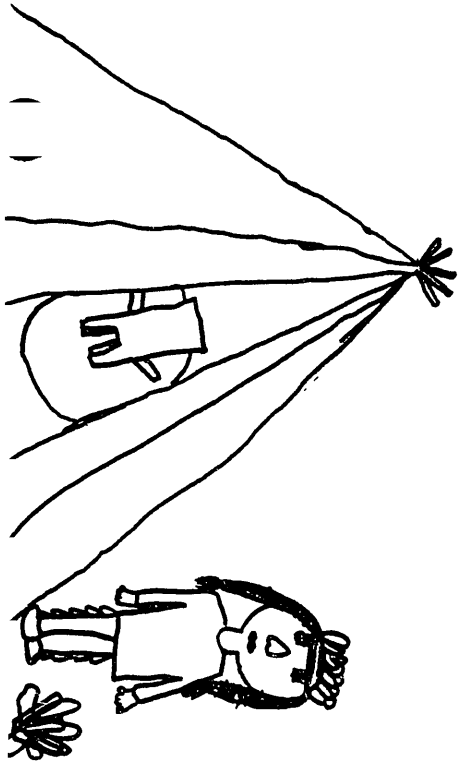
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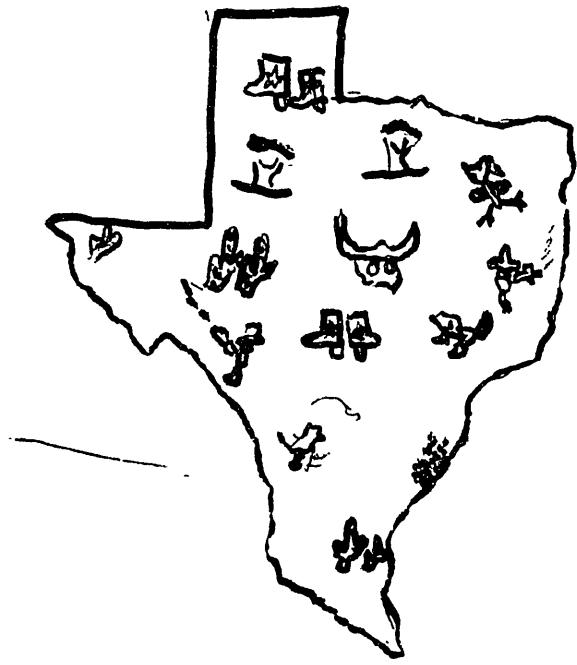
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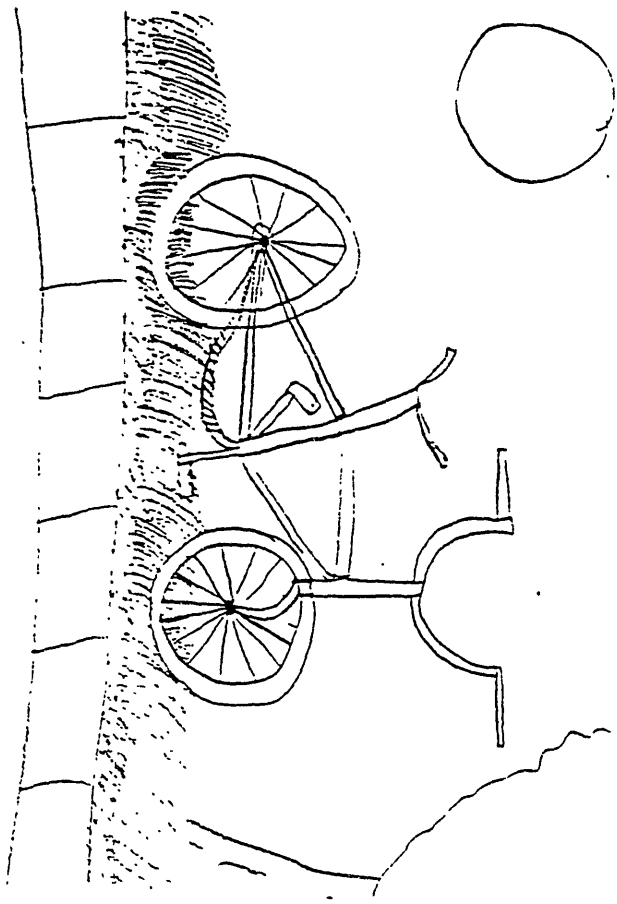
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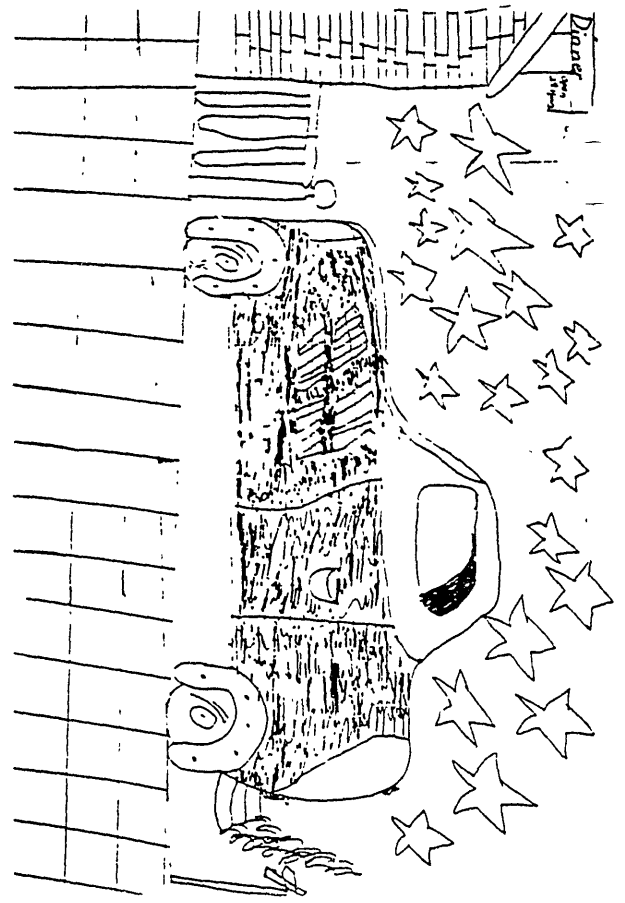
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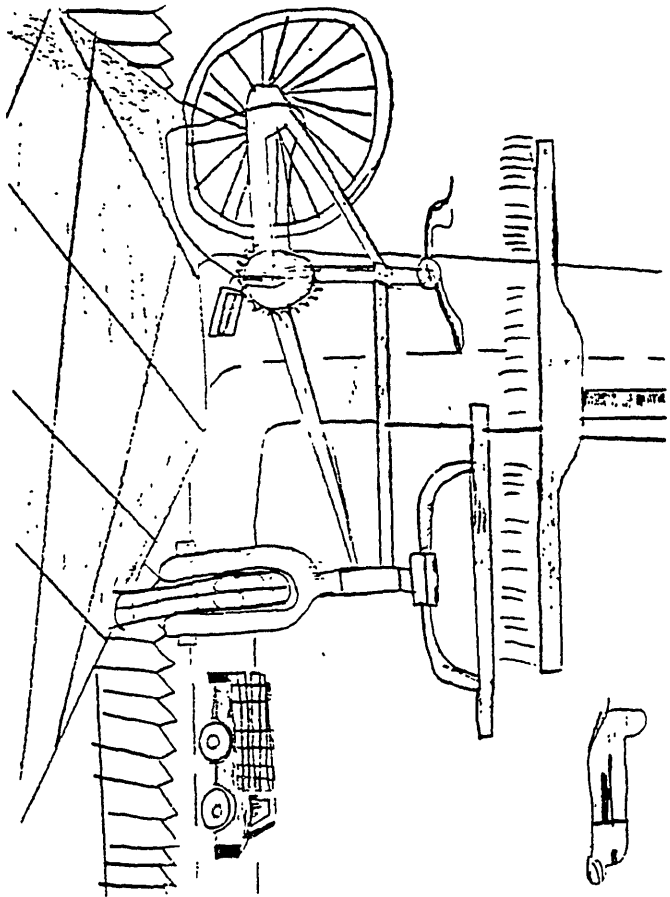
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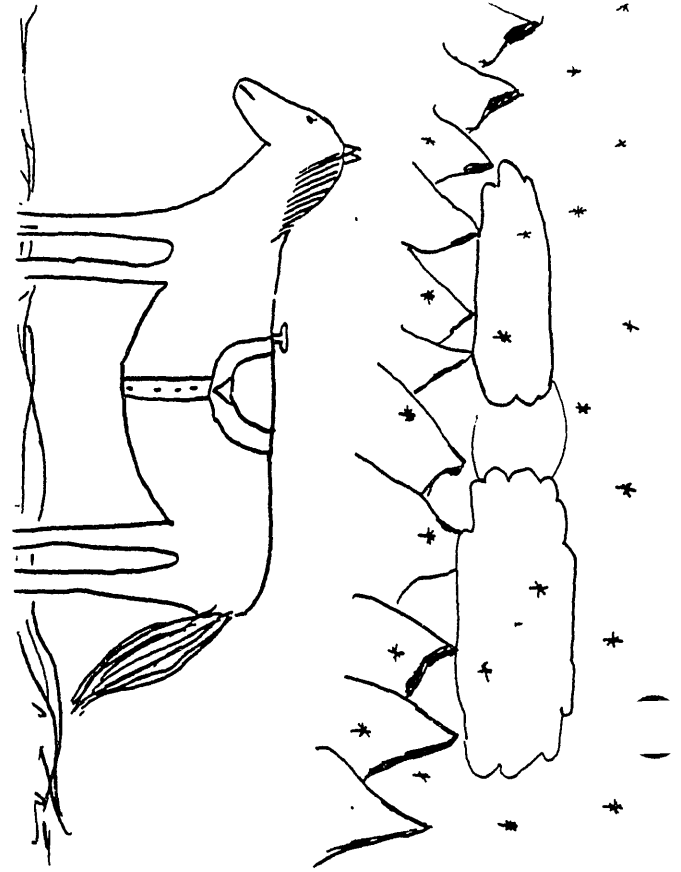
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Texas Ethics Commission

The Texas Ethics Commission is authorized by Texas Civil Statutes, Article 6252-9d.1, §1.29, to issue advisory opinions in regard to the following statutes: Texas Civil Statutes, Article 6252-9b; the Government Code, Chapter 302; the Government Code, Chapter 305; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Opinion Requests

AOR-83. The Texas Ethics Commission has been asked whether payment of a commission to a broker in certain circumstances would violate the Government Code, §305.022, which prohibits certain contingent fee arrangement for lobbying. The requestor asks about three specific types of commissions: sale of property to a city or county; a loan brokerage fee on a guaranteed loan; and a fee for obtaining a direct loan.

AOR-84. The state agency has asked the Texas Ethics Commission whether it may allow its employees to attend technical seminars conducted by private businesses. The information presented is directly relevant to the employees' job responsibilities. The private businesses would not charge for attendance; the state agency would pay any related expenses.

AOR-85. Two registered lobbyists have asked the Texas Ethics Commission to issue

an advisory opinion clarifying whether a registered lobbyist may make expenditures for lunches, cocktails, golf, bowling and report such expenditures in accordance with Chapter 305 without violating any provision of Chapter 36 of the Penal Code.

AOR-86. A private association made up of other organizations has asked how it should report the cost of luncheons provided by the association to legislators and legislative staff. Part of the cost of each luncheon is paid by one of the member organizations; the remaining part is covered by association dues. Members of member organizations who attend pay \$5.00 to defray the cost of their own lunches. The requestor ask the following questions:

1. Should each member organization report on a lobby activity report the portion of the member organization's dues that is used to cover luncheon costs?
2. Should the \$5.00 paid by members of member organizations be reported

3. If an additional assessment is charged to each member organization to cover luncheon costs, how and by whom should that assessment be reported?

4. If a member organization that is paying for a particular lunch has members who are registered lobbyists, should any of the costs of the luncheon be attributed to those lobbyists?

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

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

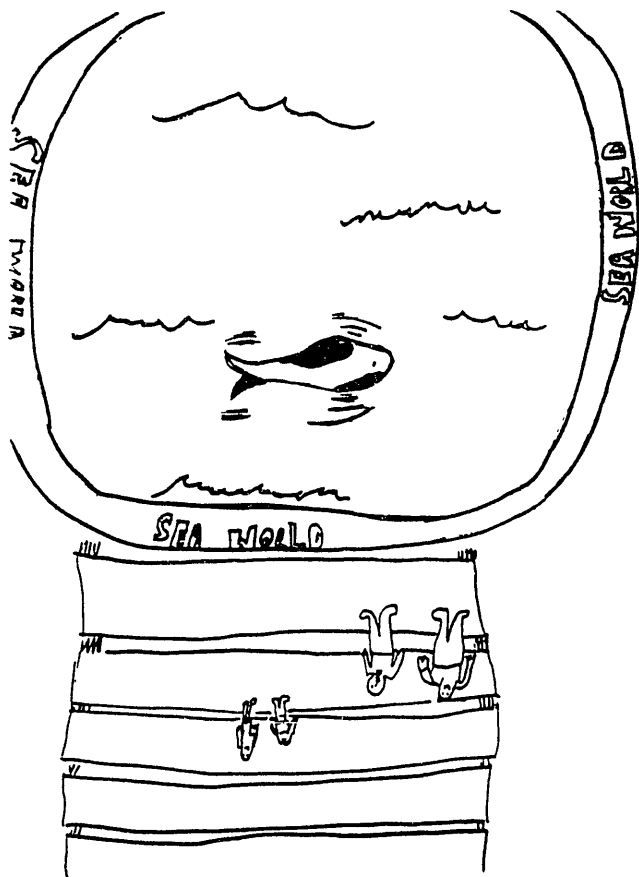
TRD-9210056

Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

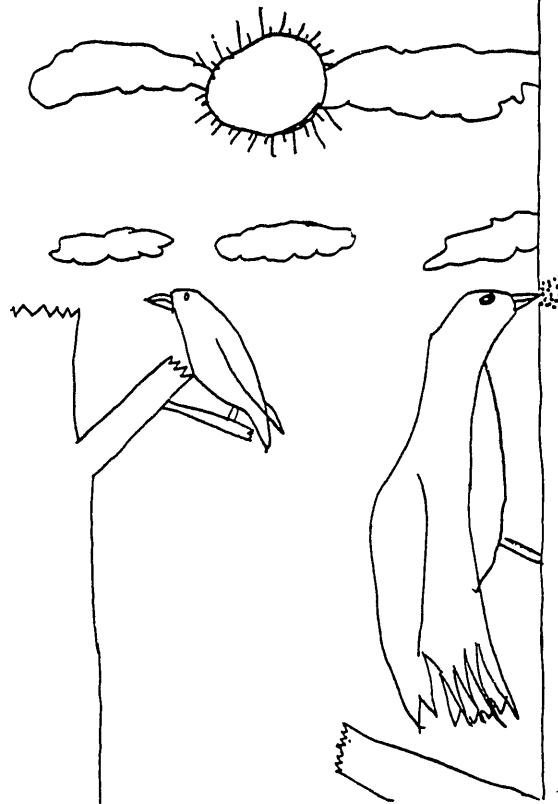
Filed: July 23, 1992

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

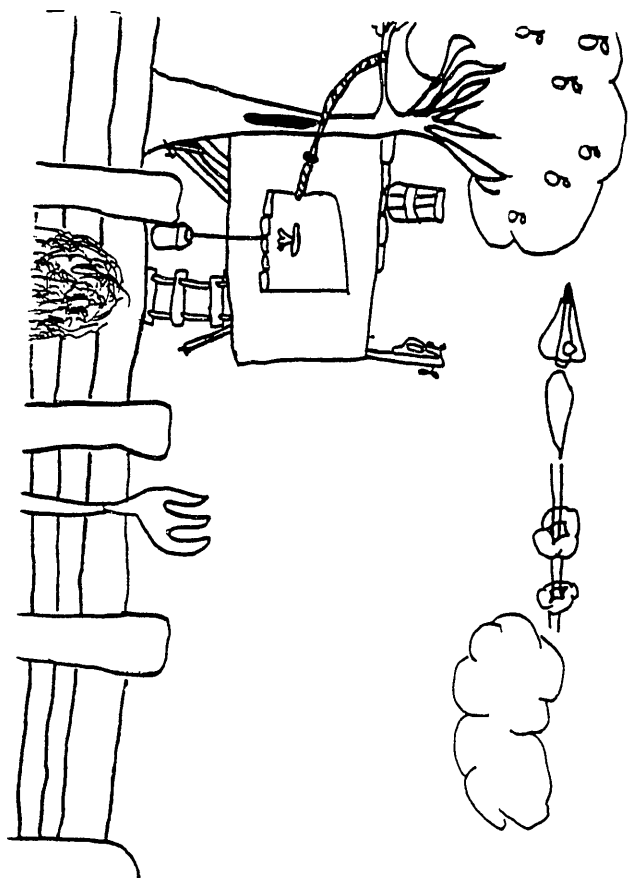




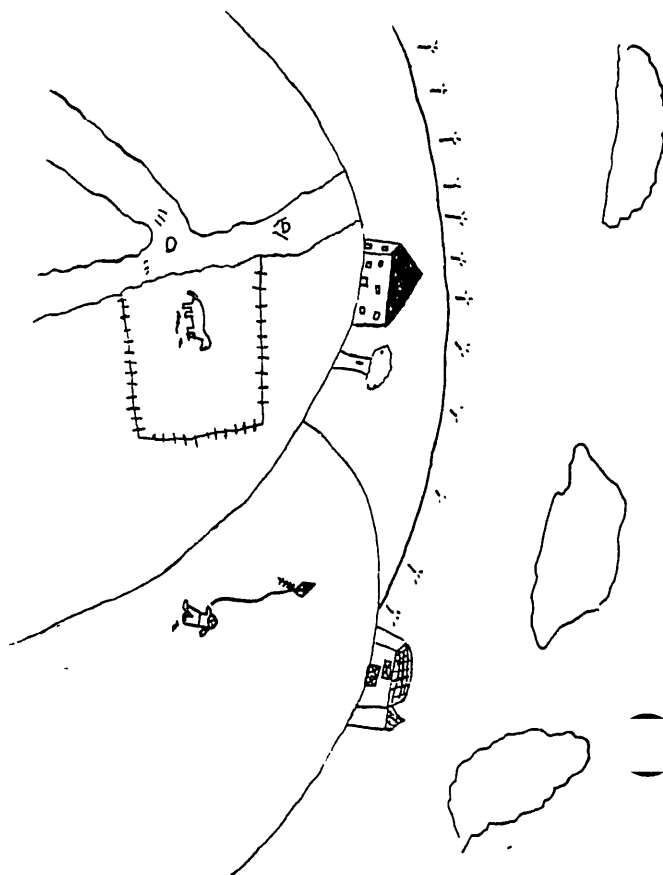
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Proposed Sections

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 I. Office of the Governor

Chapter 5. Energy Office

Subchapter C. Energy Conservation Design Standards

• 1 TAC §5.301

The Governor's Energy Office proposes an amendment to §5.301 concerning the energy conservation design standard for new state buildings. The amendment regards only the material which is adopted by reference in this section. The section was originally adopted in the May 19, 1989 issue of the *Texas Register* (14 TexReg 2463). In the amendment, no changes are being proposed to the text of the section itself.

The amendment is proposed in order to update the current design standard for new construction and major renovation projects. The substantive changes include laboratory research areas added to the list of building areas excluded from the scope of the Standard; the definition of visual tasks is clarified by the inclusion of illuminance ranges for general ambient activities, visual tasks, and significant visual tasks; minimum efficiencies for single-speed motors are increased; display lighting in galleries and exterior lighting for public monuments are deleted from the exemptions list; perimeter rows of lights are required to be on a separate switch from the inboard lights to take advantage of daylighting; public establishments where the general public would not normally operate the lighting controls, is added to the exceptions list for control accessibility; a manual timer controller is added to the list of automatic control devices; ballast's for circline lamps are deleted from the exemptions list; variable speed compressors are required to be considered for refrigeration systems; the average receptacle power density for office buildings is raised from .75 to 1.00 W/ft² to account for electronic office equipment; R-2 insulation, to a depth of 24 inches, is required for heated slabs; tables of typical heat capacities for opaque wall assemblies and typical fenestration U-values and shading coefficients are added for use in the ACP tables; the ASHRAE ventilation standard is updated to 62-1989; the requirement for air balancing is broadened to include commissioning of buildings in excess of 20,000 ft²; changes in the standby losses and efficiency levels are

made for commercial service water heaters; the maximum water discharge for showers is limited to 2.75 gpm at 80 psi, to be consistent with state law; evaluation of the potential use of condenser heat, waste energy, or solar energy for water heating is made mandatory, and; a parking garage building type is added for occupancy density.

Mel Roberts, energy management services department manager at the Energy Office, has determined that for the first five-year period the proposed section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the section is in effect will be a slight increase in construction cost associated with the cost for higher efficiency motors and additional switching for perimeter rows of lights to take advantage of daylighting. The net effect will be an overall reduction in the life cycle cost of the building.

Mel Roberts, energy management services department manager at the Energy Office, has determined that for the first five-year period the section is in effect, there will be no fiscal implications for local government as a result of enforcing or administering the section since this standard applies only to state-owned buildings.

Mr. Roberts 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 or administering this section will be a reduction in the amount of general revenue funds required to operate and maintain new state buildings built in compliance with the section. There will be no effect on small businesses as a result of enforcing this section, since the standard applies only to state-owned buildings. The anticipated economic cost to persons who are required to comply with the section as proposed will be minimal.

The Energy Office invites public review and comment on the amendment from state agencies, registered architects, professional engineers, design firms, and all other parties. A copy of the proposed amendment is available for review by contacting Lee Gros, AIA, Governor's Energy Office, Box 12428, Austin, Texas 78711. Written comments on the amendment may be submitted through the mail to Lee Gros, AIA, Governor's Energy Office, Box 12428, Austin, Texas 78711. Submissions should be marked "Comments-Energy Conservation Design Standard." All comments should be postmarked no later than 30 days from publication of this section in the *Texas Register*.

The amendment is proposed under the Texas Government Code, Title 4, 447.004, which provides the Energy Office of the Office of the Governor with the authority to adopt, publish and revise energy conservation standards for all new state buildings and major renovations.

§5.301. *Energy Conservation Design Standards for New State Buildings.*

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

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

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

TRD-9210109

Harris E. Worcester
Acting Director
Governor's Energy Office

Earliest possible date of adoption: August 31, 1992

For further information, please call: (512) 463-1931

TITLE 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

Chapter 197. Private Donations

• 10 TAC §§197.1-197.7

The Texas Department of Commerce proposes new §§197.1-197.7, concerning the acceptance of private donations. Texas Civil Statutes, Article 6252-11f, requires state agencies that have statutory authority to accept donations to develop a policy for the acceptance of such donations. The Texas Department of Commerce has the authority to accept private donations pursuant to the Texas Government Code, §481.021(2)(3).

Kathy Hartensteiner, director of accounting, 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.

Comments on the proposal may be submitted to Jacqueline Cullom, Post Office Box 12728, Austin, Texas 78711.

The new sections are proposed under the Texas Government Code, §481.021(2) (1), which provides the Texas Department of Commerce with the authority to adopt rules

necessary to carry out its legislative mandates.

§197.1. General Provisions.

(a) Introduction. Private sector donations to the Texas Department of Commerce can have a significant impact on the agency's success in stimulating economic development for the State of Texas. The Department of Commerce is statutorily authorized to accept donations pursuant to §481.021(a)(3). It shall be the policy of the department to accept only those donations that advance the purpose of the agency.

(b) Purpose. The purpose of this section is to establish procedures for the acceptance of private donations made to the department and to create standards of conduct to govern the relationship between the agency and the donors.

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

(1) Corporation—Texas Economic Development Corporation.

(2) Department—Texas Department of Commerce.

(3) Donation—The conveyance of a property interest or service the value of which is \$250 or more. Donations may include, among other things, transfers of cash gifts, services, real property, leasehold estates, loaned employees, and grants, as well as in-kind personal gifts such as equipment, books, art, or memorabilia.

(4) Donation agreement—The donative instrument executed by the department and the donor which identifies the donated property and outlines any special conditions of the donation.

(5) Donor—One or more individuals or organizations that offer to give or give a donation to the department.

(6) Employee—An individual employed by the department in a full or part-time capacity or a volunteer of the department.

(7) Executive director—The executive director of the department or his or her designee.

(8) Officer—The executive director, policy board members and advisory board members who serve the department through appointment by the Governor.

(d) Examination of records. Any party requesting the examination of records pursuant to the Open Records Act, Texas Civil Statutes, Article 6252-17a, shall indicate in writing the specific nature of the document to be viewed, and if photocopying is desired, the appropriate fee must accompany the request. The department may

seek a determination from the Attorney General regarding the confidentiality of information relating to a donation before releasing requested information if the department determines an exception to the Open Records Act is applicable.

(e) Written communication with the department. Communications to the department regarding donations should be addressed to the executive director, Texas Department of Commerce, P.O. Box 12728, Austin, Texas 78711.

§197.2. Procedure for Acceptance of Donations.

(a) Statutory authority. All donations shall be accepted under the authority granted in the Texas Government Code, §481.021(a)(3).

(b) Donation agreement. The donor and the department shall execute a donation agreement which includes the following information:

(1) a description of the donation, including a determination of the value;

(2) a statement by the donor attesting to its ownership rights in the property;

(3) the signature of the donor if the donor is an individual or its official representative if the donor is a business organization;

(4) the signature of the Executive Director or his or her designee;

(5) any conditions restricting the use of the donation if the donor imposes restrictions agreed to by the department;

(6) the mailing address of the donor and principal place of business if the donor is a business entity;

(7) a statement identifying any official relationship between the donor and the department;

(8) a statement advising the donor to seek legal and/or tax advice from its own legal counsel;

(c) Deposited funds. The department shall deposit monetary contributions from private sources in a separate fund kept and held in escrow and in trust by the State Treasurer for and on behalf of the department as funds held outside the treasury under the Texas Government Code, §404.073. The money contributed shall be used to carry out the purposes of the department and, to the extent possible, the purposes specified by the donors.

§197.3. Donations From Individuals Appearing Before the Department. The department will adhere to all policies relating to the acceptance of gifts from persons ap-

pearing before state agencies adopted by the Texas Ethics Commission.

§197.4. Acceptance of Donations.

(a) All donations made to the department shall be accepted by the executive director or his or her designee.

(b) All donations will be accepted on behalf of the department or corporation. No officer or employee of the department can accept donations in their individual capacity.

§197.5. Transfer of Donations. A donor may stipulate that any donation made to the department be transferred to the Texas Economic Development Corporation, a non-profit corporation established under the laws of the State of Texas to benefit the department and its activities. If a donation or bequest is made to the department and the donor or the representative of the estate wishes to transfer the donation to the Texas Economic Development Corporation they must give written permission for the transfer. An account of all such letters of written permission shall be kept by the department and shall be available to the State Auditor. Donations may also be made directly to the corporation.

§197.6. Standard of Conduct Between the Department and Private Donors. Any person or entity seeking to contract with the department on a competitive bid basis or otherwise shall disclose all previous donations occurring within the proceeding two years to the department or any other state agency. The disclosure shall include the following information:

(1) the nature and value of the donation; and

(2) the date the donation was made and the recipient. If the donation is ongoing the last date that the donation was available to the agency shall be used to determine the date of the donation.

§197.7. Standard of Conduct Between Department Officers and Employees and Private Donors.

(a) An officer or employee shall not accept or solicit any gift, favor, or service from a private donor that might reasonably tend to influence his official conduct or that the officer or employee knows is being offered with the intent to influence official conduct.

(b) An officer or employee shall not accept employment or engage in any business or professional activity with a private donor which the officer or employee might reasonably expect would require or induce him to disclose confidential informa-

tion acquired by reason of his official position.

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 21, 1992.

TRD-9210069 Cathy Bonner
Executive Director
Texas Department of
Commerce

Earliest possible date of adoption: August 31, 1992

For further information, please call: (512) 320-9666

◆ ◆ ◆
**TITLE 16. ECONOMIC
REGULATION**
**Part II. Public Utility
Commission of Texas**
Chapter 23. Substantive Rules

Rates

• 16 TAC §23.26

The Public Utility Commission of Texas proposes an amendment to §23.26, concerning commission review of applications for new telephone services. The purpose of the amendment is to clarify that applications for new telephone service offerings may be made under the Public Utility Regulatory Act (PURA) or under this section, but that such applications may not be made under §23.24. Furthermore, the amendment would clarify that the substantive standards found in this section apply to all applications for new telephone service offerings filed at the commission and that the standards found in this section represent minimum standards applicable for all applications involving new telephone services.

Rick Guzman, assistant general counsel, 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. Guzman also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the establishment of consistent, minimum standards for commission review of telephone new service offerings. There will be no effect on small businesses as a result of enforcing the section. The anticipated economic cost to persons who are required to comply with the proposed section are expected to be minimal.

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

Comments on the proposed amendment (14 copies) may be submitted in writing to John

M. Renfrow, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days of the date after publication. Comments should refer to Project Number 11299.

The amendment is proposed under Texas Civil Statutes, Article 1446c, §16(a), which provide the Public Utility Commission of Texas with the authority to make and enforce rules that are reasonably required in the exercise of its powers and jurisdiction and §18, which grant the commission the authority and power to carry out the public policy of this state to protect the public interest in having adequate and efficient telecommunication service available to all citizens of the state at just, fair, and reasonable rates.

§23.26. *New and Experimental Services.*

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

(c) Filings requesting approval of new and experimental services. An [After the effective date of this section, an] LEC shall [may] request approval of a new or experimental service by either following the administrative review procedures [outlined] in this section[,] or requesting a docketed proceeding as outlined in this section. The LEC shall indicate in its application whether the LEC is requesting administrative approval or a docketed proceeding. If the LEC application is docketed, its application at a minimum shall meet the substantive requirements of subsection (f) of this section unless waived or modified by the presiding examiner for good cause. In addition to copies required by other commission rules, one copy of the application shall be delivered to the Telephone Division and one copy to the Office of Public Utility Counsel. [Nothing in this section precludes an LEC from utilizing other provisions of this title to offer such services.] Not later than 30 days prior to the proposed effective date of the new or experimental service, the LEC shall file with the commission and the Office of Public Utility Counsel an application containing the following information:

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

(d)-(h) (No change.)

(i) Review of docketed [the] application [after docketing]. If the application is docketed, the operation of the proposed rate schedule shall be automatically suspended to a date 120 days after the applicant has filed all of its direct testimony and exhibits, or 155 days after the effective date, whichever is later. Three copies of all answers to requests for information shall be filed with the commission within 10 days after receipt of the request. Affected persons may move to intervene in the docket, and a hearing on the merits shall be scheduled. The application shall be processed in accordance with the commission's rules applicable to docketed cases.

(j)-(l) (No change.)

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

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

TRD-9210081 John M. Renfrow
Secretary of the
Commission
Public Utility Commission
of Texas

Earliest possible date of adoption: August 31, 1992

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

◆ ◆ ◆
**TITLE 31. NATURAL RE-
SOURCES AND CON-
SERVATION**

**Part IX. Texas Water
Commission**

Chapter 290. Water Hygiene

The Texas Water Commission (TWC) proposes the repeal of §§290.38-290.49 and new §§290.38-290.49, concerning rules and regulations for public water systems. The TWC is proposing the replacement of emergency §§290.38-290.49, which were published on an emergency basis in the April 10, 1992, issue of the *Texas Register* (17 TexReg 2541). The replacement of these sections is a result of Senate Bill 2, First Called Session, 72nd Legislature, which transferred all the powers, duties, rights, and obligations of the Texas Department of Health (TDH) pertaining to the setting of sanitary standards for drinking water and the protection of public water supplies and bodies of water to TWC effective March 1, 1992. The TDH rules and regulations concerning public water systems, codified as 25 TAC §§337.201-337.212, were transferred to TWC through recodification in 31 TAC §§290.38-290.49. The TWC subsequently determined that these rules were deficient in that they did not adequately address particular areas of system design, water treatment, water storage, and water distribution. More importantly, the provisions on water distribution expressly allowed returning water to the public water supply after it left the control of the utility with little or no regard for the impacts to human health or the environment.

The changes included in new §§290.38-290.49 are intended to correct these deficiencies.

The distribution system design criteria located in new §290.44 contains language that regulates the installation of devices which return process water generated by such devices back into the public water supply system. Specifically, proposed §290.44(h)(2) has been modified to address heat exchanger pilot studies. Additionally, several of the sections were rewritten to clarify the intent of new §290.44, to organize the sections into a more logical sequence, and to incorporate several

revisions suggested by the public and commission staff.

A definition for maximum daily demand was added to §290.38 to codify a long-standing staff policy and to assist consulting engineers in estimating the production and treatment requirements of certain public water systems which do not maintain daily water usage data.

Section 290.39 was reorganized and includes some suggested grammatical changes. It also includes a new requirement that the planning material for a proposed well include the location of any abandoned wells in the vicinity of the new wellsite.

Section 290.41 underwent a major reorganization. Design criteria for springs and other similar sources of drinking water were added. Several sections were rewritten to clarify that the commission will recognize only water sample analysis which is conducted by a laboratory approved by the Texas Department of Health.

Section 290.42 was also reorganized. A subsection on the treatment required for water from springs and other similar sources was added as were requirements for parallel treatment facilities for those surface water treatment plants that produce more than 30 million gallons per day. Several provisions were rewritten to improve their clarity.

Because water storage design criteria, covered in old §290.44, generally precede water storage design criteria, covered in old §290.43, an inconsistency in the previous design requirements for storage tanks was eliminated and some of the rules were rewritten to clarify the intent of the earlier versions of these rules. The design requirements for roof hatches were changed slightly to save many utilities the cost of retrofitting their existing storage tanks.

Section 290.45, which relates to the capacity requirements for public water systems, was also reorganized. In addition, a long-standing policy regarding the relationship of excess elevated storage tank capacity and service pump capacity has been codified so that exceptions are no longer required for those types of water systems. A subsection was also added requiring water wholesalers to provide sufficient auxiliary power so that a minimal volume of water can be supplied to their customers in the event of the temporary failure of their primary power source.

A number of changes were made to §290.46 which deals with minimum operating practices for water systems. In response to a request by field staff, a provision was added to require water systems to allow commission personnel access to system facilities for the purpose of making sanitary survey inspections. In response to requests from rural utilities, the disinfectant monitoring requirements for small water systems were modified. Those parts of §§290.38-290.45 which deal with operations were relocated to this section to make the document more uniform.

The changes to §§290.47-290.49 were minor and were made to eliminate inconsistencies between these and the other revised sections.

Stephen Minick, budget, planning, and evaluation division, has determined that for the first

five-year period the sections are in effect there will be fiscal implications for local government as a result of enforcing or administering the sections. There is no effect on state government. The effect on local governments operating public water systems is a function of additional requirements incorporated in this proposal which have not previously been a part of Texas Department of Health regulations. Additional requirements to locate abandoned wells in the vicinity of proposed new wells, for parallel treatment facilities at surface water treatment plants producing more than 3 MGD, and for provision of auxiliary power supply in the event of power failure are examples of new provisions which would apply to public water system operators and could represent new costs to operators. Other provisions, such as that related to design requirements for storage tanks, will result in cost savings. For the most part, these provisions will incorporate into regulation current policy and practice of both the commission and the predecessor agency in the regulation of public water systems. The actual costs to operators of public water systems, as a result of incorporation of these new requirements, are not anticipated to be significant.

A more significant change incorporated in these rules relates to additional requirements for approval of potable water supplies that are subject to potential contamination, such as in condensing, cooling, or other industrial uses, where public water supply system officials do not maintain sanitary control. It is estimated that the number of connections which have been made to public water systems that would be subject to these requirements is relatively small. The additional costs of compliance cannot be estimated exactly and would vary with each individual installation on a case-by-case basis. Any costs to small businesses would be incurred on the same basis as for larger concerns. There are no additional costs anticipated for small businesses that are not previously identified for operators of public water systems.

Mr. Minick also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be improvements in the operation of public water supply systems, the control of the quality of public water supplies, and protection of human health and the environment.

Comments on the proposal may be submitted to Renea Ryland, Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted until 5 p.m. for a period of 30 days following the date of this publication.

Public Water Systems

- 31 TAC §§290.38-290.49

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

The repeals are proposed under the Texas Water Code, §5.103, which authorizes the commission to adopt any rules necessary to

carry out its powers, duties, and policies and the Texas Health and Safety Code, Chapter 341, Subchapter C, which governs sanitary standards of drinking water, protection of public water supplies, and bodies of water.

§290.38. *Definitions*

§290.39. *General Provisions.*

§290.40. *Prohibitions.*

§290.41. *Water Sources.*

§290.42. *Water Treatment.*

§290.43. *Water Distribution.*

§290.44. *Water Storage.*

§290.45. *Minimum Water System Capacity Requirements.*

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

§290.47. *Appendix A. State Approval Recognition.*

§290.48. *Appendix B. Minimum Required Water Main Sizes*

§290.49. *Appendix C. Sample or Suggested Sanitary Control Easement Document for a Public Water Well.*

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 24, 1992.

TRD-9210150

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: August 31, 1992

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

Rules and regulations for Public Water Systems

- 31 TAC §§290.38-290.49

The new sections are proposed under the Texas Water Code, §5.103, which authorizes the commission to adopt any rules necessary to carry out its powers, duties, and policies and the Texas Health and Safety Code, Chapter 341, Subchapter C, which governs sanitary standards of drinking water, protection of public water supplies, and bodies of water.

§290.38. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. If a word or term used in this title is not contained in the following list, its definition shall be as shown in Title 40 Code of Federal Regulations, §141.2. Other technical terms used shall have the meanings or definitions listed in the latest edition of "Glossary, Water and Wastewater Control Engineering," prepared by a joint editorial board representing the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and the Water Pollution Control Foundation.

ANSI standards—The standards of the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

ASME standards—The standards of the American Society of Mechanical Engineers, 346 East 47th Street, New York, New York 10017.

ASTM standards—The standards of the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19102.

Auxiliary power—Either mechanical power or electric generators which can enable the system to provide water under pressure to the distribution system in the event of a local power failure. With the approval of the executive director, dual primary electric service may be considered as auxiliary power in areas which are not subject to large scale power outages due to natural disasters.

AWWA standards—The latest edition of the applicable standards as approved and published by the American Water Works Association, 6666 West Quincy Avenue, Denver, Colorado 80235.

Commission—The Texas Water Commission.

Community water system—A public water system which has a potential to serve at least 15 residential service connections on a year-round basis or serves at least 25 residents on a year-round basis.

Connection—A single family residential unit or each commercial or industrial establishment to which drinking water is supplied from the system. As an example, the number of service connections in an apartment complex would be equal to the number of individual apartment units. When enough data is not available to accurately determine the number of connections to be served or being served, the population served divided by three will be used as the number of connections for calculating system capacity requirements. Conversely, if only the number of connections is known, the connection total multiplied by three will be the number used for population served.

Contamination—The presence of any foreign substance (organic, inorganic, radio-

logical, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

Cross-connection—A physical connection between a public water system and either another supply of unknown or questionable quality, any source which may contain contaminating or polluting substances, or any source of water treated to a lesser degree in the treatment process.

Drinking water—All water distributed by any agency or individual, public or private, for the purpose of human consumption or which may be used in the preparation of foods or beverages or for the cleaning of any utensil or article used in the course of preparation or consumption of food or beverages for human beings. The term "drinking water" shall also include all water supplied for human consumption or used by any institution catering to the public.

Drinking water standards—The commission rules covering drinking water standards in §§290.1-290.19 of this title (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems).

Elevated storage capacity—That portion of water which can be stored at least 80 feet above the highest service connection in the pressure plane served by the storage tank.

Executive director—The executive director of the Texas Water Commission.

Health hazard—Any conditions, devices, or practices in the water supply system and/or its operation which create, or may create, a danger to the public health and well-being of the water consumer. An example of a health hazard is a structural defect in the water supply system, whether of location, design, or construction, which may regularly or occasionally prevent satisfactory purification of the water supply or cause it to be contaminated from extraneous sources.

Human consumption—Uses by humans in which water can be ingested into or absorbed by the human body. Examples of these uses include, but are not limited to, drinking, cooking, brushing teeth, bathing, washing hands, washing dishes, and preparing foods.

Interconnection—A physical connection between two public water supply systems.

Intruder-resistant fence—A fence six feet or more in height, constructed of wood, concrete, masonry, or metal with three strands of barbed wire extending outward from the top of the fence at a 45 degree angle. In lieu of the barbed wire, the fence must be eight feet in height. The fence must be in good repair and close enough to surface grade to prevent intruder passage.

Maximum daily demand—In the absence of verified historical data, 2.4 times the average daily demand of the system.

mg/l—Milligrams per liter, a measure of concentration, equivalent to and replacing parts per million (ppm) in the case of dilute solutions.

NSF—The National Sanitation Foundation and refers to the listings developed by the Foundation, P.O. Box 1468, Ann Arbor, Michigan 48106.

Noncommunity water system—Any public water system which is not a community system.

Nontransient noncommunity water system—A public water system that is not a community water system and regularly serves at least 25 of the same persons at least six months out of the year.

psi—Pounds per square inch.

Peak hourly demand—In the absence of verified historical data, 1.25 times the maximum daily demand (prorated to an hourly rate) if a public water supply meets the commission's minimum requirements for elevated storage capacity and 1.85 times the maximum daily demand (prorated to an hourly rate) if the system uses pressure tanks or fails to meet the commission's minimum elevated storage capacity requirement.

Public health engineering practices—Requirements in these sections or guidelines promulgated by the commission.

Public water system—A system for the provision to the public of piped water for human consumption, which includes all uses described under the definition for drinking water. Such a system must have a potential for at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or more at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

Sanitary control easement—A legally binding document securing all land, within 150 feet of a public water supply well location, from pollution hazards. This document must fully describe the location of the well and surrounding lands and must be filed in the county records to be legally binding.

Service pump—Any pump that takes treated water from storage and discharges to the distribution system.

Transfer pump—Any pump which conveys water from one point to another within the treatment process or which conveys water to storage facilities prior to distribution.

§290.39. *General Provisions.*

(a) Authority for requirements. The Texas Health and Safety Code, Chapter 341, Subchapter C, prescribes the duties of the Texas Water Commission relating to the regulation and control of public drinking water systems in the state. These statutes require that the commission review completed plans and specifications for all contemplated public water systems, and that the commission be notified of any subsequent material changes, improvements, additions, or alterations in existing systems. In order to properly discharge these duties, the Texas Water Commission is authorized to develop rules governing the design of system facilities, as well as minimum acceptable operating practices necessary to protect the public health.

(b) Reason for these sections and minimum criteria. These sections have been adopted to insure the inclusion of all data essential for comprehensive consideration of the contemplated project, or improvements, additions, alterations, or changes thereto and to establish minimum standardized public health design criteria in compliance with existing state statutes and in accordance with good public health engineering practices. In addition, minimum acceptable operating practices must be specified to insure that facilities are properly operated to produce and distribute a safe, potable water.

(c) Authorization for examination of plans.

(1) Plans, specifications, and related documents will not be considered unless they have been prepared under the direction of a registered professional engineer. All engineering documents must have engineering seals, signatures, and dates affixed in accordance with the rules of the Texas State Board of Registration for Professional Engineers.

(2) Detailed plans must be submitted for examination at least 30 days prior to the time that approval, comments, or recommendations are desired. From this, it is not to be inferred that final action will be forthcoming within the time mentioned.

(3) The limits of approval are as follows.

(A) The commission's Water Utilities Division furnishes consultation ser-

vices as a reviewing body only, and its registered engineers may neither act as design engineers nor furnish detailed estimates.

(B) The commission's Water Utilities Division does not examine plans and specifications in regard to the structural features of design, such as strength of concrete or adequacy of reinforcing. Only the features covered by these sections will be reviewed.

(C) The consulting engineer and/or owner must provide surveillance adequate to assure that facilities will be constructed according to approved plans and must notify the commission's Water Utilities Division in writing upon completion of all work.

(d) Submission of planning material. In general, the planning material submitted shall conform to the following requirements.

(1) Engineering reports are required for new water systems and all surface water treatment plants. Engineering reports are also required when design deficiencies are identified in an existing system. The engineering report shall include, at least, coverage of the following items:

(A) statement of the problem or problems;

(B) present and future areas to be served, with population data;

(C) the source, with quantity and quality of water available;

(D) present and estimated future maximum and minimum water quantity demands;

(E) description of proposed site and surroundings for the water works facilities;

(F) type of treatment, equipment, and capacity of facilities;

(G) basic design data, including pumping capacities, water storage, and flexibility of system operation under normal and emergency conditions; and

(H) the adequacy of the facilities with regard to delivery capacity and pressure throughout the system.

(2) All plans and drawings submitted may be printed on any of the various papers which give distinct lines. All prints

must be clear, legible, and assembled to facilitate review.

(A) The relative location of all facilities which are pertinent to the specific project shall be shown.

(B) The location of all abandoned or inactive wells within 1/4 mile of a proposed wellsite shall be shown or reported.

(C) If staged construction is anticipated, the overall plan shall be presented, even though a portion of the construction may be deferred.

(D) A general map or plan of the municipality, water district, or area to be served shall accompany each proposal for a new water supply system.

(3) Specifications for construction of facilities shall accompany all plans. If a process or equipment which may be subject to probationary acceptance because of limited application or use in Texas is proposed, the commission, at its discretion, may give limited approval. In such case, the owner must be given a bonded guarantee from the manufacturer covering acceptable performance. The specifications shall include a statement that such a bonded guarantee will be provided the owner and shall also specify those conditions under which the bond will be forfeited.

(4) Copies of each sanitary control easement shall accompany plans for all wells. See §290.49 of this title (relating to Appendix C-Sample Sanitary Control Easement Document for a Public Water Well) for a suggested form.

(e) Beginning and completion of work.

(1) The commission's Water Utilities Division shall be notified in writing by the design engineer or the owner when construction is started.

(2) Upon completion of the water works project, the engineer or owner will notify the commission's Water Utilities Division, in writing, as to its completion and attest to the fact that the completed work is substantially in accordance with the plans and change orders on file with the commission.

(f) Changes in plans and specifications. Any addenda or change orders which may involve a health hazard or relocation of facilities, such as wells, treatment units, and storage tanks, shall be submitted to the executive director for review and approval.

(g) Changes in existing systems or supplies. Changes or additions to existing systems shall require written notification to

the executive director. The executive director shall determine whether engineering plans and specifications will be required after initial notification of the extent of the modifications.

(h) Planning material acceptance. Planning material for improvements to an existing system which does not meet the requirements of all sections of these regulations will not be considered unless the necessary modifications for correcting the deficiencies are included in the proposed improvements, or unless the executive director determines that reasonable progress is being made toward correcting the deficiencies and no immediate health hazard will be caused by the delay.

(i) Exceptions. Requests for exceptions to one or more of these sections shall be considered on an individual basis. Any water system which requests an exception must demonstrate to the satisfaction of the executive director that the exception will not compromise the public health or result in a degradation of service or water quality.

(1) The exception must be requested in writing and must be substantiated by carefully documented engineering data. The request for an exception should precede the submission of engineering plans and specifications for a proposed project.

(2) Any exception granted by the commission is subject to revocation.

(3) Any request for an exception which is not approved by the commission in writing is denied.

§290.40. Prohibitions.

(a) Construction and operation prohibition. No person or entity may construct or operate a public drinking water system in violation of these sections or the drinking water standards.

(b) Distribution prohibition. No person or entity may distribute drinking water to the public in violation of these sections or the drinking water standards.

§290.41. Water Sources.

(a) Water quality. The quality of water to be supplied must meet the quality criteria prescribed by the commission's drinking water standards.

(b) Water quantity. Sources of supply, both ground and surface, shall have a safe yield capable of supplying the maximum daily demands of the distribution system during extended periods of peak usage and critical hydrologic conditions. The pipe lines and pumping capacities to treatment plants or distribution systems shall be adequate for such water delivery. Minimum capacities required are specified in §290.45

of this title (relating to Minimum Water System Capacity Requirements).

(c) Ground water sources and development.

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

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

(B) No well site shall be located within 500 feet of a sewage treatment plant or within 300 feet of a sewage wet well, sewage pumping station, or a drainage ditch which contains industrial waste discharges or the wastes from sewage treatment systems.

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

(D) Livestock in pastures shall not be allowed within 50 feet of water supply wells.

(E) Abandoned or inoperative wells within 1/4 mile of a proposed wellsite shall be reported to the commission along with existing or potential pollution hazards which may affect ground water quality. This information must be submitted prior to construction or as required by the executive director.

(F) A sanitary control easement covering that portion of the lands within 150 feet of the well location shall be secured from all such property owners and recorded in the deed records at the county courthouse. The easement shall provide that none of the pollution hazards covered in subparagraphs (A)-(E) of this paragraph, or

any facilities that might create a danger of pollution to the water to be produced from the well will be located thereon. Copies of the recorded easements shall be included with plans and specifications submitted for review.

(2) The premises, materials, tools, and drilling equipment shall be maintained so as to minimize contamination of the underground water during drilling operation.

(A) Water used in any drilling operation shall be of safe sanitary quality. Water used in the mixing of drilling fluids or mud shall contain a chlorine residual of at least 0.5 mg/l.

(B) The slush pit shall be constructed and maintained so as to minimize contamination of the drilling mud.

(C) No temporary toilet facilities shall be maintained within 150 feet of the well being constructed unless they are of a sealed, leakproof type.

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

(A) Before placing the well into service, the commission's Water Utilities Division shall be furnished a copy of the well completion data, which includes the following items: the driller's log (geological log and material setting report); a cementing certificate; the results of a 36-hour pump test; the results of the microbiological and chemical analyses required by subparagraphs (F) and (G) of this paragraph; a copy of the sanitary control easement; and an original or legible copy of a United States Geological Survey 7.5-minute topographic quadrangle showing the accurate well location.

(B) The casing material used in the construction of wells for public use shall be new carbon steel, high-strength low-alloy steel, stainless steel, or plastic. The material shall conform to AWWA standards. The casing shall extend a minimum of 18 inches above the elevation of the finished floor of the pump room or natural ground surface and a minimum of one inch above the sealing block or pump motor foundation block when provided. The casing shall extend at least to the depth of the shallowest water formation to be developed and deeper, if necessary, in order to eliminate all undesirable water-bearing strata.

(C) The space between the casing and drill hole shall be sealed by using enough cement under pressure to

completely fill and seal the annular space between the casing and the drill hole. The well casing shall be cemented in this manner from the top of the shallowest formation to be developed to the earth's surface.

(D) When a gravel packed well is constructed, all gravel shall be of selected and graded quality and shall be thoroughly disinfected with a 50 mg/l chlorine solution as it is added to the well cavity.

(E) Safeguards shall be taken to prevent possible contamination of the water or damage by trespassers following the completion of the well and prior to installation of permanent pumping equipment.

(F) Upon well completion, or after an existing well has been reworked, the well shall be disinfected in accordance with current AWWA standards for well disinfection except that the disinfectant shall remain in the well for at least six hours.

(i) Before placing the well in service, the water containing the disinfectant shall be flushed from the well and then samples of water shall be collected and submitted for microbiological analysis until three successive daily raw water samples are free of coliform organisms. The analysis of these samples must be conducted by a laboratory approved by the Texas Department of Health.

(ii) Appropriate facilities for treatment of the water shall be provided where a satisfactory microbiological record cannot be established after repeated disinfection. The extent of water treatment required will be determined on the basis of geological data, well construction features, nearby sources of contamination and, perhaps, on the basis of quantitative microbiological analyses.

(G) A complete physical and chemical analysis of the water produced from a new well shall be made after 36 hours of continuous pumping at the design withdrawal rate. Shorter pump test periods can be accepted for large capacity wells producing from areas of known groundwater production and quality so as to prevent wasting of water. Samples must be submitted to the Texas Department of Health laboratory for chemical analyses. Tentative approval may be given on the basis of tests performed by in-plant or private laboratories but final acceptance by the commission shall be on the basis of results from the Texas Department of Health laboratory. Appropriate treatment shall be provided if the analyses reveal that the water from the well fails to meet the water quality criteria as prescribed by the drinking water standards.

These criteria include turbidity, color and threshold odor limitations, and excessive hydrogen sulfide, carbon dioxide, or other constituents or minerals which make the water undesirable or unsuited for domestic use.

(H) Below ground-level pump rooms and pump pits will not be allowed in connection with water supply installations. The pump room floor shall be at least two feet above the highest known watermark or 100-year flood elevation, if available, or adequately protected from possible flood damage by levees.

(I) The well site shall be fine graded so that the site is free from depressions, reverse grades, or areas too rough for proper ground maintenance so as to ensure that surface water will drain away from the well. In all cases, arrangements shall be made to convey well pump drainage, packing gland leakage, and floor drainage away from the wellhead. Suitable drain pipes located at the outer edge of the concrete floor shall be provided to collect this water and prevent its ponding or collecting around the wellhead. This waste water shall be disposed of in a manner that will not cause any nuisance from mosquito breeding or stagnation. Drains shall not be directly connected to storm or sanitary sewers.

(J) In all cases, a concrete sealing block extending at least three feet from the well casing in all directions, with a minimum thickness of six inches and sloped to drain away at not less than 0.25 inches per foot shall be provided around the wellhead.

(K) Wellheads and pump bases shall be sealed by a gasket or sealing compound and properly vented to prevent the possibility of contaminating the well water. A well casing vent shall be provided with an opening that is covered with 16-mesh or finer corrosion-resistant screen, faced downward, elevated and located so as to minimize the drawing of contaminants into the well.

(L) If a well blow-off line is provided, its discharge shall terminate in a downward direction and at a point which will not be submerged by flood waters.

(M) A suitable sampling cock shall be provided on the discharge pipe of each well pump prior to any treatment.

(N) Flow measuring devices shall be provided for each well to measure production yields and provide for the accu-

mulation of water production data. These devices shall be located to facilitate daily reading.

(O) All completed well units shall be protected by intruder-resistant fences, the gates of which are provided with locks or shall be enclosed in locked, ventilated well houses to exclude possible contamination or damage to the facilities by trespassers. The gates or wellhouses shall be locked during periods of darkness and when the plant is unattended.

(P) An all-weather access road shall be provided to each well site.

(4) Pitless well units may be desirable in areas subject to vandalism or extended periods of subfreezing weather.

(A) Pitless units shall be shop fabricated from the point of connection with the well casing to the unit cap or cover, be threaded or welded to the well casing, be of watertight construction throughout, and be of materials and weight at least equivalent and compatible to the casing. The units must have a field connection to the lateral discharge from the pitless unit of threaded, flanged, or mechanical joint connection. Each unit must terminate at least 18 inches above the concrete sealing block and at least two feet above the highest known water mark or 100-year flood elevation, whichever is higher.

(B) The design of the pitless unit shall make provisions for an access to disinfect the well, a properly designed casing vent, a cover at the upper terminal of the well that will prevent the entrance of contamination, a sealed entrance connection for electrical cable, and at least one check valve within the well casing. The unit shall have an inside diameter as great as that of the well casing up to and including casing diameters of 12 inches.

(C) If the connection to the casing is by field weld, the shop-assembled unit must be designed specifically for field welding to the casing. The only field welding permitted will be that needed to connect a pitless unit to the well casing.

(D) Completed pitless well unit installations must be provided with above ground level raw water sampling cocks, concrete sealing blocks, and flow measuring devices.

(E) The well casing and pitless unit must be properly sealed and cemented in accordance with paragraph (3)(C) of this subsection.

(d) Springs and other water sources.

(1) Springs and other similar sources of flowing artesian water shall be protected from potential contaminant sources in accordance with the requirements of subsection (c)(1) of this section.

(2) Before placing the spring or similar source into service, completion data similar to that required by subsection (c)(3)(A) of this section must be submitted to the commission's Water Utilities Division for review and approval.

(3) Springs and similar sources shall be constructed in a manner which will preclude the entrance of surface water and debris.

(A) The site shall be fine graded so that it is free from depressions, reverse grades, or areas too rough for proper ground maintenance in order to ensure that surface water will drain away from the source.

(B) The spring or similar source shall be encased in an open-bottomed, watertight basin which intercepts the flowing water below the surface of the ground. The basin shall extend at least 18 inches above ground level. The top of the basin shall also be at least two feet above the highest known watermark or 100-year flood elevation, if available, or adequately protected from possible flood damage by levees.

(C) In all cases, a concrete sealing block shall be provided which extends at least three feet from the encasement in all directions. The sealing block shall be at least six inches thick and be sloped to drain away from the encasement at not less than 0.25 inches per foot.

(D) The top of the encasement shall be provided with a sloped, watertight roof which prevents the ponding of water and precludes the entrance of animals, insects, and other sources of contamination.

(E) The roof of the encasement shall be provided with a hatch that is not less than 30 inches in diameter. The hatch shall have a raised curbing at least four inches in height with a lockable cover that overlaps the curbing at least two inches in a downward direction. Where necessary, a gasket shall be used to make a positive seal when the hatch is closed. All hatches shall remain locked except during inspections and maintenance.

(F) The encasement shall be provided with a gooseneck vent or roof ventilator which is equipped with approved screens to prevent entry of animals, birds, insects, and heavy air contaminants. Screens shall be fabricated of corrosion-resistant material and shall be 16-mesh or finer. Screens shall be securely clamped in place with stainless or galvanized bands or wires.

(G) The encasement shall be provided with an overflow which is designed to prevent the entry of animals, birds, insects, and debris. The discharge opening of the overflow shall be above the surface of the ground and shall not be subject to submergence.

(4) Springs and similar sources must be provided with the appurtenances required by subsection (c)(3)(M)-(P) of this section.

(e) Surface water sources and development.

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

(A) Where surface water sources which are subject to continuous contamination by municipal, agricultural, or industrial wastes and/or treated effluent are contemplated for development for public water systems, the adverse effects of the contamination on the quality of the raw water reaching the treatment plant shall be determined by sanitary surveys and laboratory procedures. These findings shall be submitted with the planning material and will be used to determine whether or not the proposed raw water intake is adequately protected from all sources of contamination.

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

(C) Shore installations, marinas, boats, and all habitations on the watershed shall be provided with satisfactory sewage disposal facilities. Septic tanks and soil absorption fields, tile or concrete sanitary sewers, sewer manholes, or other approved toilet facilities shall not be located in an area within 75 feet horizontally from the lake water surface at the uncontrolled spillway elevation of the lake or 75 feet

horizontally from the 50-year flood elevation, whichever is lower.

(D) Disposal of wastes from boats or any other watercraft shall be in accordance with the Texas Water Code, §§321.1-321.18.

(2) Intakes shall be located and constructed in a manner which will allow raw water to be taken from a variety of depths and which will permit withdrawal of water when reservoir levels are very low. Fixed level intakes are acceptable if water quality data is available to establish that the effect on raw water quality will be minimal.

(A) Insofar as possible, intakes shall be located in areas not subject to excessive siltation and areas not subject to receiving immediate runoff from wooded sloughs and swamps.

(B) Water intake works shall be provided with screens or grates to minimize the amount of debris entering the plant.

(C) No public boat launching ramps, marinas, docks, or floating fishing piers shall be located within 1,000 feet of the raw water intake.

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

(E) The executive director shall make an on-site evaluation of any proposed raw water intake location. The evaluation must be requested prior to final design and must be supported by preliminary design drawings. Once the final intake location has been selected, the commission's Water Utilities Division shall be furnished with an original or legible copy of a United States Geological Survey 7.5-minute topographic quadrangle showing the accurate intake location.

(3) The water treatment plant and all pumping units shall be located in well-drained areas not subject to flooding

and away from seepage areas or where the underground water table is near the surface.

(A) Water treatment plants shall not be located within 500 feet of a sewage treatment plant or lands irrigated with sewage effluent. A minimum distance of 150 feet must be maintained between any septic tank drainfield line and any underground treatment or storage unit. Any sanitary sewers located within 50 feet of any underground treatment or storage units shall be constructed of ductile iron or PVC pipe with a minimum pressure rating of 150 psi and have watertight joints.

(B) Plant site selection shall also take into consideration the need for disposition of all plant wastes in accordance with all applicable regulations and state statutes including both liquid and solid waste or by-product material from operation and/or maintenance.

(C) The water treatment plant and all appurtenances thereof shall be enclosed by an intruder resistant fence. The gates shall be locked during periods of darkness and when the plant is unattended. A locked building in the fence line may satisfy this requirement or serve as a gate.

(D) An all-weather road shall be provided to the treatment plant and to the raw water pump station.

(E) Flow measuring devices shall be provided to measure the raw water supplied to the plant and to measure the treated water discharged from the plant. These devices shall be located to facilitate use and to assist in the determination of chemical dosages, the accumulation of water production data, and the operation of plant facilities.

§290.42. Water Treatment.

(a) Capacity. Based on current acceptable design standards, the total capacity of the public water system's production and treatment facilities must always be greater than its anticipated maximum daily demand.

(b) Ground waters.

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

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

(A) Filters provided for turbidity and microbiological quality control shall be preceded by coagulant addition and shall conform to the requirements of subsection (c)(10) of this section. Filtration rates for iron and manganese removal, regardless of the media or type of filter, shall be based on a maximum rate of five gallons per square foot per minute.

(B) The removal of iron and manganese may not be required if it can be demonstrated that these metals can be sequestered so that the discoloration problems they cause do not exist in the distribution system.

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

(D) Appropriate laboratory facilities shall be provided for controls as well as to check the effectiveness of disinfection or any other treatment processes employed.

(c) Springs and other water sources.

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

(A) Filters provided for turbidity and microbiological quality control shall conform to the requirements of subsection (d)(10) of this section.

(B) All processes involving exposure of the water to atmospheric contamination shall provide for subsequent disinfection of the water ahead of ground storage tanks. Likewise, all exposure of water to atmospheric contamination shall be accomplished in a manner such that insects, birds, and other foreign materials will be

excluded from the water. Aerators and all other such openings shall be screened with 16-mesh or finer corrosion resistant screen.

(2) Any proposed change in the extent of water treatment required will be determined on the basis of geological data, well construction features, nearby sources of contamination, and on qualitative and quantitative microbiological and chemical analyses.

(3) Appropriate laboratory facilities shall be provided for controls as well as to check the effectiveness of disinfection or any other treatment processes employed.

(d) Surface water.

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

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

(3) All drainage conduits shall be constructed so as to be thoroughly tight against leakage. Return of the decanted water and/or sludge to the raw water should be adequately controlled so that there will be a minimum of interference with the treatment process. Any discharge of wastewater shall be in accordance with the appropriate statutes and regulations.

(4) Reservoirs for pretreatment and/or selective quality control shall be provided where complete treatment facilities fail to operate satisfactorily at times of maximum turbidities or other abnormal raw water quality conditions exist. Recreational activities at such reservoirs shall be prohibited.

(5) Treatment plants shall be provided with efficient devices for measuring and applying chemicals to the water being treated.

(A) Each chemical feeder shall have a standby or reserve unit. Com-

mon standby feeders are permissible, but, generally, more than one standby feeder must be provided due to the incompatibility of chemicals or the state in which they are being fed (solid, liquid, or gas).

(B) Accurate flow meters shall be provided for determining rate of treatment and total amount of water treated. All chemical feed equipment shall be capable of easily adjusting to variations in the flow of water being treated.

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

(D) Chemical feeders shall be provided with dissolving tanks when applicable.

(E) Where practical, the transport of chemical solutions between the feeder and the application point should be accomplished through open channels. If enclosed feed lines must be used, they shall be designed and installed so as to prevent clogging and facilitate cleaning.

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

(G) Chlorine feed units, ammonia feed units, and storage facilities shall be separated by solid, sealed walls.

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

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

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

(A) Storage facilities at the plant shall be adequate to store at least one month's supply of chemicals. However, local resupply ability may dictate the requirements for plant inventories.

(B) Chemical storage facilities shall be located so as to help in the

handling of bulk chemicals by operators and the transfer of chemicals to the feeders. Also, the movement of chemicals from storage to feed machines shall be done in a manner that facilitates good housekeeping.

(C) When liquid chemicals are to be used, special precautions must be taken. The following concerns must be addressed both during the plan review and approval process for new facilities and during the operation of existing plants:

(i) issues involving bulk storage tank design such as the materials of construction, capacity (which must be at least 1.5 times the size of truck delivery), overflow, and containment;

(ii) issues involving transfer pump design including the bulk storage tank design, day tank capacity, type, materials of construction, and controls;

(iii) issues involving the day tanks such as the materials of construction, overflow, containment, capacity, and controls;

(iv) issues involving metering pump design such as the materials of construction, calibration, controls, capacity, and anti-siphon protection; and

(v) issues involving piping and valves including their compatibility with solutions.

(8) Flash mixing and flocculation equipment shall be provided which is capable of adequate flexibility or adjustment to provide optimum flocculation under varying raw water characteristics and rates of raw water treatment.

(A) Where special types of equipment for rapid mechanical mixing, softening, or sedimentation are proposed, the manufacturer must meet the design criteria in paragraph (9) of this subsection.

(B) Facilities for coagulation and sedimentation must be provided to clarify the water so that the settled water turbidity is low enough to produce a finished water which meets the turbidity limits established by the commission's drinking water standards.

(i) Settled water turbidity of less than 10 turbidity units is generally required to produce a filtered water turbidity which meets the requirements of the drinking water standards.

(ii) All turbidity measurements must be made in accordance with the method specified in the drinking water standards.

(C) Plants with a design capacity greater than 3.0 million gallons per

day must provide at least two sets of flash mixing and flocculation equipment which are designed to operate in parallel.

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

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

(B) Basins shall be designed to prevent the short-circuiting of flow or the destruction of floc. Coagulated water or water from flocculators shall be transported to sedimentation basins in such a manner as to prevent destruction of floc. Piping, flumes, and troughs shall be designed to provide a flow velocity of 0.5 to 1.5 feet per second. Gates, ports, and valves shall be designed at a maximum flow velocity of four feet per second in the transfer of water between units.

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

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

(E) Plants with a design capacity greater than 3.0 million gallons per day must provide at least two sedimentation basins or clarification units which are designed to operate in parallel.

(10) Filters shall be gravity or pressure type.

(A) The design of gravity rapid sand filters shall be based on a maximum design filtration rate of two gallons per square foot per minute. At the beginning of filter runs for declining rate filters, a maximum filtration rate of three gallons per square foot per minute is allowed. The filter discharge piping shall be designed with an orifice or other permanently installed flow limiting device to ensure that the maximum filter rate cannot be exceeded.

(B) Where high-rate dual or multiple media gravity filters are used, a maximum design filtration rate of five gallons per square foot per minute must be used. At the beginning of filter runs for declining rate filters, a maximum filtration rate of 6.5 gallons per square foot per minute is allowed. The filter discharge piping shall be designed with an orifice or other permanently installed limiting device to ensure that the maximum filter rate cannot be exceeded.

(C) Pressure sand filters shall be subject to the loading provisions in subparagraph (A) of this paragraph for gravity sand filters. When used, the pressure filters shall be installed such that duplicate capacity is available to furnish the design capacity with one filter out of service. The use of pressure filters shall be limited to installations with less than 0.50 million gallons per day capacity.

(D) The depth of filter sand, anthracite, or other filtering materials shall be 24 inches or greater. This filtering material shall be free from clay, dirt, organic matter, and other impurities. Its effective size shall range from 0.35 to 0.45 mm for fine sand, 0.45 to 0.55 mm for medium sand, and 0.55 to 0.65 mm for coarse sand. Its uniformity coefficient shall not exceed

1.7. The grain size distribution shall also be as prescribed by AWWA standards. Material for dual or mixed media filters shall conform to AWWA standards.

(E) Under the filtering material, at least 12 inches of gravel shall be placed varying in size from 1/16 inch to 2.5 inches. The gravel may be arranged in three to five layers such that each layer contains material about twice the size of the material above it. Other support material may be approved on a case-by-case basis.

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

(i) Only fully treated water shall be used to backwash the filters. This water may be supplied by elevated wash water tanks or by pumps which take suction from the clearwell and are provided for backwashing filters only. For installations having a treatment capacity no greater than 150,000 gallons per day, water for backwashing may be secured directly from the distribution system if proper controls and rate-of-flow limiters are provided.

(ii) The rate of filter backwashing shall be regulated by rate-of-flow controllers.

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

the water passes and which is located above the overflow level of the filter.

(H) With the exception of declining rate filters, each filter unit shall be equipped with a manually adjustable rate-of-flow controller with rate-of-flow indication or control valves with indicators.

(I) Each filter unit shall be equipped with a device to indicate loss of head through the filter. In lieu of loss-of-head indicators, declining rate filter units may be equipped with rate-of-flow indicators to monitor filter condition.

(J) Filter-to-waste connections, if included, shall be provided with an air gap connection to waste.

(K) Filters shall be located so that common walls will not exist between them and aerators, mixing, and sedimentation basins or clear wells. This rule is not strictly applicable, however, to partitions open to view and readily accessible for inspection and repair.

(11) Pipe galleries shall be incorporated into the plant design with ample working room, good lighting, and good drainage provided by sloping floors, gutters, and sumps. Adequate ventilation to prevent condensation and to provide humidity control is also required.

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

LETTERSCOLOR OF PIPE

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

(13) An adequately equipped laboratory must be available locally where daily microbiological and chemical tests can be made on water supplied by all plants serving 25,000 persons or more. For plants serving populations of less than 25,000, the facilities for making microbiological tests may be omitted and the required microbiological samples submitted to one of the Texas Department of Health's approved laboratories. All surface water treatment plants shall be provided with equipment for making at least the following determinations: pH, disinfectant residual, alkalinity, turbidity, "Jar" tests, and other tests deemed necessary to monitor specific water quality problems or to evaluate specific water treatment processes. All surface water treatment plants shall provide sampling taps for raw, settled, and filtered water.

(e) Disinfection.

(1) All waters obtained from surface sources must be disinfected prior to storage at a dosage sufficient to produce an adequate residual in the water leaving the plant.

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

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

(4) Disinfection equipment shall be selected and installed so that continuous and effective disinfection can be secured under all conditions.

(A) Disinfection equipment shall have a capacity at least 50% greater than the highest expected dosage to be applied at any time. It shall be capable of satisfactory operation under every prevailing hydraulic condition.

(B) Automatic proportioning of the disinfectant dosage to the flow rate of the water being treated shall be provided at larger plants and at all plants where the rate of flow varies more than 50% above or below the average flow. Manual control shall be permissible only when the rate of flow is relatively constant or an attendant is

always on hand to promptly make adjustments.

(C) All disinfecting equipment on surface water treatment plants shall include at least one standby unit of each capacity for ensuring uninterrupted operation.

(D) Facilities shall be provided for determining the amount of disinfectant used daily as well as the amount of disinfectant remaining for use.

(E) When used, solutions of calcium hypochlorite shall be prepared in a separate mixing tank and allowed to settle so that only a clear supernatant liquid is transferred to the hypochlorinator container.

(F) Provisions shall be made for both pretreatment disinfection and post-disinfection in all surface water treatment plants. Additional application points shall be installed if they are required to adequately control the quality of the treated water.

(G) The use of disinfectants other than chlorine will be considered on a case-by-case basis under the exception guidelines of §290.39(h)(2) of this title (relating to General Provisions).

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

(6) Housing for gas chlorination equipment and cylinders of chlorine shall be in separate buildings or separate rooms with impervious walls or partitions separating all mechanical and electrical equipment from the chlorine facilities. Housing shall be located above ground level as a measure of safety. Equipment and cylinders may be installed on the outside of the buildings when protected from adverse weather conditions and vandals.

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

and a fan switch located outside the enclosure.

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

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

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

(g) Sanitary facilities for water works installations. Toilet and handwashing facilities provided in accordance with established standards of good public health engineering practices shall be available at all installations requiring frequent visits by operating personnel.

(h) Permits for waste discharges. Permits for discharging wastes from water treatment processes shall be obtained from the commission.

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

§290.43. Water Storage.

(a) Capacity. The minimum clear well, storage tank, and pressure maintenance capacity shall be governed by the requirements in §290.45 of this title (relating to Minimum Water System Capacity Requirements).

(b) Location of clear wells, standpipes, and ground storage and elevated tanks.

(1) No public water supply elevated storage or ground storage tank shall

be located within 500 feet of any municipal or industrial sewage treatment plant or any land which is spray irrigated with treated sewage effluent.

(2) Insofar as possible, clear wells or treated water tanks shall not be located under any part of any buildings and, when possible, shall be constructed partially or wholly above ground.

(3) No storage tank or clear well located below ground level is allowed within 50 feet of a sanitary sewer or septic tank. However, if the sanitary sewers are constructed of 150 psi pressure rated pipe with pressure-tested, watertight joints as used in water main construction, the minimum separation distance is 10 feet.

(4) No storage tank or clear well located below ground level is allowed within 150 feet of a septic tank soil absorption system.

(c) Design and construction of clear wells, standpipes, ground storage tanks, and elevated tanks. All facilities for potable water storage shall be covered and designed, fabricated, erected, tested, and disinfected in strict accordance with current American Water Works Association (AWWA) standards and shall be provided with the minimum number, size, and type of roof vents, manways, drains, sample connections, access ladders, overflows, liquid level indicators, and other appurtenances as specified in these rules. Bolted tanks shall be designed, fabricated, erected, and tested in strict accordance with current AWWA Standard D103. The roof of all tanks shall be designed and erected so that no water ponds at any point on the roof and, in addition, no area of the roof shall have a slope of less than 3/4 inch in 12 inches.

(1) Roof vents shall be goose-neck or roof ventilator and be designed by the engineer based on the maximum outflow from the tank. Vents shall be installed in strict accordance with current AWWA standards and shall be equipped with approved screens to prevent entry of animals, birds, insects, and heavy air contaminants. Screens shall be fabricated of corrosion-resistant material and shall be 16-mesh or finer. Screens shall be securely clamped in place with stainless or galvanized bands or wires and shall be designed to withstand winds of not less than tank design criteria (unless specified otherwise by the engineer).

(2) All roof openings shall be designed in accordance with current AWWA standards. The primarily used roof access opening shall not be less than 30 inches in diameter. Other roof openings required only for ventilating purposes during cleaning, repairing, or painting operations shall be not less than 24 inches in diameter or as specified by the design engineer. Each

access opening shall have a raised curbing at least four inches in height with a lockable cover that overlaps the curbing at least two inches in a downward direction. Where necessary, a gasket shall be used to make a positive seal when the hatch is closed. All hatches shall remain locked except during inspections and maintenance.

(3) Overflows shall be designed in strict accordance with current AWWA standards and shall terminate with a gravity hinged and weighted cover. The cover shall fit tightly with no gap over 1/16 inch. If the overflow terminates at any point other than the ground level, it shall be located near enough and at a position accessible from a ladder or the balcony for inspection purposes. The overflow(s) shall be sized to handle the maximum possible fill rate without exceeding the capacity of the overflow(s). The discharge opening of the overflow(s) shall be above the surface of the ground and shall not be subject to submergence.

(4) All clear wells and water storage tanks shall have a liquid level indicator located at the tank site. The indicator can be a float with a moving target, an ultrasonic level indicator, or a pressure gauge calibrated in feet of water. If an elevated tank or standpipe has a float with moving target indicator, it must also have a pressure indicator located at ground level. Pressure gauges must not be less than three inches in diameter and calibrated at not more than two-foot intervals. Remote reading gauges at the owner's treatment plant or pumping station will not eliminate the requirement for a gauge at the tank site unless the tank is located at the plant or station.

(5) Inlet and outlet connections shall be located so as to prevent short circuiting or stagnation of water.

(6) Clear wells and potable water storage tanks shall be thoroughly tight against leakage, shall be located above the ground water table, and shall have no walls in common with any other plant units containing water in the process of treatment. All associated appurtenances including valves, pipes, and fittings shall be tight against leakage.

(7) Each clearwell or potable water storage tank shall be provided with a means of preventing the accumulation of silt and deposits at all low points in the bottom of the tank. Drains shall not be connected to any waste or sewage disposal system and shall be constructed so that they are not a potential agent in the contamination of the stored water.

(8) All clear wells, ground storage tanks, standpipes, and elevated tanks shall be painted, disinfected, and maintained in strict accordance with current AWWA standards. However, no temporary coatings, wax grease coatings, or coating

materials containing lead will be allowed. No other coatings will be allowed which are not approved for use (as a contact surface with potable water) by the United States Public Health Service (USPHS), the United States Environmental Protection Agency (EPA), National Sanitation Foundation (NSF), or the United States Food and Drug Administration (FDA). Effective January 1, 1993, all newly installed coatings must conform to ANSI/NSF Standard 61 and must be certified by an organization accredited by ANSI.

(9) No tanks or containers shall be used to store potable water that have previously been used for any non-potable purpose. Where a used tank is proposed for use, a letter from the previous owner or owners must be submitted to the commission which states the use of the tank.

(10) Access manways in the riser pipe, shell area, access tube, bowl area, or any other location opening directly into the water compartment shall be located in strict accordance with current AWWA standards. These openings shall not be less than 24 inches in diameter. However, in the case of a riser pipe or access tube of 36 inches in diameter or smaller, the access manway may be 18 inches by 24 inches with the vertical dimension not less than 24 inches. The primary access manway in the lower ring or section of a ground storage tank shall be not less than 30 inches in diameter. Where necessary, for any access manway which allows direct access to the water compartment, a gasket shall be used to make a positive seal when the access manway is closed.

(d) Design and construction of pressure (hydropneumatic) tanks. All hydropneumatic tanks must be located wholly above grade and must be of steel construction with welded seams except as provided in paragraph (8) of this subsection.

(1) Metal thickness for pressure tanks shall be sufficient to provide at least a minimum of 1/8-inch corrosion allowance and to withstand the highest expected working pressures with a four to one factor of safety. Tanks of 1,000-gallon capacity or larger must meet the standards of the American Society of Mechanical Engineers (ASME) Section VIII, Division 1 Codes and Construction Regulations and must have an access port for periodic inspections. An ASME name plate must be permanently attached to those tanks. Tanks installed before July 1, 1988, are exempt from the ASME coding requirement, but all new installations must meet this regulation. Exempt tanks can be relocated within a system but cannot be relocated to another system.

(2) All pressure tanks shall be provided with a pressure release device and an easily readable pressure gauge.

(3) Facilities shall be provided for maintaining the air-water-volume at the design water level and working pressure. Air injection lines must be equipped with filters or other devices to prevent compressor lubricants and other contaminants from entering the pressure tank. A device to readily determine air-water-volume must be provided for all tanks greater than 1,000 gallon capacity. Galvanized tanks which are not provided with the necessary fittings and which were installed before July 1, 1988, shall be exempt from this requirement.

(4) Protective paint or coating shall be applied to the inside portion of any pressure tank. The coating shall be as specified in subsection (c)(8) of this section.

(5) No pressure tank that has been used to store any material other than potable water may be used in a public water system. A letter from the previous owner or owners must be provided as specified in subsection (c)(9) of this section.

(6) Pressure tank installations should be equipped with slow closing valves and time delay pump controls to eliminate water hammer and reduce the chance of tank failure.

(7) All associated appurtenances including valves, pipes, and fittings connected to pressure tanks shall be thoroughly tight against leakage.

(8) For systems utilizing seamless fiberglass tanks, a maximum of 300 gallons of this type tank capacity is allowed.

(9) No more than three pressure tanks can be installed at any one site without the prior approval of the executive director.

(e) Facility fencing. All potable water storage tanks and pressure maintenance facilities must be enclosed by an intruder resistant fence with lockable gates. Pedestal-type elevated storage tanks with lockable doors and without external ladders are exempt from this requirement. The gates and doors must be kept locked whenever the facility is unattended.

§290.44. Water Distribution.

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

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

(2) All plastic pipe for use in public water systems must bear the National Sanitation Foundation Seal of Approval and have an ASTM design pressure rating of at least 150 psi or a standard dimension ratio of 26.

(3) No pipe which has been used for any purpose other than the conveyance of drinking water shall be accepted or relocated for use in any public drinking water supply.

(4) Water transmission and distribution lines must be installed in accord-

ance with the manufacturer's instructions. However, the top of the water line must be located below the frost line and in no case shall the top of the water line be less than 12 inches below ground surface.

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

(b) Lead ban. The following provisions apply to the use of lead in plumbing.

(1) The use of pipes and pipe fittings that contain more than 8.0% lead or solders and flux that contains more than 0.2% lead is prohibited in the following circumstances:

(A) for installation or repair of any public water supply; and

(B) for installation or repair of any plumbing in a residential or nonresi-

dential facility providing water for human consumption and connected to a public drinking water supply system.

(2) This requirement will be waived for lead joints that are necessary for repairs to cast iron pipe.

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

Maximum Number of Connections	Minimum Line Size (in inches)
10	2
25	2.5
50	3
100	4
150	5
250	6
>250	8 and larger

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

(1) Where the topography of the area to be served is such that air locks in the lines may occur, air release devices shall be

installed in such a manner as to preclude the possibility of submergence or possible entrance of contaminants.

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

storage tank. The planning material must contain a full description of the supply to the point of suction, maximum demands on this part of the system, location of pressure recorders, safety controls, and other pertinent information. Where booster pumps are installed to take suction directly from the distribution system, a minimum residual pressure of 20 pounds per square inch (psi) must be maintained on the suction line at all times. Such installations must be equipped with automatic pressure cut-off devices so that the pumping units become inoperative at a suction pressure of less than 20 psi. In addition, a continuous pressure recording

device may be required at a predetermined suspected critical pressure point on the suction line in order to record the hydraulic conditions in the line at all times. If such a record indicates critical minimum pressures (less than 20 psi), adequate storage facilities must be installed with the booster pumps taking suction from the storage facility. Fire pumps used to maintain pressure on automatic sprinkler systems only for fire protection purposes are not considered as in-line booster pumps.

(3) Each community public water system shall provide accurate metering devices at each service connection for the accumulation of water usage data. Systems

where no direct charge is made for the water shall be exempted from this requirement.

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

(5) The system shall be designed to afford effective circulation of water with a minimum of dead ends. All dead-end mains shall be provided with acceptable flush valves and discharge piping. All dead-end lines less than two inches in diameter

will not require flush valves if they end at a customer service. Where dead ends are necessary as a stage in the growth of the system, they shall be located and arranged with a view to ultimately connecting them to provide circulation.

(e) Location of water lines.

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

TABLE I
Separation of Water & Sewer Lines

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

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

(B) Where a sanitary sewer line crosses a water line and the sewer line is constructed of cast iron, ductile iron, or PVC with a minimum pressure rating of 150 psi, an absolute minimum distance of six inches between outside diameters shall be maintained. In addition, the sewer line shall be located below the water line where possible and one length of the sewer pipe must be centered on the water line.

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

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

(E) The sewer line need not be disturbed where a new water line is to be installed parallel to an existing sewer line that shows no evidence of leakage and the water line is installed above the sewer line a minimum of two feet vertically and four feet horizontally. Should excavation for the water line produce evidence that the sewer

is leaking, the sewer line must be repaired or replaced as described in subparagraphs (A) or (D) of this paragraph.

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

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

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

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

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

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

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

(2) Special precautions must be taken when water lines are laid under any flowing or intermittent stream or semipermanent body of water such as marsh, bay, or estuary. In these cases, the water main shall be installed in a separate watertight pipe encasement and valves must be provided on each side of the crossing with facilities to allow the underwater portion of the system to be isolated and tested to determine that there are no leaks in the underwater line. Alternately, and with the executive director's permission, the watertight pipe encasement may be omitted.

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

(g) Interconnections.

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

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

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

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

(h) Backflow, siphonage.

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

(2) No water connection from any public drinking water supply system

shall be made to any condensing, cooling, or industrial process or any other system of nonpotable usage over which the public water supply system officials do not have sanitary control, unless the said connection is made in accordance with the requirements of paragraph (1) of this subsection. Water from such systems cannot be returned to the potable water supply. Public water systems may submit a written request to conduct pilot studies on heat exchangers which return water to the public water supply. Pilot studies shall not be conducted prior to receiving written approval from the executive director. If the request is granted, the written approval may impose specific operational and monitoring requirements upon the water supply as deemed necessary by the executive director.

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

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

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

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

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

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

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

(B) The tank shall be watertight and of an approved material which is impervious and easily cleaned and disinfected. Any paint or coating and any plastic or fiberglass materials used as contact sur-

faces must be approved by the United State Environmental Protection Agency, the United State Food and Drug Administration, the United State Public Health Service, or the National Sanitation Foundation. Effective January 1, 1993, any newly installed surfaces shall conform to ANSI/NSF Standard 61 and must be certified by an organization accredited by ANSI.

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

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

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

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

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

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

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

(J) At least one sample per month from each tank shall be collected and submitted for microbiological analysis to

one of the commission's approved laboratories for each month of operation.

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

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

§290.45. Minimum Water System Capacity Requirements.

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

(b) Community water systems.

(1) Ground water supply requirements are as follows.

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

(i) a well capacity of 1.5 gallons per minute per connection; and

(ii) a pressure tank capacity of 50 gallons per connection.

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

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

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

(iii) a service pump capacity of 2.0 gallons per minute per connection; and

(iv) a pressure tank capacity of 20 gallons per connection.

(C) For 50 to 250 connections, the system must meet the following requirements.

(i) A well capacity of 0.6 gallon per minute per connection must be provided.

(ii) A total storage capacity of 200 gallons per connection must be provided.

(iii) Each pump station or pressure plane shall have two or more pumps having a total capacity of 2.0 gallons per minute per connection. For systems which provide an elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gallons per minute per connection are required at each pump station or pressure plane. If only wells and elevated storage are provided, service pumps are not required.

(iv) An elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection must be provided.

(D) For more than 250 connections, the system must meet the following requirements.

(i) Two or more wells having a total capacity of 0.6 gallons per minute per connection must be provided. Where an interconnection is provided with another acceptable water system capable of supplying at least 0.35 gallons per minute for each connection in the combined system under emergency conditions, an additional well will not be required as long as the 0.6 gallons per minute per connection requirement is met for each system on an individual basis. Each water system must still meet the storage and pressure maintenance requirements on an individual basis unless the interconnection is permanently open; in this case, the systems' capacities will be rated as though a single system existed.

(ii) A total storage capacity of 200 gallons per connection must be provided.

(iii) Each pump station or pressure plane shall have two or more pumps that have a total capacity of 2.0 gallons per minute per connection or that have a total capacity of at least 1,000 gallons per minute and the ability to meet peak hourly demands with the largest pump out of service, whichever is less. For systems which provide an elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gallons per minute per connection are required at each pump station or pressure plane. If only wells and elevated storage are provided, service pumps are not required.

(iv) An elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection must be provided. If pressure tanks are used, a maximum capacity of 30,000 gallons is required. An elevated storage capacity of 100 gallons per connection is required for systems with more than 2,500 connections. Systems with more than 50,000 connections which utilize multiple production plants may, with the executive director's approval, substitute additional ground storage capacity, service pumping capacity, and auxiliary power for elevated storage in excess of five million gallons. Pressure tank installations are not recommended for systems serving between 1,000 and 2,500 connections and serious consideration should be given to the provision of elevated storage.

(v) Auxiliary power is required for systems which serve more than 250 connections and do not meet the elevated storage requirement. Sufficient auxiliary power must be provided to deliver a minimum of 0.35 gallons per minute per connection to the distribution system in the event of the loss of normal power supply. Alternately, an emergency interconnection can be provided with another public water system that has auxiliary power and is able to supply at least 0.35 gallons per minute for each connection in the combined system.

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

(i) a well capacity of 1.0 gallon per minute per connection; and

(ii) a pressure tank capacity of 50 gallons per connection with a maximum of 2,500 gallons required.

(F) Mobile home parks and apartment complexes which supply 100 or more connections, or fewer than 100 connections and utilize ground storage must meet the following requirements.

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

(ii) A total storage of 200 gallons per connection must be provided.

(iii) A service pump capacity of 2.0 gallons per minute per connection must be provided. Systems with 250 or more connections must have two or more

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

(iv) A pressure tank capacity of 20 gallons per connection must be provided.

(2) All surface water supplies must provide the following:

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

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

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

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

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

(F) a service pump capacity that provides each pump station or pressure plane with two or more pumps that have a total capacity of 2.0 gallons per minute per connection or that have a total capacity of at least 1,000 gallons per minute and the ability to meet peak hourly demands with the largest pump out of service, whichever is less. For systems which provide an elevated storage capacity of 200 gallons per connection, two service pumps with a minimum combined capacity of 0.6 gallons per minute per connection are required at each pump station or pressure plane;

(G) an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection. If pressure tanks are used, a maximum capacity of 30,000 gallons is required. An elevated storage capacity of 100 gallons per connection is required for systems with more than 2,500 connections. Systems with more than 50,000 connections which utilize multiple production plants may, with the executive director's approval, substitute additional ground storage capacity, service pumping capacity, and auxiliary power for elevated storage in excess of five million gallons. Pressure tank installations are not recommended for systems serving between 1,000 and 2,500 connections and serious consideration should be given to the provision of elevated storage;

(H) auxiliary power is required for systems which serve more than 250 connections and do not meet the elevated storage requirement. Sufficient auxiliary power must be provided to deliver a minimum of 0.35 gallons per minute per connection to the distribution system in the event of the loss of normal power supply. Alternately, an emergency interconnection can be provided with another public water system that has auxiliary power and is able to supply at least 0.35 gallons per minute for each connection in the combined system.

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

(1) Ground water supply requirements are as follows.

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

(i) a well capacity of 1.0 gallon per minute per unit; and

(ii) a pressure tank capacity of 10 gallons per unit with a minimum of 220 gallons.

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

(i) a well capacity of 0.6 gallons per minute per unit;

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

(iii) two or more service pumps which have a total capacity of 1.0 gallon per minute per unit; and

(iv) a pressure tank capacity of 10 gallons per unit.

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

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

(B) a treatment plant capacity of 0.6 gallons per minute per unit;

(C) a transfer pump capacity (where applicable) of 0.6 gallons per minute

per unit with the largest pump out of service;

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

(E) two or more service pumps with a total capacity of 1.0 gallon per minute per unit; and

(F) a pressure tank capacity of 10 gallons per unit with a minimum requirement of 220 gallons.

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

(1) The following table is applicable to paragraphs (2) and (3) of this subsection and shall be used to determine the maximum daily demand for the various types of facilities listed. It should be noted that this table is used to determine minimum capacities only and that the overriding criteria will be the ability of the system to maintain a minimum pressure of 35 psi under normal operating conditions. Minimum distribution pressure shall not be less than 20 psi at any time.

Table A

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

(2) Ground water supply requirements are as follows.

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

(i) a well capacity which can supply the maximum daily demand of the system during the hours of operation; and

(ii) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the commission.

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

(i) a well capacity which can supply the maximum daily demand;

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

(iii) a service pump capacity of at least three times the maximum daily demand; and

(iv) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the commission.

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

(A) a raw water pump capacity which can meet the maximum daily demand of the system with the largest pump out of service;

(B) a treatment plant capacity which can meet the system's maximum daily demand;

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

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

(E) two or more service pumps with a total capacity of three times the maximum daily demand; and

(F) a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the commission.

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

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

(2) Auxiliary power is required so that water can be provided to each wholesale customer. At least 20% of the wholesaler's total service pump capacity must be provided with an auxiliary power supply for use during loss of the normal power supply. This requirement shall apply individually to each pumping facility which is required for the provision of service to all customers.

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

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

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

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

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

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

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

§290.46. Minimum Acceptable Operating Practices for Public Drinking Water Systems.

(a) General. When a public drinking water supply system is to be established, plans shall be submitted to the executive director for review and approval prior to the construction of the system. All public water systems are to be constructed in conformance with these sections and maintained and operated in accordance with the following minimum acceptable operating practices. Owners and operators shall allow entry to members of the commission and employees and agents of the commission onto any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to public water systems in the state. Members, employees, or agents acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials.

(b) Microbiological. Submission of samples for microbiological analysis shall be as required by §§290.1-290.19 of this title (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems). Special samples may be required by the commission for monitoring purposes in addition to the routine samples required by the drinking water standards. These samples shall be submitted to the Texas Department of Health or one of its approved laboratories. (A list of the approved laboratories can be obtained by contacting the commission.)

(c) Chemical. Samples for chemical analysis shall be submitted as directed by personnel from the commission's Water Utilities Division or its district offices.

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

(1) A copy of the monthly report must be submitted to the Texas Water Commission, Water Utilities Division, P.O. Box 13087, Austin, Texas 78711-3087 by the 15th day of the following month. The copy submitted to the commission must contain all the information required by the drinking water standards and the results of any special monitoring tests which have been required.

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

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

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

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

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

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

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

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

(2) The disinfectant residual in the distribution system must be tested periodically using a test kit which employs a diethyl-p-phenylenediamine (DPD) indicator. The record of these test results shall be maintained for at least three years.

(A) Public water systems must conduct daily disinfectant residual tests at representative locations in the distribution system unless they utilize ground water or purchased water sources only or serve fewer than 250 connections or 750 persons daily.

(B) Systems which utilize ground water or purchased water sources only and those which serve fewer than 250 connections or 750 persons daily must test the disinfectant residual at representative locations in the distribution system at least once every seven days.

(C) Systems which utilize surface water or ground water under the influence of surface water must monitor the disinfectant residual of the water entering the distribution system in accordance with the requirements of the drinking water standards.

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

(h) Calcium hypochlorite. A supply of calcium hypochlorite disinfectant shall be kept on hand for use when making repairs, setting meters, and disinfecting new mains prior to placing them in service.

(i) Plumbing ordinance. Public water systems must adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to insure that neither cross-connections nor other undesirable plumbing practices are permitted. See §290.48 of this title (relating to Appendix B-Sample Service Agreement). Should sanitary control of the distribution system not reside with the purveyor, the entity retaining sanitary control shall be responsible for establishing and enforcing adequate regulations in this regard. The use of pipes and pipe fittings that contain more than 8.0% lead or solders and flux that contain more than 0.2% lead is prohibited for installation or repair of any public water supply and for installation or repair of any plumbing in a residential or nonresidential facility providing water for human consumption and connected to a public drinking water supply system. This requirement may be waived for lead joints that are necessary for repairs to cast iron pipe.

(j) Cross-connection control. Commission personnel, plumbing inspectors, and others shall inspect individual water facilities before providing service and periodically thereafter to prevent possible cross-connections between the potable (safe) water system and any nonpotable (unsafe) water. Continuous efforts shall be made by commission personnel, plumbing inspectors, and others to locate possible cross-connections between privately owned water systems and the public water system. As these undesirable cross-connections are located, they shall be eliminated to prevent possible contamination of the water supplied by the public water system.

(k) Interconnection. No physical connection between the distribution system of a public drinking water supply and that of any other water supply shall be permitted unless the other water supply is of a safe, sanitary quality and the interconnection is approved by the executive director.

(l) Flushing of mains. All dead-end mains must be flushed at monthly intervals or more frequently if water quality complaints are received from water customers.

(m) Housekeeping and maintenance. A program shall be initiated to facilitate cleanliness and to improve the general appearance of all plant facilities.

(n) Distribution system map. The map of the distribution system shall be continuously updated so that valves and mains may be easily located during emergencies.

(o) Well logs. Copies of well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well shall be kept on file.

(p) Maintenance requirements for pressure filters and for ground storage, elevated storage, and pressure tanks. Each pressure filter and each of the system's ground, elevated, and pressure tanks shall be inspected annually by water system personnel or a contracted inspection service. The results of these inspections shall be recorded and maintained for at least five years. The results must be available for review by commission staff during inspections.

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

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

(3) When pressure filters are used, a visual inspection of the filter media and internal filter surfaces shall be conducted annually to ensure that the filter media is in good condition and the coating materials continue to provide adequate protection to internal surfaces.

(q) Filter backwashing at surface water treatment plants. Filters must be backwashed when a loss of head differential of six to 10 feet is experienced between the influent and effluent loss of head gauges or as often as necessary to maintain acceptable filtered water turbidity levels.

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

(1) When a water system changes ownership, a written notice of the transaction must be provided to the commission. When applicable, notification shall be in accordance with Chapter 291 of this title (relating to Water Rates and Services). Those systems not subject to Chapter 291 of this title shall notify the commission of changes in ownership by providing the name of the current and prospective owner or responsible official, the proposed date of the transaction, and the address and phone number of the new owner or responsible official. The information listed previously and the system's public drinking water supply identification number, and any other information necessary to properly identify the transaction shall be provided to the commission 120 days before the date of the transaction.

(2) On an annual basis, each certified operator which supervises more than one water system shall provide the executive director written notices containing its certificate number, address and telephone number, and the name and identification number of each public water system which they supervise. Each operating company shall provide this information for itself and for each of its operators.

(s) Boil water notice. In the event of numerous or prolonged periods of low distribution pressures, water outages, repeated unacceptable microbiological samples, or failure to maintain adequate chlorine residuals, a boil water notice or other protective measures may be required

at the discretion of the executive director. Once a water system has been notified by the executive director to issue a boil water notice, the system must notify its customers within 24 hours using specific language and procedures approved by the executive director. Boil water notices shall remain in effect until lifted by the executive director. Once the notice is lifted, the customers must be notified in a manner similar to the original notice. A copy of these notices shall be provided to the executive director.

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

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

(v) Testing equipment. Testing equipment or some other means of monitoring the effectiveness of any chemical treatment processes used by the system must be provided.

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

§290.47. Appendix A. Recognition as a Superior Public Water System.

(a) Requirements. Public water supply systems which achieve and maintain recognition as a "Superior Public Water System" must exceed the minimum acceptable standards of the commission in these sections. To attain this recognition, the following additional requirements must be met.

(1) Physical facilities shall comply with the requirements in these sections.

(2) There shall be a minimum of two certified operators with additional operators required for larger systems.

(3) The system's microbiological record for the previous 24-month period shall indicate no violations (frequency, number, or MCL) of the drinking water standards.

(4) The chemical quality of the water shall comply with all primary and secondary constituent levels listed in the drinking water standards.

(5) The system's operation shall comply with applicable state statutes and

minimum acceptable operating practices set forth in §290.46 of this title (relating to Minimum Acceptable Operating Practices for Public Drinking Water Supplies).

(6) The system's capacities shall meet or exceed minimum water system capacity requirements set forth in §290.45 of this title (relating to Minimum Water System Capacity Requirements).

(7) The system shall have at least two wells, two raw water pumps, or a combination of these with enough capacity to provide average daily consumption with the largest well or pump out of service. This requirement shall also apply to treatment plant pumps necessary for operation in accordance with §290.42 of this title (relating to Water Treatment).

(8) The water system shall be well maintained and the facilities shall present a pleasing appearance to the public.

(b) Signs. Systems which have met the requirements for recognition as a superior system may erect signs denoting this honor.

(c) Inspections. To receive or maintain recognition as a superior water system, the system must be inspected and evaluated by commission personnel as to physical facilities, appearance, and operation. Systems which fail to meet or exceed the requirements in this section will be denied recognition or will have their recognition revoked. The signs shall be immediately removed on notice from the executive director.

§290.48. Appendix B. Sample Service Agreement.

SERVICE AGREEMENT

I. PURPOSE. The NAME OF WATER SYSTEM is responsible for protecting the drinking water supply from contamination or pollution which could result from improper plumbing practices. The purpose of this service agreement is to notify each customer of the plumbing restrictions which are in place to provide this protection. The utility enforces these restrictions to ensure the public health and welfare. Each customer must sign this agreement before the NAME OF WATER SYSTEM will begin service. In addition, when service to an existing connection has been suspended or terminated, the water system will not re-establish service unless it has a signed copy of this agreement.

II. PLUMBING RESTRICTIONS. The following undesirable plumbing practices are prohibited by State regulations.

A. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an

air-gap or an appropriate backflow prevention device.

B. No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the installation of an air-gap or a reduced pressure-zone backflow prevention device.

C. No connection which allows water to be returned to the public drinking water supply is permitted.

D. No pipe or pipe fitting which contains more than 8.0% lead may be used for the installation or repair of plumbing at any connection which provides water for human use.

E. No solder or flux which contains more than 0.2 percent lead can be used for the installation or repair of plumbing at any connection which provides water for human use.

III. SERVICE AGREEMENT. The following are the terms of the service agreement between the NAME OF WATER SYSTEM (the Water System) and NAME OF CUSTOMER (the Customer).

A. The Water System will maintain a copy of this agreement as long as the Customer and/or the premises is connected to the Water System.

B. The Customer shall allow his property to be inspected for possible cross-connections and other undesirable plumbing practices. These inspections shall be conducted by the Water System or its designated agent prior to initiating service and periodically thereafter. The inspections shall be conducted during the Water System's normal business hours.

C. The Water System shall notify the Customer in writing of any cross-connection or other undesirable plumbing practice which has been identified during the initial inspection or the periodic reinspection.

D. The Customer shall immediately correct any undesirable plumbing practice on his premises.

E. The Customer shall, at his expense, properly install, test, and maintain any backflow prevention device required by the Water System. Copies of all testing and maintenance records shall be provided to the Water System.

IV. ENFORCEMENT. If the Customer fails to comply with the terms of the Service Agreement, the Water System shall, at its option, either terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement of this agreement shall be billed to the Customer.

CUSTOMER'S SIGNATURE: _____

DATE: _____

§290.49. Appendix C. Sample Sanitary Control Easement Document for a Public Water Well.

THE STATE OF TEXAS COUNTY OF _____ KNOW ALL MEN BY THESE PRESENTS:

That _____ being the owners of Lot _____ and Lot _____ of the _____ survey, in _____ County, Texas, as shown on the map or plat recorded in Vol. _____, page _____ of the Deed Records of _____ County, Texas, do hereby declare such property bound by the hereinafter set out restrictions and covenants and agree that said purchasers and subsequent owners of said lots or parts thereof shall comply with same. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for two years from the date that these covenants are recorded, after which time said covenants shall be automatically extended until the use of this water well as a source of water for a public water system ceases.

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

Invalidation of any one of these covenants by judgment or court order shall not in any way affect any of the other provisions which shall remain in full force and effect.

Such restrictions are as follows, to wit:

1. Sanitation control upon all of that area of land of said Lot _____ and Lot _____ as is included within a 150 foot radius of a proposed deep water well located _____ feet at a radial of _____ degrees from the _____ corner of said Lot(s) _____ and specifically prohibiting the construction and/or operation of underground petrochemical storage tanks, stock pens, feed lots, dump grounds, privies, cesspools, septic tank drainfields, drilling of improperly constructed water wells of any depth and all other construction or operation that could create an insanitary condition within, upon or across the above described tract of land;

2. Tile or concrete sanitary sewers, sewer appurtenances, septic tanks and storm sewers are specifically prohibited within a

50 foot radius of the deep water well described and located above.

3. This sanitation control permits the construction of homes or buildings upon same, provided, however, that all underground petrochemical storage tanks, stock pens, feed lots, privies, tile or concrete sanitation sewers, cesspools, septic tanks, storm sewers, septic tank drainfields, drilling of improperly constructed wells of any depth and other construction and/or operations that could create an insanitary condition within, upon or across same are specifically prohibited within the designated distances.

4. Normal farming and ranching operations are permitted except that livestock shall not be allowed within 50 feet of the proposed well.

IN WITNESS WHEREOF the said owners have executed this instrument this _____ day of _____ 19 _____

THE STATE OF TEXAS COUNTY OF _____

BEFORE ME, the undersigned authority, on this day personally appeared _____

known to me to be the person(s) whose name(s) are subscribed to the foregoing instrument and acknowledged to me that they (he/she) executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of _____ 19 _____

Notary Public in and for _____ County, Texas

Recorded _____ at _____ Court-house,

_____, Texas on _____ 19 _____

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 24, 1992.

TRD-9210151 Mary Ruth Holder Director, Legal Division Texas Water Commission

Earliest possible date of adoption: August 31, 1992

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 15. Drivers License Rules

Application Requirements Original, Renewal, Duplicate, Identification Certificates

• 37 TAC §§15.40-15.43

The Texas Department of Public Safety proposes new §§15.40-15.43, concerning application requirements original, renewal, duplicate, and identification certificates. Section 15.40 provides that all original applicants shall pay the required fees for the type license applied for. The fee will be forfeited after 90 days or if the applicants fails more than three tests of each type in the original office of application. Section 15.41 provides that each individual who applies in person at a Driver License office for an original or renewal driver's license, a personal identification card, or a duplicate or corrected license or identification card shall be given the opportunity to complete a voter registration application form. Section 15.42 provides that a social security number shall be obtained from all applicants for a driver's license for the purpose of additional identification. Section 15.43 provides that the department shall indicate on the face of the driver's license or identification card whether a person wishes to be an eye, tissue, or organ donor.

Melvin C. Peebles, assistant chief of fiscal affairs, has determined that there will be fiscal implications as a result of enforcing or administering the sections, however, the department has no historical data with which to estimate the additional revenue expected for the forfeited application fees.

George C. King, chief traffic law enforcement, has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections as proposed will be to ensure the public that applicants are prepared to take the tests and pass or fees will be forfeited, applicants are given opportunity for voter registration, use of social security number will improve applicant identification, and applicants are given the opportunity to be an eye, tissue, or organ donor. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the sections as proposed will be as follows. Applicants who have forfeited fees: Driver's License—\$16 in 1992-1996; Commercial Drivers License—\$40 in 1992-1995.

Comments on the proposal may be submitted to John C. West, Jr., Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001, (512) 465-2000.

The new sections are proposed under Texas Civil Statutes, Article 6687b, §1A, and the

Texas Government Code, §411.006(4), which provide the Texas Department of Public Safety with the authority to adopt rules that it determines are necessary to effectively administer this Act.

§15.40. Application Fee.

(a) After completion of an original application for the type and class of license that the applicant needs, it is necessary to collect the proper fee for the license requested, i.e., \$5.00, instruction permit; \$16, regular driver's license; and \$40, commercial driver's license. If it is determined during completion of the application forms that the applicant is clearly ineligible for the immediate issuance of the license sought (disqualified, suspended, revoked, or "immediate hazard under MAB considerations"), the fee will not be collected and the proper explanation and instructions will be given to the applicant.

(b) The application fee shall be forfeited of the applicant fails any single exam three times. Exam means vision, knowledge (signs, rules, or automated), or skills (driving/road or pretrip) tests. If an applicant fails the rules test two times and the signs test two times, his exam fee is not forfeited. Even though he has failed four exams, he has failed each individual test only two times. If he were to fail the signs tests two times and the rules test three times, the fee will be forfeited because the rules test was failed three times. The application fee shall also be forfeited if the applicant has not been issued the license applied for on the 91st day after the original date that the application and fee were accepted.

(c) When an original applicant, applying for a commercial driver's license (CDL) fails to pass a test and decides to apply for a non-CDL license, the applicant will be required to submit a new application and the appropriate fee for the license he desires to obtain. The CDL application may not be reduced to a non-CDL license. For this reason it is suggested that all applicants for a CDL be encouraged to apply for a non-CDL license. Upon issuance of the non-CDL license, the applicant must then apply for the upgrade to the needed CDL license and will be given credit for each full year that remains on the non-CDL license.

(d) The application fee will be valid for only one Driver License office and will not be transferable from one office to another. Should an applicant desire to take tests at another location, and additional application and application fee will be required for the second location. An application fee submitted to a schedule operation will be valid at any of the locations served by that schedule.

(e) An individual who has had a Texas driver's license which has been expired over two years but who continues to

be in the driver record system is not an original applicant and is considered a renewal.

§15.41. Voter Registration.

(a) The department shall provide to each individual who applies in person at the department's offices for an original or renewal driver's license, a personal identification card (ID), or a duplicate or corrected license or ID card the opportunity to complete a voter registration application form. Texas Civil Statutes, Article 6687b, §6(e), also provides that the department shall prescribe and use a form that combines the department's application for a license or ID card with an officially prescribed voter registration application form.

(b) Driver License employees shall provide the appropriate forms and upon request shall provide nonpartisan voter registration assistance to an applicant or other interested person on the premises.

§15.42. Social Security Number.

(a) The social security number shall be obtained from all applicants for the purpose of additional identification. Texas Civil Statutes, Article 6687b, §6, provides that the department may require information necessary to determine the applicant's identity, competency, and eligibility.

(b) When a social security number is originally obtained, it is mandatory that documentation be provided to verify the number. Documentation may include the actual social security card issued by the United States Government, income tax documents, W-2 tax forms, and payroll or other employer records. A facsimile (flea market) or metal social security card or list of numbers from an employer shall not be used.

(c) On all duplicate and renewal driver's license applications, the documented social security number shall be obtained where it is not currently a part of the driving record. After the social security number becomes a part of the driver's license record, all future duplicate and renewal of driver's license will be verified for correct social security number. Eligible renewal-by-mail applicants are not required to provide a social security number.

(d) The Federal Privacy Act prohibits the requiring of a person's social security number as a condition of the issuance of an identification card. If the applicant refuses to show a social security card, the ID card must be issued without requiring the social security card.

§15.43. Anatomical Gifts.

(a) Texas Civil Statutes, Article 6687b, §11B of the Driver License Act,

provides that the department shall indicate on the face of the driver's license or identification card whether a person wishes to be an eye, tissue, or organ donor. This statement of gift must be executed each time a driver's license or personal identification card is renewed, reinstated, or replaced.

(b) A person who is not applying for the issuance, renewal, reinstatement, or replacement of a driver's license or personal identification card but who wishes to execute or revoke a statement of gift symbolized on the person's license or card may apply to the department for an amendment to the license or card and pay a fee in the amount of a duplicate fee.

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

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

TRD-9210129

James R. Wilson
Director
Texas Department of
Public Safety

Earliest possible date of adoption: August 31, 1992

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

Part III. Texas Youth Commission

Chapter 83. Contracted Youth Services

• 37 TAC §83.6

The Texas Youth Commission (TYC) proposes §83.6, concerning contracting for psychiatric hospital residential services. The new rule contains procedures for contracts with psychiatric hospitals for the evaluation/assessment of youth, the stabilization of emotionally disturbed youth, and for youth who have threatened attempted suicide.

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

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

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

The new section is proposed under the Human Resources Code, §61.036, which provides the Texas Youth Commission with the

authority to make use of medical facilities, institutions, and agencies in the state in a manner consistent with the function of TYC.

§83.6. Contracting for Psychiatric Hospital Residential Services.

(a) Policy. The Texas Youth Commission (TYC) contracts with psychiatric hospitals for the evaluation/assessment of youth, the stabilization of emotionally disturbed youth, and for youth who have threatened attempted suicide. The placement is for short-term care.

(b) Rules.

(1) General.

(A) TYC enters into contracts with psychiatric hospitals best able to provide services to meet specific needs of TYC youth identified through a process of regional assessment.

(B) TYC contracts with psychiatric hospital providers which meet:

(i) accreditation requirements of the Joint Committee on Accreditation of Health Care Organization (JCAHO); and

(ii) special requirements set forth in a proposal for services.

(C) Contract may be for a term up to two years.

(D) Contract compliance is ensured through a quality assurance program of monitoring by TYC contract specialists.

(E) Approval of the chief of community placement is required to execute all referenced contracts.

(F) Youth shall not be placed into any psychiatric hospital except on an emergency basis nor any funds obligated prior to the full execution of the contract.

(2) Contract procedures.

(A) Each contract specialist will maintain a list of all psychiatric hospital in their region.

(B) The contract specialist will initiate contact with the psychiatric hospital and determine if there is an interest in contracting with TYC.

(C) The contract specialist will maintain the list of contacts and document the outcome of the contact. Documenta-

tion should minimally include the name of the hospital, the name of the contact, the date of the contact, services offered, and a proposed rate.

(D) All this information will be forwarded to central office. A review committee consisting of the medical director, chief of mental health services, and chief of community placement will review the submitted information and recommend identified psychiatric hospitals for further investigation.

(E) The contract specialist will pursue and obtain a proposal for services from identified psychiatric hospitals. Each region will identify criteria based upon regional needs for selection.

(F) The contract specialist will submit to the chief of community placement variable lists and proposals for service for initiating or renewing a contract.

(G) Maintaining, updating, and contacting new and/or current psychiatric hospitals will continue on a semiannual basis.

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 21, 1992.

TRD-9210038

Ron Jackson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: August 31, 1992

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

Chapter 85. Admission and Placement

Placement Planning

• 37 TAC §85.21

The Texas Youth Commission (TYC) proposes amendments to §85.21, concerning the assessment and placement process. The amendments reflect changes in procedure for making placement assignments of youth committed to the agency. The south region placement function is being discontinued. All youth will be evaluated at the Statewide Reception Center in Brownwood, Texas.

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

Mr. Franks also has determined that for each year of the first five years the section is in

effect the public benefit anticipated as a result of enforcing the section will be a more efficient evaluation of each youth's needs and risk. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

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

The new section is proposed under Human Resources Code section §61.071 which provides Texas Youth Commission with the authority to examine and make a study of each child and to establish rules governing the study.

§85.21. Program Assignment System.

(a) Policy. Texas Youth Commission (TYC) utilizes an objective, equitable system of program assignment for each youth in TYC care. Based on each youth's age, offense(s), and risk level, TYC has predetermined the most appropriate level of restriction and minimum length of stay restrictions. Services provided by each program are matched with youth service needs to determine the most appropriate program placement. The assessment and placement process provides current information on individual youth needs. Male and female youth have equal access to agency programs and activities.

(b) Rules.

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

(4) Responsibility. The specific program placement selection for each youth is the responsibility of the statewide reception center for TYC training school placements and the centralized placement unit [; the south region assessment team for youth placed in Evins Regional Juvenile Center in the south region; and centralized placement unit] for all other placements, including Evins Regional Juvenile Center. Specific selection is based on:

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

(5) Waivers and Exceptions. Waivers and exceptions may be granted under special circumstances.

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

(C) Any designated placement may be waived or the youth moved to any other placement of equal or less restriction if requested by the superintendent where the youth is located and granted by the executive director or designee.

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

(6) (No change.)

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

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

TRD-9210039

Fion Jackson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: August 31, 1992

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 19. Long-Term Care Nursing Facility Requirements for Licensure and Medicaid Certification

Subchapter D. Admission, Transfer, and Discharge Rights

The Texas Department of Human Services (DHS) proposes amendments to §§19.302, 19.810, 19.1401, and 19.1503, concerning transfer and discharge, nursing practices, infection control, and application codes and standards, in its long term care nursing facility requirements rules. The purpose of the amendments is to clarify existing policy concerning duties of certified respiratory care practitioners, tuberculosis screening of employees and residents, transfer and discharge, and a statutory reference to the Americans with Disabilities Act.

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 improved care for residents of nursing facilities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Questions about the content of the proposal may be directed to Susan Syler at (512) 450-3111 in DHS's Institutional Programs Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-181, 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 §19.302

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.

§19.302. Transfer and Discharge.

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

(d) Notice before transfer. Before a facility transfers or discharges a resident, the facility must:

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

(3) include in the notice the items described in subsection (f)[(e)] of this section.

(e)-(k) (No change.)

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210187

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

Proposed date of adoption: November 1, 1992

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

Subchapter I. Nursing Services

• 40 TAC §19.810

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.

§19.810. Nursing Practices.

(a)-(j) (No change.)

(k) When suctioning is necessary for a resident, it must be done by certified respiratory care practitioners, licensed nurses, or physicians.

(l) (No change.)

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210188

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

Proposed date of adoption: November 1, 1992

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

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Subchapter O. Infection Control

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• 40 TAC §19. 1401

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.

§19.1401. *Infection Control.* The facility must establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection. See also §19.1920 of this title (relating to Operating Policies and Procedures).

(1) (No change.)

(2) Preventing spread of infection.

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

(E) The facility must have written policies for the control of communicable diseases in employees and residents, in order to provide for [which includes TB screening and provision of] a safe and sanitary environment for residents and employees.

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

(iii) The facility must screen all employees for tuberculosis within two weeks of employment and annually [for tuberculosis] . All persons providing services under an outside resource contract must, upon request of the nursing facility, provide evidence of compliance with this requirement.

(iv) (No change.)

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

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210189 Nancy Murphy
Agency Liaison, Policy and Document Support
Texas Department of Human Services

Proposed date of adoption: November 1, 1992

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

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Subchapter P. Physical Plant and Environment

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• 40 TAC §19.1503

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.

§19.1503. *Applicable Codes and Standards.* Facilities shall meet the requirements of the Life Safety Code, as defined in §19.1501(1) of this title (relating to General Requirements) and any other codes and standards of the National Fire Protection Association (NFPA) listed in this section, except as may be otherwise approved or required by the licensing agency. In addition, the following codes, standards, or guidelines shall generally govern their subject areas for existing construction.

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

(5) Accessibility for individuals with disabilities must be designed and installed in accordance with the following laws: the Americans with Disabilities Act of 1990 (Public Law 101-336; Title 42, United States Code, Chapter 126); Title 28, Code of Federal Regulations, Part 35; Texas Civil Statutes, Article 9102; and 16 TAC Chapter 68. Plans for new construction, substantial renovations, modifications, and alterations shall be submitted to the Texas Department of Licensing and Regulation (Attn: Elimination of Architectural Barriers Program) for accessibility approval under Article 9102. [Handicap provisions are to be designed and installed in accordance with Standard A117.1-1980 of the American National Standards Institute (ANSI) and the requirements of the State Purchasing and General Services Commission for handicapped or disabled citizens.]

(6)-(8) (No change.)

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210190 Nancy Murphy
Agency Liaison, Policy and Document Support
Texas Department of Human Services

Proposed date of adoption: November 1, 1992

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

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Chapter 33. Early and Periodic Screening, Diagnosis, and Treatment

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Subchapter I. Periodicity

The Texas Department of Human Services (DHS) proposes amendments to §§33.122, 33.131, and 33.306, concerning periodicity, medical screening services, and who is eligible, in its Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) chapter. The purpose of the amendments is to make periodic, routine dental services available to eligible recipients one year of age and older once every six months, as recommended by the Texas Academy of Pediatric Dentistry. Currently, these services are available on an annual basis to persons age three and older.

Burton F. Raiford, commissioner, has determined that for the first five-year period the amendments will be in effect there will be fiscal implications as a result of enforcing or administering the amendments. The effect on state government for the first five-year period the amendments will be in effect is an estimated additional cost of \$1,171,141 for fiscal year 1993; \$3,722,920 for fiscal year 1994; \$4,063,961 for fiscal year 1995; \$4,314, 926 for fiscal year 1996; and \$4,583,514 for fiscal year 1997. There will be no fiscal implications for local government as a result of enforcing or administering the amendments.

Mr. Raiford also has determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of enforcing the amendments will be available preventive dental care for children at age one and every six months thereafter up to the age of 21. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed amendments.

Questions about the content of the proposal may be directed to Sharon Boatman at (512) 338-6932 in DHS's EPSDT Services. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-172, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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• 40 TAC §33.122

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.

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§33.122. *Periodicity.*

(a) The Texas Department of Human Services [department] provides Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services requested by recipients according to the recipient's periodic eligibility for service.

(b) (No change.)

(c) Periodic routine dental services are available to eligible recipients one year

[three years] of age and older once every six [12] months based on the last date of dental services.

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 24, 1992.

TRD-9210105

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

Subchapter J. Medical Phase

• 40 TAC §33.131

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.

§33.131. Medical Screening Services. Medical screening services are provided under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to ensure that Medicaid recipients under 21 years of age have continuous preventive health care. The objectives of screening are the early detection of suspected health problems and the referral for definitive diagnosis/treatment if indicated by the screening. The components of medical screening services are:

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

(10) referral to a dentist for periodic, routine diagnostic [diagnosis] and treatment services[,] for recipients one year of age [three years old] and older.

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 24, 1992.

TRD-9210106

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

Subchapter R. Dental Services

• 40 TAC §33.306

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.

§33.306. Who Is Eligible for Early and Periodic Screening, Diagnosis, and Treatment Services (EPSDT). [To be eligible for EPSDT dental services, a person must:]

(a) [(1)] Persons are eligible for EPSDT if they have [Have] a current Texas Medical Care Identification that indicates Medicaid eligibility, or have a Medicaid verification letter.

(b) [(2)] Persons eligible for Medicaid are eligible for EPSDT if they are [Be] under age 21. Services can be continued through the month the recipient becomes 21.

(c) Persons one year of age and older who are eligible for Medicaid may have periodic, routine dental services every six months based on last date of dental services.

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 24, 1992.

TRD-9210107

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

Chapter 48. Community Care, for Aged and Disabled

Client-Managed Attendant Services

The Texas Department of Human Services (DHS) proposes an amendment to §§48.2602, 48.2605, 48.2911, 48.2914, 48.2918, 48.2919, 48.3903, 48.5903, and 48.9301, concerning a service name change, in its Community Care for Aged and Disabled chapter. The purpose of the amendment is to change the name "Special Services to the Handicapped" to "Special Services to Persons with Disabilities."

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 in effect the public benefit anticipated as a result of enforcing the sections will be a name change that emphasizes the individual and discontinues the use of the word "handicapped." There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of the proposal may be directed to German Valtierra at (512) 450-3136 in DHS's Community Care Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-168, 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 §48.2602, §48.2605

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.

§48.2602. Client Eligibility Criteria. To be determined eligible for participation in the client-managed attendant services program, the applicant must:

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

(3) not receive primary home care, family care, residential care (supervised living services and emergency care), foster care, or special services to persons with disabilities [the handicapped]-attendant services while receiving client-managed attendant services.

(4)-(7) (No change.)

§48.2605. Suspension of Services.

(a) (No change.)

(b) Suspension may occur for one of the following reasons.

(1) (No change.)

(2) The client receives primary home care, family care, residential care (supervised living services and emergency care), foster care, or special services to persons with disabilities

[the handicapped]-attendant services.

(3)-(6) (No change.)

(c) (No change.)

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210191

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

Client-managed Attendant Services

• 40 TAC §48.2608

The Texas Department of Human Services (DHS) proposes an amendment to §48.2608, concerning client copayment, in its Community Care for Aged and Disabled (CCAD) chapter. The purpose of the amendment is to update the client copayment schedule.

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

Mr. Raiford also has determined that for each year of the first five years the section is in

effect the public benefit anticipated as a result of enforcing the section will be current copayment information for program participants. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of this proposal may be directed to German Valtierra at (512) 450-3136 in DHS's Community Care Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-174, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

§48.2608. Client Copayment.

(a) The copayment amount is based on the monthly net income of both the client and the client's spouse. Monthly net income is computed according to procedures outlined in §48.2612 and §48.2902 of this title (relating to Computation of Net Income and Income and Income Eligibles). A copayment percentage is then applied according to the following table.

Monthly Net Income	Copayment Requirement
less than \$1158	0%
\$1158 - \$1250	10%
\$1251 - \$1350	15%
\$1351 - \$1450	25%
\$1451 - \$1550	35%
\$1551 - \$1650	45%
\$1651 - \$1750	50%
\$1751 - \$1950	75%
over \$1950	100%

Monthly Net Income	Copayment Requirement
Block Grant Limit (BGL) or less	0%
BGL + .01 through BGL + \$200	10% of contracted unit rate
BGL + \$200.01 through BGL + \$400	20% of contracted unit rate
BGL + \$400.01 through BGL + \$600	30% of contracted unit rate
BGL + \$600.01 through BGL + \$800	40% of contracted unit rate
BGL + \$800.01 through BGL + \$1000	50% of contracted unit rate
BGL + \$1000.01 through BGL + \$1200	70% of contracted unit rate
BGL + \$1200.01 through BGL + \$1400	90% of contracted unit rate
more than the BGL + \$1400	100% of contracted unit rate

(b) (No change.)

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210198

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

Eligibility

• 40 TAC §§48.2911, 48.2914, 48.2918, 48.2919

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.

§48.2911. Family Care.

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

(c) The applicant/client must require at least six hours of family care per week. An applicant/client requiring fewer

than six hours per week may be eligible if he:

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

(3) receives congregate or home-delivered meals, assistance with activities of daily living from a home health aide, day activity and health services, or special services to persons with disabilities in adult [handicapped adults] day care.

whether or not any of these services are purchased by the department; or

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

(d) (No change.)

§48.2914. Special Services to Persons with Disabilities [Handicapped Adults]. To be eligible for special services to persons with disabilities [handicapped adults], clients must score at least nine on the client needs assessment questionnaire. Applicants may be admitted to the attendant services program only if their needs do not exceed the program's available services.

§48.2918. Eligibility for Primary Home Care.

(a) Applicants/clients for primary home care services must meet all of the following eligibility criteria. The applicant/client must:

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

(5) require at least six hours of primary home care per week. An applicant/client requiring fewer than six hours per week may be eligible if he meets at least one of the following criteria:

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

(C) receives congregate or home-delivered meals, assistance with activities of daily living from a home health aide, day activity and health services, or special services to persons with disabilities in adult [handicapped adults] day care, whether or not any of these services are purchased by the department; or

(D)-(F) (No change.)

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

§48.2919. Adult Protective Time-Limited Eligibility.

(a) (No change.)

(b) Clients with time-limited eligibility status are eligible for:

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

(5) special services to persons with disabilities [for handicapped adults].

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 27, 1992.

TRD-9210192

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

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Case Management

• **40 TAC §48.3903**

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.

§48.3903. Denial, Reduction, and Termination of Benefits.

(a) An applicant or client may request an appeal of any decision that denies, reduces, or terminates his benefits. The effective date of the action depends on the situation, as shown in the following table.

If
Termination or reduction is because client lost his eligibility as an income-eligible, failed to qualify as an income-eligible after a verbal referral, failed to meet the client needs assessment score or medical criteria for the service, repeatedly refused to follow the service plan, experienced a change in his need for the specific service, or failed to pay fees for services,

Termination is because client lacks AFDC, SSI, Medicaid or food stamp eligibility,

Termination is because client lacks physician's orders for the service,

Termination or reduction is because of budgetary constraints or changes in federal law or state regulations, and services are reduced or terminated for an entire categorical client group,

Termination is because the client or someone in his home threatens the health or safety of others, or because the client threatens his own health or safety.

Then
The action is effective 10 days (or 12 days if mailed) from the date of the notice unless the action is appealed. In the event of appeal, services continue until the hearing officer gives a decision. The cost of providing services during this period is subject to recovery by the department from the client. Services to clients in residential care facilities are terminated five days after the hearing officer gives his decision.

Services continue only to the end of the month that the client is determined ineligible, even if the action is appealed.

Services continue only through the date the previous orders end, even if the action is appealed.

Services continue only through the date of termination of a categorical client group, even if appealed.

Services may be terminated immediately under the following conditions:

A client receiving residential care, adult foster care, day activity and health services,

congregate meals, or special services to persons with disabilities [to handicapped] threatens his own health or safety or that of others; or

Someone in the client's home or a client receiving emergency response services, home-delivered meals, family care, or primary home care threatens the provider's health or safety.

(b) -(f) (No change.)

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210193

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

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Contracting for CCAD Services

• 40 TAC §48. 5903

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.

§48.5903. *Methods of Contracting.* The three methods of contracting in the purchase of CCAD services are:

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

(3) Solicitation of a proposal from only one source—The department uses this method of procurement for service contracts which meet specific local needs. These service contracts are for home-delivered meals, special services to persons with disabilities [for handicapped adults], supervised living, emergency care, emergency response, and for providers whose contracts were grandfathered through executive decision (congregate meals and home-maker and chore contracts grandfathered to family care). The department may renew these contracts if the contractor meets service standards.

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 27, 1992.

TRD-9210194

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

Minimum Standards for Agencies Contracted to Provide Special Services to Persons with Disabilities [for Handicapped Adults]

• 40 TAC §48.9301

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.

§48.9301. *Standards Applicable to All Contracted Agencies.*

(a) (No change.)

(b) Staff development for direct service staff. The contracted agency must:

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

(4) provide direct service staff and volunteers a minimum of 24 hours of training during the first three months of

employment. The following topics are to be covered in this training:

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

(C) techniques of working with persons with disabilities [handicapped adults] to assist them in living as independently as possible;

(D)-(F) (No change.)

(5)-(7) (No change.)

(c)-(e) (No change.)

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210195

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 board meeting scheduled for 9 a.m. August 26, 1992, in Room 100 of the Texas Department

of Insurance Building, 333 Guadalupe Street in Austin, will consider a filing by the Texas Department of Insurance (department) of a new Reinsurance Intermediary Bond form.

The proposed Reinsurance Intermediary Bond is a condition for licensing of a reinsurance intermediary by the department. The principal sum of the bond will be \$100,000 for a broker and \$250,000 for a manager, payable to the department for the use and benefit of any insurer represented by the reinsurance intermediary. A reinsurance intermediary may file with the department an errors and omissions policy in lieu of the Reinsurance Intermediary Bond.

Copies of the full text of the proposed form for the Reinsurance Intermediary Bond are 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 please contact Angie Ariezpe at (512)

322-4147 (refer to Reference Number 0792-471).

The notification is made pursuant to the Insurance Code, Article 5.97, which exempts Board action on this filing 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 23, 1992.

TRD-9210082

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

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

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 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 11. Health

Maintenance Organizations

Subchapter A. General Provisions

• 28 TAC §11.1, §11.2

The State Board of Insurance of the Texas Department of Insurance adopts amendments to §11.1 and §11.2. Section 11.2 is adopted with changes to the proposed text as published in the February 11, 1992, issue of the *Texas Register* (17 TexReg 1193). Section 11.1 is adopted without changes and will not be republished.

The amendments are necessary to add definitions and make editorial changes. The definitions added by these amendments to §11.2 are "admitted assets", "agent", "excess surplus", and "surplus". As a result of comment, the phrase "net admitted assets" in the definition of "surplus" was changed to omit the word "net"; the definition of "admitted assets" has been changed to specifically relate to the rule which sets out the assets which are permitted to be listed as admitted assets; the definition of "agent" has been changed to refer specifically to Insurance Code, Articles 20A.15 and 20A.15A; and the phrase "net of uncovered liabilities" has been removed from the definition of "excess surplus".

Section 11.1 describes the general provisions of the rules in this subchapter and §11.2 contains definitions of terms used in this subchapter.

No comments were received in connection with §11.1. Comments were received in connection with §11.2. A comment was received suggesting that the phrase "net of uncovered liabilities" be removed from the definition of "excess surplus", and that the word "net" be removed from the phrase "net admitted assets" in the definition of "surplus" in order to better correlate the definitions with the use made of them in this subchapter. The board agrees with these comments and the changes are made in the rules finally adopted. A comment was received which suggested that because the definition of excess surplus would exclude from surplus any amount attributable to assets "a health maintenance organization finds necessary for its operations as set forth in §11.803(5)", the definition is redundant, unnecessary and is a mechanism for increasing minimum surplus requirements by "the back door". The board

disagrees with this comment because the definition as written allows staff to discount, for this purpose, funds necessary for operations which means that the definition only takes into account funds that are actually available over and above those required for uncovered liabilities. The commenter's approach would allow more liberal investments under §11.803(2) and it is possible that an HMO would not have sufficient assets to meet uncovered liabilities under §11.803(1) if the changes requested in this comment were adopted. A comment suggested that the definition of "admitted assets" which excluded assets specifically "excluded by this act and chapter" was too vague. The comment suggested that the assets which were specifically excluded should be enumerated or reference to the sections of the act or chapter which excluded such assets be included in the definition. The board agrees that the definition should be changed. The new definition of "admitted assets" references the rule which specifically sets out the assets which are permitted to be listed as admitted assets. This approach will be easier for everyone to use and will achieve the objective sought by the comment. A comment suggested that the definition of "agent" be the definition found in Article 20A.15 of the Act. The board agrees that the definition of agent as originally proposed is confusing. The new definition will refer to both Insurance Code, Articles 20A.15 and 20A.15A. The definition will indicate that the word agent applies to both articles unless the context of the rule clearly indicates the applicability of only one of those articles. The board believes it is necessary to refer to both articles as the word agent can be applicable to both articles.

No comments were received in favor of these sections. Texas Health Maintenance Organization Association and one single service HMO commented against the amendments.

The amendments are adopted under Insurance Code, Articles 20A.22 and 1.04. Article 20A.22 authorizes the board to promulgate rules to carry out the provisions of the Act and Insurance Code, Article 1.04 provides the board with the authority to determine policy and rules in accordance with the laws of this state.

§11.2. Definitions.

(a) The definitions found in the Texas Health Maintenance' Organization Act, §2, as amended, codified as the Texas Insurance Code, Article 20A.02, are hereby incorporated in this chapter.

(b) The following words and terms, when used in this chapter, shall have the

following meanings, unless the context clearly indicates otherwise.

(1) Act—The Texas Health Maintenance Organization Act, Senate Bill 180, enacted by Acts 1975, 64th Legislature, Chapter 214, Pages 514-530, first effective December 1, 1975, as amended, codified as the Texas Insurance Code, Chapter 20A.

(2) Admitted assets—All assets as defined by generally accepted accounting principles, as permitted and valued in accordance with §11.803 of this title (relating to Investments, Loans, and Other Assets).

(3) Affiliate—A person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(4) Agent—A health maintenance organization agent as defined in Insurance Code, Articles 20A.15 and 20A.15A, unless the context of the rule clearly indicates applicability to any agents licensed under one specific article.

(5) Capitation—The average amount of money required per enrollee to administer the health maintenance organization and to provide covered services to an enrollee for a specified time period.

(6) Code—The Texas Insurance Code, 1951, as amended.

(7) Copayment—An additional charge to an enrollee for a service which is not fully prepaid.

(8) Excess surplus—The surplus that is in excess of the minimum surplus required by the Insurance Code, Article 20A.13, excluding from surplus those assets a health maintenance organization finds necessary for its operations as set forth in §11.803(5) of this title (relating to Investments, Loans and Other Assets).

(9) HMO—A health maintenance organization which has been issued a certificate of authority under the Act.

(10) Out of area benefits—The benefits that the HMO covers when its members are outside the geographical limits of the HMO service area.

(11) Premium—The prospectively determined rate, based on the capita-

tion, that is paid by or on behalf of a subscriber for specified health services.

(12) Primary care physician—A physician who is responsible for providing initial and primary care to patients, maintaining the continuity of patient care, and initiating referral for care.

(13) Qualified HMO—An entity which has been federally approved under Title XIII of the Public Health Service Act, Public Law 93-222, as amended.

(14) Rules—All sections under this chapter.

(15) Schedule of charges—The specific rates or premiums to be charged for a single enrollee, a two-member family, three-member family, etc.

(16) Service area—The geographical area within which direct service benefits are available and accessible to HMO enrollees.

(17) Subscriber—If nongroup coverage, the person who is the policyholder and is responsible for payment of premiums to the HMO; or if group coverage, the person who is the certificate holder and whose employment or other status, except for family dependency, is the basis for eligibility for membership in the HMO.

(18) Surplus—The admitted assets minus uncovered liabilities.

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 27, 1992.

TRD-9210156 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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

Subchapter B. Name Reservation Procedure

• 28 TAC §§11.101, 11.102, 11.106, 11.107

The State Board of Insurance of the Texas Department of Insurance adopts amendments to §§11.101, 11.102, 11.106, and 11.107, without changes to the proposed text as published in the February 11, 1992, issue of the *Texas Register* (17 TexReg 1194).

The amendments are necessary to amplify or clarify the requirements of the sections.

The sections provide for a name reservation procedure. The amendment to §11.101 provides the complete address to which requests for reservation of name forms should be directed. The amendment to §11.102 makes an

editorial change to the wording. The amendment to §11.106 provides that a requested name is reserved for 365 days from the date the name is accepted, rather than approved, by the commissioner of insurance. The amendment to §11.107 clarifies the date on which a name reservation is cancelled in the event of denial of a certificate of authority.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Insurance Code, Articles 20A.22 and 1.04. Article 20A.22 authorizes the board to promulgate rules to carry out the provisions of the Act and Insurance Code, Article 1.04 provides the board with the authority to determine policy and rules in accordance with the laws of this state.

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 27, 1992.

TRD-9210157 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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

Subchapter C. Application for Certificate of Authority

• 28 TAC §§11.201, 11.203-11.206, 11.208

The State Board of Insurance of the Texas Department of Insurance adopts amendments to §§11.201, §11.203-11.206, and §11.208. Sections 11.203 and 11.204 are adopted with changes to the proposed text as published in the February 11, 1992, issue of the *Texas Register* (17 TexReg 1194). Sections 11.201, 11.205-11.206 and §11.208 are adopted without changes and will not be published.

These amendments are necessary to clarify procedures followed in connection with review of an application for certificate of authority to become an HMO.

The amendment to §11.201 adds a reference to the board's rule governing regulatory fees. The amendment to §11.203 clarifies the timing of the application review process in the event of required revisions. The amendment to §11.204 clarifies and makes changes to the requirements for the contents of an application for certificate of authority and deletes the provisions that authorize the commissioner to require additional information relating to the itemized contents. The amendment to §11.205 makes editorial changes. The amendment to §11.206 deletes some specific steps in the application review process and refers the reader to the board's rules concerning notice and processing periods for permit applications. The amendment to §11.208 adds a statutory reference with re-

spect to delay of final action on an application.

Comments were received on §11.203 and §11.204. No comments were received on the rest of the sections contained in this subchapter. Comments related to §11.203. A commenter has stated that removing the word "substantial" from this section would require an HMO to restart the application process for any revision and would place a barrier on revisions. The board responds to the concerns of this commenter by making a change to the rule which will provide for a simple procedure to allow an applicant to seek a delay where appropriate without requiring resubmission of the application. Comments Related to §11.204. A commenter noted that the proposed rules ask that all subcontracts be furnished. The commenter believed that HMOs could not obtain such subcontracts and that only direct contracts with providers should be provided. The board responds to this comment by noting that it is necessary to require the subcontracts in order to forward them to the Health Department for review and certification as provided for in the proposed sections in order to provide an assurance that the provisions of Insurance Code, Article 20A. 05(a)(3) can be met. A commenter stated that §11.204(15) should be changed to require the filing of "any agreement" rather than "reinsurance" agreements and the section should then contain wording adding "reinsurance" to the series of examples. The board agrees that clarification is needed. The change to the rule will reference reinsurance agreements and any other agreements covering excess of loss, stop-loss, and/or catastrophes.

No comments were received in favor these sections. Texas Health Maintenance Organization Association and one health maintenance organization commented against adopting the amendments.

The amendments are adopted under the Insurance Code, Articles 20A.22 and 1. 04. Insurance Code, Article 20A.22 authorizes the State Board of Insurance to promulgate rules to carry out the provisions of the Act and Article 1.04 provides the State Board of Insurance with the authority to determine policy and rules in accordance with the laws of this state.

§11.203. Revisions during Review Process.

(a) Revisions during the review of the application must be addressed to: HMO Unit, Mail Code 106-3A, Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78714-9104. The applicant must include an original and one copy of the transmittal letter, plus the number of copies of any revision specified in this subchapter.

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

(d) If, after the Texas Department of Health review or Texas Department of Insurance qualifying examination, either the Texas Department of Health or Texas Department of Insurance staff notifies the applicant of the need for revisions as a result

of the examination or review, that application does not meet the requirements of the Act and will have to be denied, absent corrections. If the time required for the revisions will exceed the time limits set out in Chapter I, Subchapter G, §1.809 of this title (relating to HMO Certificate of Authority), the applicant must request additional time within which to make the revisions. The applicant must specifically set out the length of time requested which may not exceed 90 days. The commissioner may grant or deny the request for an extension of time in his or her discretion under §1.809(d) of this title. Additional delays may be requested. The request for any additional delays must set out the need for the additional delay in sufficient detail for the commissioner to determine if good cause for such delay exists. The commissioner may grant or deny any additional request for an extension of time in his or her discretion.

§11.204. Contents. Contents of the application must include the following items in the order listed:

(1) a completed HMO Form #1, name reservation along with any certificate of reservation of corporate name issued by the secretary of state;

(2)-(5) (No change.)

(6) separate organizational charts or lists, as described in subparagraphs (A)-(C) of this paragraph:

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

(7) fidelity bond or deposit for officers and employees, which must comply with either subparagraph (A) or subparagraph (B) of this paragraph, as appropriate.

(A) A bond must be in compliance with the Texas Insurance Code, Article 20A.30, and must be either the original bond or a copy of the bond with notarized certification bearing the original signature of an officer of the applicant that the copy is a true, accurate, and complete copy of the original bond.

(B) A cash deposit must be held under a joint control agreement, acceptable to the commissioner, in the same amount and subject to the same conditions as a bond.

(8) information related to out-of-state licensure and service of legal process for all applicants.

(A) An applicant licensed as an HMO in another state must furnish a copy of the certificate of authority from the domiciliary state's licensing authority, and a

power of attorney executed by the applicant appointing the commissioner and his or her successors in office, or a duly authorized deputy, as the attorney of such applicant in and for the state, upon whom all lawful processes in any legal action or proceedings against the HMO on a cause of action arising in this state may be served.

(B) All applicants must furnish a statement acknowledging that all lawful process in any legal action or proceeding against the health maintenance organization on a cause of action arising in this state is valid if served in accordance with Texas Insurance Code, Article 1.36.

(9) the evidence of coverage to be issued to enrollees, and any group agreement which is to be issued to employers, unions, trustees, or other organizations as described in Subchapter F of this chapter (relating to Evidence of Coverage);

(10) financial information, consisting of the following:

(A) a current financial statement, including balance sheet reflecting assets and liabilities, statement of income and expenses, and sources and application of funds;

(B) projected financial statements for the 18-month period from the start of operations using quarterly balance sheet projections based on calendar quarters, quarterly cash flow schedules reflecting capital expenditures, and monthly revenue and expense projections, which financial statements must include the identity and credentials of the person making the projections; and

(C) the most recent audited financial statements of any sponsoring organization;

(11) the schedule of charges as defined in §11.2 of this title (relating to Definitions) to be used through the first 12 months of operation;

(12) (No change.)

(13) a sample copy of the form of any contract executed or to be executed between the applicant and:

(A) any person listed on the officers and directors page;

(B) any physician, medical group, or association of physicians, or any other provider, plus a sample copy of the subcontract between the medical group, physicians' association, any physician, or provider, who has contracted with any phy-

sician, medical group, association of physicians, or any other provider to provide health care services. If such contracts include a hold-harmless provision, it shall be no less favorable to enrollees than that outlined in §11.1102 of this title (relating to Hold-Harmless Clause). Such contracts must be in accord with the Texas Department of Health rules, and will be furnished by Texas Department of Insurance to the Texas Department of Health for their review and certification;

(C) any exclusive agent or agency; and

(D) any person who will perform management, marketing, administrative, data processing services, or claims processing services. A bond or deposit meeting the requirements of the Texas Insurance Code, Article 20A.18, is required for management contracts. If a bond, the original must be submitted, or a copy of the bond must be accompanied by notarized certification that the copy is a true, accurate, and complete copy of the original;

(14) a description of the quality assurance program, including a peer review program required by the Texas Insurance Code, Article 20A.05. Arrangements for sharing pertinent medical records between physicians and/or providers contracting or subcontracting pursuant to paragraph (13)(B) of this section with the HMO and assuring the record's confidentiality must be explained;

(15) insurance and other protection against insolvency:

(A) any reinsurance agreement and any other agreement described in the Texas Insurance Code, Article 20A.05(b)(2)(C) (iii), covering excess of loss, stop-loss, and/or catastrophes. The agreement must provide that the commissioner and HMO will be notified no less than 60 days prior to cancellation or reduction of coverage by the insurer;

(B) any conversion policy or policies which will be offered by an insurer to an HMO enrollee in the event of the HMO's insolvency;

(C) any other arrangements offering protection against insolvency;

(16) authorization for disclosure to the commissioner of the financial records of the applicant. Disclosure of financial records of affiliates may also be required. The individual to be contacted for a qualifying examination must be identified.

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 27, 1992.

TRD-9210158 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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

◆ ◆ ◆
**Subchapter D. Regulatory Re-
quirements for an HMO
Subsequent to Issuance of a
Certificate of Authority**

◆ ◆ ◆
• 28 TAC §§11.301-11.306

The State Board of Insurance of the Texas Department of Insurance (TDI) adopts amendments to §§11.301-11.306. Section 11.301 is adopted with changes to the text as published in the February 11, 1992, issue of *Texas Register* (17 TexReg 1197). Sections 11.302-11.306 are adopted without changes and will not be republished.

The amendments are necessary to conform the subchapter to legislative revisions to the Texas HMO Act and provide for clarification of the regulatory process subsequent to the issuance of a certificate of authority.

The amendment to §11.301 provides for the filing of additional information for approval with respect to management contracts, certain dividends, notice of loans, and amendments to organizational documents. The amendments provide that changes in the principal administrative office, and certain financial and solvency information must be filed for information. There are also editorial changes made to this section relating to form numbers and the number of copies of certain documents to be filed; and clarifying that any changes in certain documents should be filed. The amendment to §11.302 provides that items filed with respect to service area expansion requests should be filed either for approval or for information as determined in §11.301 and adds new requirements for the filing of financial information and information related to protection against insolvency, as well as providing for the filing of the formula or method for calculating the schedule of charges for any new or amended evidence of coverage. Section 11.303 is amended to provide that the expenses of examinations, both by the Texas Department of Insurance and the Texas Department of Health, are offset against premium taxes. That section also provides that the documents set out in §11.205 shall be available on site unless the HMO has been authorized to move documents out of state. If such authority exists, the expenses of examination of those out-of-state records are not allowed as an offset against premium taxes. The amendment also provides that electronic access to documents meets the requirements of this section except that the Texas Department of Insurance or the Texas Department of Health have the authority to

request paper copies of such records be produced within a reasonable time period. Section 11.304 is amended to clarify the filing processes for the HMO's annual statement, the annual audited financial report where required by the Texas Insurance Code, Article 1.15A, and an annual audit report of the sponsoring organization for those HMOs who have such an organization. An amendment to this section requires that all HMOs file quarterly reports. This section is also amended to provide for the payment of premium taxes and maintenance taxes to the Texas Department of Insurance pursuant to Texas Insurance Code, Articles 4.11, 20A.32 and 20A.33 and the regulations promulgated thereunder and the tax forms promulgated by the board. The premium taxes are subject to the adjustments set forth in the amendment. Editorial changes are made to §11.305. Section 11.306 is amended to provide clarification and notice that failure to comply with the Act, regulations, or orders of the commissioner or board are subject to actions authorized under the Texas Insurance Code, Article 1.10. Supervision, conservation, or receivership for failure to comply with the Act are also available remedies described in §11.306.

Comments were received on §11.301 and §11.304. No comments were received on the rest of the sections contained in this subchapter. Comments related to §11.301. A commenter has suggested that the words "an; new" in this section be omitted so that only substantive changes in contracts must be filed. The board agrees that only substantive changes must be filed, but believes that copies of the forms of all new contracts should be filed. The board also wishes to make it clear that only a sample form of the contracts must be filed. The new section will so provide. Comments related to §11.304. Two commenters stated that the requirement for filing of quarterly reports contained in §11.304 should be deleted. Both commenters noted that HMOs voluntarily supply this information for the use of the Solvency Surveillance Committee and also noted that employers wanted copies from the HMOs of the reports filed with the board which would mean that HMOs would be furnishing copies of the reports to the employers who would not treat them as confidential. One commenter also stated that TDI did not have the staff to review them. The board disagrees. Not all HMOs always voluntarily furnish these quarterly reports and HMOs may not do so in the future. The reports are needed for the Solvency Surveillance Committee and the staff to determine if any problems are developing which might affect insolvency. If they must be specially requested, a gap in the reports may occur. The difficulty which HMOs might have with employers will have to be dealt with through the HMO contracts, if necessary, but this difficulty does not outweigh the benefits to be gained by the furnishing of the quarterly reports. The TDI staff do review these quarterly reports. The quarterly reports are not treated as confidential; therefore, the question of confidentiality is not a bar to this filing. The life and property and casualty insurers all file quarterly reports. In the opinion of the board, the benefits to be gained by receiving the quarterly reports outweigh the difficulties involved in filing them.

No comments were received in favor these sections. Texas Health Maintenance Organization Association and one health maintenance organization commented against adoption of the amendment.

The amendments are adopted under Insurance Code, Articles 20A.22 and 1.04. Article 20A.22 authorizes the board to promulgate rules to carry out the provisions of the Act and Insurance Code, Article 1.04 provides the board with the authority to determine policy and rules in accordance with the laws of this state.

§11.301. Filing Requirements. Subsequent to the issuance of a certificate of authority, each health maintenance organization (HMO) is required to file certain information with the commissioner, either for approval prior to effectuation or for information only, as outlined in paragraphs (4) and (5) of this section and in §11.302 of this title (relating to Service Area Expansion Requests). These requirements include filing any changes necessitated by federal laws or regulations.

(1) (No change.)

(2) Identifying form numbers required. Each item required to be filed pursuant to paragraphs (4) and (5) of this section must be identified by a unique form number, adequate to distinguish it from other items. Such identifying form numbers shall be composed of a total of no more than 12 letters, numbers, symbols, and spaces.

(A) The identifying form number must appear in the lower left-hand corner of the page. In the case of a multiple page document, the identifying form number must appear on the lower left-hand corner of the first page. Page numbers should appear on subsequent pages.

(B) If an item is to be replaced or revised subsequent to issuance of a certificate of authority, a new identifying form number must be assigned. A new edition date added to the original identifying form number is an acceptable way of revising the number so that it is identifiable from any previously approved item; e.g., if G-100 was the originally approved number, the revision may be numbered G-100 12/79. Changing the case of the suffix is not considered to be a change in the number, e.g., "ED" and "ed" or "REV" and "rev" are the same for form numbering purposes.

(3) Attachments for filings. The filings required in paragraph (4) and (5) of this section must be accompanied by the following:

(A) four copies of an HMO Form #5 and #8 for each new, revised, or replaced item;

(B) four copies of a transmittal letter including a statement of any prior approved forms to be replaced, with any applicable form number;

(C) four copies of such supporting documentation as considered necessary by the commissioner for review of the filing; and

(D) the applicable filing fee as required by the Texas Insurance Code, Article 20A.32, as determined by §7.1301 of this title (relating to Regulatory Fees).

(4) Filings requiring approval. An HMO shall file with the commissioner a written request to implement or modify the following operations or documents and receive the commissioner's approval prior to effectuating such modifications:

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

(C) the form of all contracts described in §11.204(13), (A), (C), and (D) of this title (relating to Contents), including any amendments to contracts described in §11.204 (A) and (C) of this title and prior approval of the cancellation of any management contracts in §11.204(13)(D) of this title.

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

(F) dividends which do not meet the requirements of §11.807 of this title (relating to Dividends);

(G) a notice of any intention to make a loan or to make multiple loans, or to make any amendments thereto, to a medical group or to a corporation under the control of the HMO. If the total amount loaned is incidental to the HMO's operation and does not exceed an amount expected to be equal to the charges to be paid to that medical group or corporation for contractual services to be provided for a 30-day period immediately following and provided that termination of services may not take place during that period of time, then such notice need not be filed;

(H) a copy of any amendments to basic organizational documents which are proposed. Following approval by the commissioner a copy of the approved amendments must be filed with the secretary of state and an original, or a copy of such documents with notarized certification bearing the original signature of an officer that it is a true, accurate, and complete copy of the original file marked by the secretary

of state, shall be filed with the commissioner;

(I) a copy of any amendments to bylaws of the HMO, with a notarized certification bearing the original signature of an officer of the company that it is a true, accurate, and complete copy of the original;

(J) any name, assumed name, service mark, or trademark on a reservation of name form, HMO Form #1; and

(K) any agreement by which an affiliate agrees to handle an HMO's investments under §11.804 of this title (relating to Investment Management by Affiliate Companies).

(5) Filings for information. Material filed under this paragraph is not to be considered approved but may be subject to review for compliance with Texas law and consistency with other HMO documents. Each item filed under this paragraph must be accompanied by a completed HMO Form #7-Certification of Compliance, referred to in of §11.1001(8) of this title (relating to Forms Adopted by Reference) in addition to those attachments required under paragraph (3) of this section. Within 30 days of the effective date, an HMO must file with the commissioner, for information only, additions, deletions, and modifications to the following previously approved or filed operations and documents:

(A) the list of officers and directors and a biographical data sheet for each person listed under the Texas Insurance Code, Article 20A.4(a)(3), on HMO Form #3 and #4 referred to in §11.204(5)(A) and (B) of this title;

(B) a copy of any notice of cancellation of bonds, new bonds, or amendments to bonds for officers and employees, including notarized certification by an officer that the material is true, accurate, and complete, as described in §11.204(7) and (13)(D) of this title;

(C) the formula or method for calculating the schedule of charges as defined in Subchapter A, §11.2(b) of this title (relating to General Provisions);

(D) any change in the principal administrative office within the approved service area(s) of the HMO;

(E) any change of the certificate of authority from the domiciliary state's licensing authority and a power of

attorney, if the HMO is a foreign-licensed HMO;

(F) a copy of the form of any new contract or any substantive changes in previously filed copies of forms of all contracts between the HMO and any physicians, or other providers described in §11.204(13)(B) of this title, whether utilized with all contracts or on an individual basis;

(G) any new or amendments to insurance or other protection against insolvency, including the stop-loss or reinsurance agreements if changing the carrier or description of coverage as described in §11.204(15) of this title; and

(H) any change in the affiliate chart as described in §11.204(6)(A) of this title.

(6) (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 27, 1992.

TRD-9210159

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

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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

◆ ◆ ◆
• 28 TAC §§11.403-11.409

The State Board of Insurance of the Texas Department of Insurance adopts an amendment to §11.403 and new §§11.404-11.409 without changes to the proposed text as published in the February 11, 1992, issue of the *Texas Register* (17 TexReg 1200).

The amendment and new sections are necessary to conform the requirements of this subchapter to legislative revisions of the Texas HMO Act and to provide clearer and more effective regulation.

The adoption of new §§11.404-11.409 is simultaneous with the repeal of present §§11.404-11.411. Notice of the repeal appears elsewhere in this issue of the *Texas Register*. The amendment to §11.403 clarifies terminology regarding nonresident individuals who are licensed to act as an agent for one or more HMOs in their state of residency and provides that individuals who reside in an adjoining state may be licensed as resident agents if their principal business office is to be maintained in Texas. New §11.404 replaces existing §11.405, concerning license application requirements and adds provisions with respect to corporate applicants. New

§11.405 replaces existing §11.406, concerning the written license examination, and provides that, unless the examination is scheduled within nine months of the date an application is approved, the applicant must reapply. New §11.406 would replace old §11.407, concerning renewal of licenses, and would delete the provision that allows an individual whose license has expired to renew within one year without retaking the examination, at the commissioner's discretion. New §11.407 replaces existing §11.408, concerning additional appointments and unauthorized agents, and adds a provision regarding payment of a percentage of an HMO's revenues, net income, or profit to persons under contract with the HMO for administrative, management, or health care services. New §11.408 replaces old §11.409, concerning termination of HMO agents' appointments, and additionally provides for suspension of the license of an HMO agent with no outstanding valid appointments. New §11.409, concerning suspension or revocation of license, replaces existing §11.410. The proposed new section adds a showing of financial irresponsibility by an applicant or agent to the enumerated grounds for denial, suspension, or revocation of a license and adds requirements regarding notice of hearing on a license.

No comments were received regarding adoption of the amendment and new sections.

The amendment and new sections are adopted under the Texas Insurance Code, Articles 20A.15, 20A.15A, 20A.22 and 1.04. Insurance Code. Articles 20A.15 and 20A.15A authorize the State Board of Insurance to adopt reasonable rules necessary to provide for the licensing of agents under those articles. Article 20A.22 authorizes the board to promulgate rules to carry out the provisions of the Texas Health Maintenance Organization Act, and Article 1.04 authorizes the State Board of Insurance with the authority to determine policy and rules in accordance with the laws of this state.

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 27, 1992.

TRD-9210161 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of
Insurance

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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

Subchapter E. Licensing and Regulations of HMO Agents

• 28 TAC §§11.404-11.411

The State Board of Insurance of the Texas Department of Insurance adopts the repeal of 28 TAC §11.404-11.411, concerning the licensing and regulation of health maintenance organization (HMO) agents, without changes

to the proposed text as published in the February 11, 1992, issue of the *Texas Register* (17 TexReg 1203).

The repeal of these sections is necessary to provide implementation of legislative revisions to the Texas HMO Act and to provide clearer and more effective regulation. The repeal enables the board simultaneously to adopt new sections which replace these repealed sections with clearer language in conformance with amended statutory language.

New sections will be adopted simultaneously with these repealed sections, except for §11.411 relating to temporary licenses which has not been replaced. No temporary license will be allowed for HMO agents after the effective date of the repeal of these sections. Notification of the adoption of the new sections which will substantially replace these sections appears elsewhere in this issue of the *Texas Register*.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Insurance Code, Articles 20A.22 and 1.04. Article 20A.22 authorizes the board to promulgate rules to carry out the provisions of the Texas Health Maintenance Organization Act. Article 1.04 provides the State Board of Insurance with the authority to determine policy and rules in accordance with the laws of this state.

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 27, 1992.

TRD-9210160 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of
Insurance

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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

Subchapter F. Evidence of Coverage

• 28 TAC §§11.502-11.504, 11.506, 11.509

The State Board of Insurance of the Texas Department of Insurance adopts amendments to §§11.502-11.504, 11.506, and 11.509. Sections 11.506 and 11.509 are adopted with changes to the proposed text as published in the February 11, 1992, *Texas Register* (17 TexReg 1203). Sections 11.502-11.504, are adopted without changes and will not be republished.

The amendments are necessary to conform the subchapter to legislative revisions to the Texas HMO Act and to clarify existing regulations to provide better regulation.

The amendment to §11.502 contains references to form numbers, provides that any discrepancy between the language or form numbers of the final print and approved draft

is grounds for revocation of the certificate of authority, provides for forms which are referenced in §11.1001(10), and makes minor editorial changes. The amendment to §11.503 provides for an additional form and requires four rather than three copies of the transmittal letter. The amendment to §11.504 adds references to Articles 21.21A, 21.21-1, and 21.21-3 and provides that violations of such statutes are grounds for disapproval of an evidence of coverage. The amendment to §11.506 makes changes in the mandatory provisions for both group and non-group agreements and certificates covering formatting, use of the legislatively mandated toll free number, variable co-payments or deductibles, cancellation and cancellation time limits, conversion and continuation of coverage provisions; eligibility requirements, including those of dependents, and mandating coverage of certain dependents; changes to rates; service area descriptions; conformity with state law and with Medicare supplement minimum standards and long-term care minimum standards and other miscellaneous provisions dealing with mandatory provisions. The amendment to §11.509 makes certain editorial changes; provides that the subrogation provision may include a statement that the HMO may recover attorneys' fees and court costs, and contain rules which must be followed by an HMO which chooses to provide coverage for work-related injuries or illness. An editorial change has been made to remove the word "insurance" from the first sentence of §11.509(3)(B). That word was erroneously typed in that sentence as the HMO evidence of coverage is not technically an insurance coverage.

Comments were received related to §11.506. A commenter stated that the requirement that provisions be included to conform with Medicare supplement minimum standards and long-term care minimum standards would require that all group and non-group agreements conform and suggested using the phrase "as applicable" to avoid this result. The board is of the opinion that this change is not necessary because the phrase "where applicable" is already included at the end of the sentence. A comment was received suggesting that the reference to the commissioner's bulletin be deleted. The board is of the opinion that this reference should be left in the rule as some transactions which occurred during the period in which the bulletin was in force may become an issue and it should be clear in the rules that the bulletin was the regulation in force at that time. A commenter also suggested that the reference to §1.601 should read "(Relating to Notice of Policyholder Complaint Procedures)" due to changes made since the original publication of these proposed rules. The board agrees with this comment and the rule will be changed show the new title which is slightly different from the one listed by the commenter, to reflect the final version of §1.601.

No comments were received in favor these sections. Texas Health Maintenance Organization Association commented against adoption of these amendments.

The amendments are adopted under Insurance Code, Articles 20A.22 and 1.04. Insur-

ance Code, Article 20A.22 authorizes the board to promulgate rules to carry out the provisions of the Act and Insurance Code, Article 1.04 provides the board with the authority to determine policy and rules in accordance with the laws of this state.

§11.506. Mandatory Provisions: Group and Non-Group Agreement and Group Certificate. Each group and non-group agreement and group certificate must contain the following provisions. Use of the standard language for each provision as presented in Subchapter L of this chapter (relating to Standard Language for Mandatory and Other Provisions) shall exempt from review that portion of the evidence of coverage where standard language is contained. Such standard language shall not be the only language accepted by the State Board of Insurance for such provisions:

(1) name, address, and phone number of the HMO-, the toll-free number referred to in Texas Insurance Code, Article 21.71, where applicable, and notice of any provision requiring arbitration, indicating the location of such provisions within the evidence of coverage, must appear on the face page.

(A) The face page of an agreement is the first page that contains any written material.

(B) If the agreements or certificates are in booklet form the first page inside the cover is considered the face page.

(C) The information regarding the toll fee number referred to in Article 21.71 must be in accordance with §1.601 of this title (relating to Notice of Toll-Free Telephone Numbers and Procedures for Obtaining Information and Filing Complaints).

(D) HMOs who wish to be exempt from Article 21.71 requirements for fiscal year 1991 must have filed for the exemption in accordance with the commissioner's bulletin of August 31, 1991. Exemptions will be governed by Texas Insurance Code, Article 21.71, §1.601 of this title and the information contained in the instructions for the filing of the annual statement.

(2) arbitration—a statement of any required arbitration procedure. If enrollee complaints and grievances are resolved through a specified arbitration agreement, the arbitration must be conducted pursuant to the Texas Arbitration Act, Texas Civil Statutes, Articles 224-238;

(3) benefits—a schedule of all health care services that are available to enrollees under the health care plan or sin-

gle health care service plan, including any copayments or deductibles and a description of where and how to obtain services. A variable copayment or deductible schedule may be used. The copayment schedule must clearly indicate the benefit to which it applies.

(4) cancellation—a statement specifying the grounds for cancellation of coverage and the minimum notice period that will apply. The notice period will be as described in subparagraphs (A) and (B) of this paragraph:

(A) for an enrollee, or if a subscriber, the subscriber and subscriber's enrolled dependents, in the case of:

(i)-(iii) (No change.)

(iv) failure to meet eligibility requirements, coverage may be cancelled immediately, subject to continuation of coverage and conversion privilege provisions;

(v)-(vi) (No change.);

(B) for a group, in the case of:

(i) (No change.)

(ii) fraud on the part of the group, after 15 days written notice; or

(iii) any cancellation other than described in Clause (i) or (ii) of this subparagraph the HMO must give the group at least 60 days prior notice;

(5) claim filing procedure—a provision that sets forth the procedure for filing claims, including:

(A) any required notice to the HMO of a claim;

(B) how, when, and where to obtain claim forms, if required;

(C) requirements for filing proper proofs of loss;

(D) any time limit for payment of claims which must be in accordance with Texas Insurance Code, Article 21.55 and Article 20A.09(i);

(E) notice of any requirement for arbitration of disputed claims;

(6) complaint procedure—a description of the HMO's method for resolving enrollee complaints, including the address, phone number to which complaints must be directed, and toll free telephone number required by Article 21.71, where applicable; and notice of time limits, appeal

procedures, and any requirement for arbitration;

(7) conversion privilege—group and non-group agreements and group certificates for an HMO must contain a conversion privilege which provides that, upon termination of eligibility for membership, each enrollee who resides in the service area has the right to convert within 31 days to a non-group agreement issued by the HMO without presenting evidence of insurability. No conversion privilege is required when the entire group withdraws from the HMO or is cancelled by the HMO or for any member whose coverage is cancelled pursuant to paragraph (4)(A) (i)-(iii), (v), or (vi) of this section or for any enrollee covered under a Medicare risk or Medicare cost contract;

(8)-(10) (No change.)

(11) eligibility—a statement of the eligibility requirements for membership, including:

(A) that the subscriber must live in the service area and the permanent legal residence of any enrolled dependents must be the same as the subscriber, or the subscriber must live in the service area and the residence of any enrolled dependents must be:

(i) in the service area with the person having temporary or permanent conservatorship or guardianship of such dependents, where the subscriber has legal responsibility for the health care of such dependents; or

(ii) in the service area under other circumstances where the subscriber is legally responsible for the health care of such dependents; or

(iii) in the service area with the subscriber's spouse;

(B) the conditions under which dependent enrollees may be added to those originally covered;

(C) any limiting age for subscriber and dependents, including effects of Medicare eligibility;

(D) a clear statement regarding the coverage of newborn children. No evidence of coverage may contain any provision excluding or limiting coverage for a newborn child of the subscriber or the subscriber's spouse. Congenital defects must be treated the same as any other illness or injury for which coverage is provided. The HMO may require that the subscriber notify the HMO during the initial 31 days after the birth of the child and pay any premium required to continue coverage for the newborn child;

(E) a clear statement regarding the coverage of the subscriber's grandchildren under the conditions under which such coverage is required by Texas Insurance Code, Article 3.70-2, Subsection (L);

(12)-(15) (No change.)

(16) incontestability—in the absence of fraud, all statements made by a subscriber are considered representations and not warranties. During the first two years, coverage can be voided for material misrepresentation contained in a written application. After two years, coverage can be voided only in the event of a fraudulent misstatement contained in the written application. A copy of the written application must have been furnished to the subscriber if the terms of the application or enrollment form are to be applied;

(17) schedule of charges—a statement that discloses the HMO's right to change the rate charged with 30 days written notice pursuant to the Texas Insurance Code, Article 3.51-10;

(18) service area—a map or clear description of the service area indicating major primary and emergency care delivery sites. A zip code map and a provider list may be used to meet this requirement;

(19) (No change.)

(20) conformity with state law—a provision that if the agreement or certificate contains any provision not in conformity with the Act or other applicable laws it shall not be rendered invalid but shall be construed and applied as if it were in full compliance with the Act and other applicable laws.

(21) conformity with Medicare supplement minimum standards and long-term care minimum standards—each group and non-group agreement and group certificate must comply with Chapter 3, Subchapter T of this title (relating to Medicare Supplement Minimum Standards), referred to in this paragraph as Medicare supplement rules, and Chapter 3, Subchapter Y of this title (relating to Long-Term Care Minimum Standards), referred to in this paragraph as long-term care rules, where applicable. If there is a conflict between the Medicare supplement rules and/or the long-term care rules and the HMO rules, the Medicare supplement rules or long-term care rules shall govern to the exclusion of the conflicting provisions of the HMO rules. Where there is no conflict, both the Medicare supplement rules and/or the long-term care rules and the HMO rules shall be followed where applicable.

§11.509. Optional Provisions. Group and non-group agreements and group certifi-

cates may contain the following optional provisions;

(1) coordination of benefits—a provision that the value of any benefits or services provided by the HMO may be coordinated with any other type of group insurance plan or coverage under governmental programs so no more than 100% of eligible expenses incurred is paid.

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

(C) Requirements of the Texas Insurance Code and rules promulgated by the State Board of Insurance relating to coordination of benefits by insurers should be followed by HMOs that wish to coordinate benefits.

(2) subrogation—a provision that the HMO receives all rights of recovery acquired by an enrollee against any person or organization for negligence or any willful act resulting in illness or injury covered by HMO benefits, but only to the extent of such benefits. Upon receiving such benefits from the HMO, the enrollee is considered to have assigned such rights of recovery to the HMO and to have agreed to give the HMO any reasonable help required to secure the recovery. The provision may include a statement that the HMO may recover attorney fees and court costs;

(3) sale of substitutes to Workers' Compensation Insurance—if an HMO chooses to market a product which provides coverage for on-the-job injuries or illness, the following provisions shall apply.

(A) No person, agent, or entity may represent any nongroup or group agreement or other evidences of coverage as a substitute for a policy of workers' compensation insurance nor may any person, agent, or entity represent to an employer that purchase of a nongroup or group agreement or other evidence of coverage providing benefits to the employer's employees:

(i) provides the same benefits for either the employee or the employer as are provided by workers' compensation insurance; or

(ii) limits such employees to a claim for benefits under such agreements as the employees' sole remedy against the employer in the event the employee suffers a job related injury or disease.

(B) All nongroup or group agreement or other evidences of coverage which provide benefits to employees and which are marketed to or through employers that have elected, or may in the future elect, to be nonsubscribers to the workers' compensation system shall include the following

statement in 10-point bold-face type on the first page of the agreement and on the first page of all materials used in advertising, marketing, and explaining the agreement: "THIS IS NOT A POLICY OF WORKERS' COMPENSATION INSURANCE. THE EMPLOYER DOES NOT BECOME A SUBSCRIBER TO THE WORKERS' COMPENSATION SYSTEM BY PURCHASING THIS AGREEMENT, AND IF THE EMPLOYER IS A NON-SUBSCRIBER, THE EMPLOYER LOSES THOSE BENEFITS WHICH WOULD OTHERWISE ACCRUE UNDER THE WORKERS' COMPENSATION LAWS. THE EMPLOYER MUST COMPLY WITH THE WORKERS' COMPENSATION LAW AS IT PERTAINS TO NON-SUBSCRIBERS AND THE REQUIRED NOTIFICATIONS THAT MUST BE FILED AND POSTED."

(c) The group agreements described in subsection (b) of this section shall include the following statement in 10-point bold-face type on the certificate or other evidence of coverage issued to the employees: "THE GROUP AGREEMENT UNDER WHICH THIS CERTIFICATE IS ISSUED IS NOT A POLICY OF WORKERS' COMPENSATION INSURANCE. YOU SHOULD CONSULT YOUR EMPLOYER TO DETERMINE WHETHER YOUR EMPLOYER IS A SUBSCRIBER TO THE WORKERS' COMPENSATION SYSTEM."

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 27, 1992.

TRD-9210162 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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

Subchapter G. Advertising and Sales Material

• 28 TAC §11.602, §11.603

The State Board of Insurance of the Texas Department of Insurance adopts amendments to §11.602 and §11.603 concerning advertising and sales material, without changes to the proposed text as published in the February 11, 1992, issue of the *Texas Register* (17 TexReg 1206).

The amendments are necessary to clarify the requirements of the sections.

These sections relate to advertising and sales materials. The amendment to §11.602 adds Article 21.21-1 as a statute to which an HMO is subject. The amendment to §11.603 retitles

the section "Filings" to indicate that the required filings which are to be made are not necessarily filings subsequent to certificate of authority.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Insurance Code, Articles 20A.22 and 1.04. Insurance Code, Article 20A.22 authorizes the board to promulgate rules to carry out the provisions of the Texas Health Maintenance Organization Act, and Article 1.04 provides the board with the authority to determine policy and rules in accordance with the laws of this state.

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 27, 1992.

TRD-9210163

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

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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

◆ ◆ ◆
• 28 TAC §§11.701-11.707

The State Board of Insurance of the Texas Department of Insurance adopts amendments to §§11.701-11.704 and new §§11.705, 11.706, and 11.707. Section 11.701 and §11.703 are adopted with changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1900). Section 11.702 and §11.704 and new §§11.705, 11.706, and 11.707 are adopted without no changes and will not be republished.

The amendments and new sections are necessary to conform the subchapter to legislative revisions to the Texas HMO Act and to provide clarification of the regulations related to the schedule of charges.

The amendment to §11.701 provides for the filing of the formula or method for calculating the schedule of charges and the required supporting documentation and clarifies the contents of the schedule of charges. The amendment to §11.702 provides that the formula or method for calculating the schedule of charges must be accompanied by certification of a qualified actuary that it is appropriate to produce rates that are not excessive, inadequate, or unfairly discriminatory. The amendment to §11.703 provides that each formula or method for calculating the schedule of charges must be accompanied by adequate detail including assumptions to justify that the charges produced are not excessive, inadequate or unfairly discriminatory. That amendment also provides that the calculations must be available in the HMO's office and that any changes in the assumptions in the formula or method for calculating the schedule of charges for a particular group

need not be filed but justification of the variances must be retained at the HMO's office. The amendment to §11.704 establishes the standards for establishing conversation rates and prohibits charges based on any individual's health status. New §11.705 establishes requirements concerning a one-time enrollment fee or a reinstatement fee for lapsed contracts. Section 11.706 provides standards for determining reasonableness of HMO rates with respect to benefits. Section 11.707 requires review of an HMO's formula or method for calculating its schedule of charges after a one-year period. The existing §11.705 and §11.706, concerning rate variations and schedule of charges projected in application for certificate of authority, have been proposed for repeal and the final action on such repeal appears elsewhere in this issue of the *Texas Register*.

No comments were received regarding adoption of the amendment and new section.

The amendments and new sections are adopted under the Texas Insurance Code, Article 1.04, which provides the State Board of Insurance with the authority to determine policy and rules in accordance with the laws of this state; and under the Texas Insurance Code, Article 20A.22, which authorizes the board to promulgate rules to carry out the provisions of the Texas Health Maintenance Organization Act.

◆ ◆ ◆
§11.701. Must Be Filed Prior to Use.

(a) No formula or method for calculating the schedule of charges for enrollee coverage, as defined in §11.2(b) of this title (relating to Definitions), may be used until a copy of such formula or method for calculating the schedule of charges with the required supporting documentation as defined in §11.703 of this title (relating to Supporting Documentation) has been filed with the commissioner.

(b) The schedule of charges governed by this section includes all charges made for group or individual coverage except that any fee collected as an administrative service only fee, whereby the HMO assumes no risk, shall not be governed by this section.

(c) Each filing must be accompanied by HMO Form #6 (SC#1) as referenced in §11.1001 of this title (relating to Forms Adopted by Reference). This information may be submitted in the form of a computer printout.

§11.703. Supporting Documentation. Each formula or method for calculating the schedule of charges must be accompanied by adequate detail including assumptions to justify that the charges produced by the formula or method are not excessive, inadequate, or unfairly discriminatory as defined in §11.706 of this title (relating to Factors to be Considered in Determination of Reasonability of Rates).

(1) The calculations used to produce any schedule of charges as defined in §11.2(b) of this title (relating to Definitions) must be available at the HMO's office.

(2) Any changes in the assumptions in the formula or method for calculating the schedule of charges due to special characteristics of a particular group need not be filed, but justification of the variances must be retained at the HMO's office so that compliance with §11.706 of this title (relating to Factors to be Considered in Determination of Reasonability of Rates) may be checked.

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 27, 1992.

TRD-9210165

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

Effective date: August 17, 1992

Proposal publication date: March 13, 1992

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

◆ ◆ ◆
Subchapter H. Schedule of Charges

◆ ◆ ◆
• 28 TAC §§11.705, §11.706

The State Board of Insurance of the Texas Department of Insurance adopts the repeal of §11.705 and §11.706, without changes to the proposed text as published in the February 11, 1992 *Texas Register* (17 TexReg 1209).

The repeal of these sections is necessary to allow the publication of new §11.705 and §11.706 to provide implementation of legislative revisions to the Texas Health Maintenance Organization Act and to provide clarification of the regulations under the Act.

The repeal of these sections will allow the board to simultaneously adopt new §11.705 and §11.706 which replace these repealed sections. Notification appears elsewhere in this issue of the *Texas Register* of the adoption of the new sections.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Insurance Code, Article 20A.22 and 1.04. Texas Insurance Code, Article 20A.22 authorizes the board of promulgate rules to carry out the provisions of the Texas Health Maintenance Organization Act, and Article 1.04 provides the State Board of Insurance with the authority to determine policy and rules in accordance with the laws of this state.

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 27, 1992.

TRD-9210164

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

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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



Subchapter I. Financial Re- quirements

• 28 TAC §11.801

The State Board of Insurance of the Texas Department of Insurance adopts an amendment to §11.801, concerning financial requirements, without changes to the proposed text as published in the February 11, 1992, issue of the *Texas Register* (17 TexReg 1209).

The amendment is necessary to provide clearer and more effective regulation of foreign health maintenance organizations.

This amendment adds a new subsection (e) to §11.801 and provides that foreign HMOs seeking admission to this state which are actively conducting business in other states and are applying for a certificate of authority shall be required to maintain only the minimum surplus requirement net of uncovered liabilities and may hold assets allowed existing certified HMOs at the time of the qualifying examination. This amendment is necessary because an existing HMO cannot be examined in the same way as a prospective HMO which cannot conduct business without a certificate of authority.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Insurance Code, Articles 20A.22 and 1.04. The Insurance Code, Article 20A.22, authorizes the board to promulgate rules to carry out the provisions of the Texas Health Maintenance Act, and Article 1.04 provides the State Board of Insurance with the authority to determine policy and rules in accordance with the laws of this state.

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 27, 1992.

TRD-9210166

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

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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



Subchapter J. Requirements of the Texas Department of Health

• 28 TAC §11.901

The State Board of Insurance of the Texas Department of Insurance adopts an amendment to §11.901, concerning requirements of the Texas Department of Health with respect to health maintenance organizations, without changes to the proposed text as published in the February 11, 1992, issue of *Texas Register* (17 TexReg 1209).

This amendment is necessary to change a numerical reference to regulations of the Department of Health and to make editorial changes.

This section references the authority of the Texas Department of Health under the Act and references their rules. The amendment was necessary to refer to the title of the rules and eliminate the specific references to the specific sections as these section numbers are subject to change and a reference to them might cause confusion for the public. The reference to the title will enable the public to locate the proper volume of the Texas Administrative Code which will contain an up-to-date index so that the appropriate rules can be located.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Insurance Code, Article 1.04, which provides the State Board of Insurance with the authority to determine policy and rules in accordance with the laws of this state; and under the Texas Insurance Code, Article 20A.22, which authorizes the board to promulgate rules to carry out the provisions of the Texas Health Maintenance Organization Act.

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210167

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

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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



Subchapter K. Forms Adopted by Reference

• 28 TAC §11.1001

The State Board of Insurance of the Texas Department of Insurance adopts an amendment to §11.1001, concerning forms adopted by reference for use by health maintenance organizations (HMOs), with changes to the proposed text as published in the February 11, 1992, issue of the *Texas Register* (17 TexReg 1210).

The amendment is necessary to change the names of three forms, to add revision dates to the form numbers, and to make Forms Numbers 5 and 6 consistent with changes to the rules in Subchapter H. Schedule of Charges.

This section adopts forms by reference. The amendments to this section will change the names of the forms referred to in paragraphs (1), (7), (8), and (10). The notation "Rev. 7/90" is added to each form except for Forms 5 and 6 which were changed as a result of comment and will show a revision date of "4/92." The forms changed as a result of comment will be refiled with the Office of the Secretary of State.

A commenter has suggested that Form Number 5 be changed to delete the line for schedule of charges because it is the formula, not the schedule of charges, that is required to be filed by §11.701 of this title (relating to Must be Filed Prior to Use). The board agrees with this comment and the title of the line in question will be changed to "the formula or method for calculating the schedule of charges" in order to clarify what must be filed. A commenter noted that it was unclear as to the purpose of Form Number 6 and has asked for changes to it. The board has made changes to the form in order to alleviate the confusion.

FOR: none; AGAINST: Texas Health Maintenance Organization Association.

The amendment is adopted under the Texas Insurance Code, Article 1.04, which provides the State Board of Insurance with the authority to determine policy and rules in accordance with the laws of this state; and under the Texas Insurance Code, Article 20A.22, which authorizes the board to promulgate rules to carry out the provisions of the Texas Health Maintenance Organization Act.

§11.1001. Forms Adopted by Reference. The Texas Department of Insurance adopts by reference certain application and filing forms, instructions, checklists, and other blanks to be used in conjunction with the rules adopted under this chapter. Copies of these forms may be obtained by contacting the HMO Unit, Mail Code 106-3A, Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78714-9104. Each HMO or other person or entity shall use such form or forms as are required by the rules adopted in this chapter and as are appropriate to its particular activities. The forms which are adopted by reference are more specifically identified as follows:

- (1) HMO Form #1 Rev. 7/90-Name reservation;
- (2) HMO Form #2 Rev. 7/90-Application for a certificate of authority to do business in the State of Texas;
- (3) HMO Form #3 Rev. 7/90-State of Texas officers and directors page;

(4) HMO Form #4 Rev. 7/90-Biographical data for the Texas Department of Insurance;

(5) HMO Form #4A Rev. 7/90-Instructions for completion of biographical data forms;

(6) HMO Form #5 Rev. 4/92-Texas Certified HMO, Article 20A.04 (b) filing;

(7) HMO Form #6 Rev. 4/92-Reconciliation of benefits to schedule of charges.

(8) HMO Form #7 Rev. 7/90-Certification (of compliance);

(9) HMO Form #8 Rev. 7/90-Texas Department of Insurance transmittal form for submissions; and

(10) HMO Form #9 Rev. 7/90-Certification (of language).

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 27, 1992.

TRD-9210168 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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

Subchapter N. Health Maintenance Organization Solvency Surveillance Committee Plan of Operation

• §§28 TAC §§11.1301-11.1306

The State Board of Insurance of the Texas Department of Insurance adopts amendments to §§11.1301-11.1306, concerning HMOs, without changes to the proposed text as published in the February 11, 1992 issue of the *Texas Register* (17 TexReg 1210).

These amendments are necessary to conform the subchapter to the Texas HMO Act and to make editorial changes.

These sections set forth the composition, plan of operation, operations, records and reports, and appeals for the HMO Solvency Surveillance Committee. The amendments are editorial in nature except for the amendment to §11.1302 which adds provisions concerning membership on the committee and the meetings of the committee.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Insurance Code, Article 1.04, which provides the State Board of Insurance with the authority to determine policy and rules in

accordance with the laws of this state; and under the Texas Insurance Code, Article 20A.22, which authorizes the board to promulgate rules to carry out the provisions of the Texas Health Maintenance Organization Act.

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210168 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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

Subchapter O. Administrative Procedures

• 28 TAC §11.1401, §11.1402

The State Board of Insurance of the Texas Department of Insurance adopts new §11.1401 and §11.1402. Section 11.1402 is adopted with changes to the proposed text as published in the February 11, 1992 issue of the *Texas Register* (17 TexReg 1211). Section 11.1401 is adopted without changes and will not be republished.

The new sections are necessary to amplify and clarify the requirements of the Texas Health Maintenance Organization Act, Texas Insurance Code, Chapter 20A, meet new statutory requirements, and provide for more effective regulation under the Act.

Section 11.1401 sets out the ability of the commissioner to require additional information. Section 11.1402 sets forth the necessity for HMOs to provide an annual 20-day period each calendar year during which providers and physicians may apply to participate in providing health care services or medical care.

No comments were received on §11.1401. Comments were received on §11.1402 and are summarized in this paragraph. Representatives of an association and an HMO testified in favor of the proposed section. They testified that the proposed language was in accord with legislative intent and wording and pointed out that a pharmaceutical association is advising its members to write to HMOs and apply. They also pointed out that HMOs must remain cost-effective and have preferential pricing arrangements. If there are too many providers so that some do not have enough patients, the provider drops out. The HMOs must also oversee quality and service. The HMOs are seeking the largest number of providers possible that will still be cost-effective and be capable of being monitored for quality and access. These same concerns apply to pharmacy costs according to the representative of the HMO. Representatives of two associations and several health care providers, chiropractors and phar-

macists, including home care pharmacists, commented against the proposed rule. These commenters wanted the rule to mandate that the HMO accept any provider who met their practice standards and qualifications. They stated that was the legislative intent of Texas Insurance Code, Article 20A.14(h) and stated that the legislature intended to provide a level playing field for all competitors. Some of the commenters stated that the patient should have freedom of choice in choosing health care providers. Some pharmacists testified that there is too little competition and that small pharmacies are frozen out of the market. One pharmacist testified that he could not meet the low price paid by the HMO. Pharmacists also testified that patients could not get good services from the pharmacies under the current system of contracting by the HMOs. Another pharmacist testified that the owner of the HMO also owned pharmacies. The board believes that the rule should be adopted as published. The rule as proposed uses the language which the legislature intended and allows for bona fide choices to be made by both sides to the transaction; i.e., HMOs and potential providers. The HMO system provides selling a package of services and in accepting those services, the consumer may bargain away some choices. The proposed rule allows for bargaining between potential providers and HMOs. If health care providers feel there is insufficient bargaining in some areas and that there is a lack of competition, the providers may go to the Office of the Attorney General and ask that office to determine if anti-trust violations have occurred.

Commenting in favor of the new sections were the Texas Health Maintenance Association and five HMOs. Commenting against were the Texas Pharmacy Coop; Texas Chiropractic Association; Texas Pharmaceutical Association; and 17 pharmacies.

The new sections are adopted under the Texas Insurance Code, Articles 20A. 22 and 1.04. Insurance Code, Article 20A.22 authorizes the board to promulgate rules to carry out the provisions of the Act. Article 1.04 provides the State Board of Insurance with the authority to determine policy and rules in accordance with the laws of this state

§11.1402. Notification to Providers.

(a) A health maintenance organization that provides coverage for health care services or medical care through one or more providers or physicians is required by the provisions of Texas Insurance Code, Article 20A.14(h), to provide a 20 calendar day period each calendar year during which any provider or physician in the geographic service area may apply to participate in providing health care services or medical care under the terms and conditions established by the health maintenance organization for the provision of such services and the designation of such providers and physicians. Article 20A. 14(h) may not be construed to:

(1) require that a health maintenance organization utilize a particular type of provider or physician in its operation;

(2) require that a health maintenance organization accept a provider or physician of a category or type that does not meet the practice standards and qualifications established by the health maintenance organization; or

(3) require that a health maintenance organization contract directly with such providers or physicians. In order to effectively notify providers or physicians of the opportunity to apply to provide services, after January 1, 1992, an HMO which is covered by the Texas Insurance Code, Article 20A.14(h) must publish a notice of an application period to physicians and providers in the public notice section of at least one major newspaper with general circulation in each of its service areas. The notice must be published for five consecutive days during the period of January 2-January 23 of each calendar year and must include: this caption in bold type: Notice to Physicians and Providers, the name and address of the HMO, what type of services the HMO provides, and the specific dates of the 20 day period during which physicians and providers may make application to be a participating physician or provider.

(b) A health maintenance organization must notify a physician or provider of acceptance or non-acceptance, in writing, no later than 90 days from receipt of an application for participation by that physician or provider.

(c) A health maintenance organization must file a copy of the published notice with the HMO Unit, for information, within 15 days of publication. The filing must include the following:

(1) the name of the newspaper; and

(2) the beginning and ending date of the publication.

(d) During the year 1992, HMOs must publish a notice meeting the requirements of this section within 60 days of the effective date of this section, and file a copy of the notice with the HMO Unit in accordance with subsection (c) of this section and must comply with subsection (b) of this section.

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210170 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: August 17, 1992

Proposal publication date: February 11, 1992

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

◆ ◆ ◆
Chapter 19. Agents' Licensing
Subchapter I. Licensing Fees
• 28 TAC §19.802

The State Board of Insurance of the Texas Department of Insurance adopts an amendment to §19.802, with changes to the proposed text as published in the May 5, 1992, issue of the *Texas Register* (17 TexReg 3230).

This amendment is necessary to implement the provisions of the Insurance Code, Article 21.58A.

This amendment adds a new paragraph (22) to subsection (b) setting the application and renewal fees for utilization review agents.

Six commenters stated that the original application and renewal fee set in the proposed amendment was too high given the nature of the statute and proposed regulations. One commenter stated that the proposed fee would be the highest in the nation. Two commenters stated that the proposed fee would be a strain on utilization review agents with a small portion of their business in Texas. All commenters recommended lowering the fee. One commenter recommended a graduated fee structure, and one commenter stated that their fee should be waived as they did a small amount of business based in Texas and recommended a waiver for all utilization review agents having only a small amount of business in Texas. One commenter suggested that the licensing fee should not be published in this section of the *Texas Register* as this section covers other licensing fee requirements, including those for property and casualty entities which are exempt from the Insurance Code, Article 21.58A. The commenter felt that placing the fee in this section caused confusion. The board responds that the fee will be lowered because the agency has been able to merge functions which dealt with the utilization review agents' licensing process, thus saving on administrative costs and allowing a reduction in the fees. As the statute requires that the fee is to cover the cost of administration of the Act, Insurance Code, Article 21.58A, and the costs for administration are the same for firms who have only a small amount of business in Texas, it is not feasible to allow for graduated fees, or to waive the fee for firms having only a small amount of business in Texas. The fee is placed in this section because the agency is seeking to place all fees for agents' licensing in a single statute for easy access.

FOR: No comments were received for these sections. AGAINST: Alliance of American Insurers, American Managed Care and Review Association, Texas Professional Benefit Administrators Association, and four utilization review agents.

The amendment is adopted under the Insurance Code, Articles 21.58A and 1.04, and

Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 21.58A, §13 grants the board authority to adopt rules and regulations to implement the provisions of Article 21.58A relating to health care utilization review agents. Article 1.04(b) authorizes the board to determine rules. 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 requirements of available procedures and prescribe the procedures for adoption of rules by a state administrative agency.

§19.802. Amounts of Fees.

(a) (No change.)

(b) The amounts of fees are as follows:

(1)-(21) (No change.)

(22) utilization review agent:

(A) original application-\$2,157;

(B) renewal-\$2,076.

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 23, 1992.

TRD-9210083 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: August 13, 1992

Proposal publication date: May 5, 1992

For further information, please call: (512) 463-6427

◆ ◆ ◆
TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Chapter 355. Research and Planning Fund

Subchapter B. Economically Distressed Areas Facility Engineering

• 31 TAC §355.73

The Texas Water Development Board (the board) adopts an amendment to §355.73, concerning funding for economically distressed areas facility engineering under the research and planning fund, without changes to the proposed text as published in the June 12, 1992, issue of the *Texas Register* (17 TexReg 4235).

Section 355.73 replaces the "ability to pay" formula in the board's rules relating to financial assistance with a buy-in calculation which will result in an amount that includes financial assistance for capacity in a political subdivision's water or wastewater system. The board had been using the "ability to pay" formula in determining the amount of financial assistance to political subdivisions under the Economically Distressed Areas Program.

The amendment expands the information to be submitted to the board in planning reports funded under the Economically Distressed Areas Program. The additional information in the planning reports will allow the board to use the buy-in calculation to determine the amount of financial assistance to a political subdivision under the Economically Distressed Areas Program.

The amendment will allow the board to continue the efficient implementation of the Economically Distressed Areas Program which provides financial assistance to those eligible counties which contain residential areas without any or with seriously inadequate water supply and sewer services creating serious and unacceptable health hazards and threatening the public health, safety, and welfare.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Water Code, §6.101, which requires the board to adopt rules necessary to carry out the powers and duties of the board provided by the Texas Water Code and §16.342, which requires the board to adopt rules to carry out the Economically Distressed Areas Program.

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 24, 1992.

TRD-9210134 Suzanne Schwartz
General Counsel
Texas Water Development Board

Effective date: August 14, 1992

Proposal publication date: June 12, 1992

For further information, please call: (512) 463-7981

Chapter 363. Rules Relating to Financial Programs

Subchapter A. General Provisions

Prerequisites to Release of State Funds

• 31 TAC §363.44

The Texas Water Development Board (board) adopts new §363.44, concerning the movement of funds between approved projects for financial assistance, with minor changes to the proposed text as published in the June 12, 1992, issue of the *Texas Register* (17 TexReg 4235).

Section 363.44 provides that with the approval of the executive administrator, borrowers may transfer funds remaining from one board-approved project to another board-approved project without returning to the board for separate approval. The new rule saves the political subdivisions time and costs associated with preparing additional engineering and financial information for submission to the board when the borrower's ability to repay the loan has already been established for the funds remaining, and when the project the funds would be transferred to has already been approved by the board. The minor changes make clear that transfer of funds is from one project to another project of the same borrower.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Water Code, §6.101, which authorizes the board to adopt rules necessary to carry out its powers and duties.

§363.44. Movement of Funds Between Approved Projects. If approved by the executive administrator, a borrower may transfer remaining excess funds from one or more of the borrower's board-approved projects to other of the borrower's board-approved projects. Applicants must comply with any new requirements triggered by the transfer of funds.

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 24, 1992.

TRD-9210131 Suzanne Schwartz
General Counsel
Texas Water Development Board

Effective date: August 14, 1992

Proposal publication date: June 12, 1992

For further information, please call: (512) 463-7981

Subchapter E. Economically Distressed Areas Program

• 31 TAC §363.502, §363.505

The Texas Water Development Board (the board) adopts an amendment to §363.502 and §363.505, concerning rules relating to financial programs, without changes to the proposed text as published in the June 12, 1992, issue of the *Texas Register* (17 TexReg 4236).

The amendment to §363.502 deletes the definition of the phrase "ability to pay" which is no longer used in the board's rules relating to financial programs and replaces the "ability to pay" formula, which the board has been using in determining the amount of financial assistance to political subdivisions under the Economically Distressed Areas Program, with a calculation which will result in an amount that includes financial assistance for capacity in a

political subdivision's water or wastewater system.

The amendment to §363.505 details how the board will determine the amount of financial assistance to an applicant under the Economically Distressed Areas Program.

The amendments will allow the board to continue the efficient implementation of the Economically Distressed Areas Program which provides financial assistance to those eligible counties which contain residential areas without any or with seriously inadequate water supply and sewer services creating serious and unacceptable health hazards and threatening the public health, safety, and welfare.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Water Code, §6.101, which requires the board to adopt rules necessary to carry out the powers and duties of the board provided by the Texas Water Code and §16.342, which requires the board to adopt rules to carry out the Economically Distressed Areas Program.

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 24, 1992.

TRD-9210133 Suzanne Schwartz
General Counsel
Texas Water Development Board

Effective date: August 14, 1992

Proposal publication date: June 12, 1992

For further information, please call: (512) 463-7981

Chapter 375. State Water Pollution Control Revolving Fund

Prerequisites to Release of Funds

• 31 TAC §375.72

The Texas Water Development Board (board) adopts an amendment to §375.72, concerning the state water pollution control revolving fund (SRF), without changes to the proposed text as published in the June 12, 1992, issue of the *Texas Register* (17 TexReg 4237).

Section 375.72 provides for early loan closing in order to fund the costs of planning and design prior to obtaining construction bids for a wastewater project. The section primarily assists small communities which can not undertake the costs of planning and design and, therefore, can not seek a permit without financial assistance. However, most communities can not take advantage of early closing because the section requires that prior to closing, the applicant obtain all required permits from the Texas Water Commission. The amendment allows for early loan closings to pay for the costs of planning, application, and

design before all permits have been issued by the Texas Water Commission. Applicants must present documentation that the permits are expected to be issued.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Water Code, §6.101, which authorizes the board to adopt rules necessary to carry out its powers and duties and under the Texas Water Code, §15.605, which requires the board to adopt rules necessary for the SRF.

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 24, 1992.

TRD-9210132 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Effective date: August 14, 1992

Proposal publication date: June 12, 1992

For further information, please call: (512) 463-7981

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 15. Medicaid Eligibility

Subchapter F. Budget and Payment Plans

• 40 TAC §15.503

The Texas Department of Human Services (DHS) adopts an amendment to §15.503, concerning protection of spousal income and resources in its Medicaid Eligibility chapter.

The justification for the amendment is to comply with Public Law 100-360, "the Medicare Catastrophic Coverage Act of 1988." The amendment increases the base amount used to calculate the dependent allowance for spousal impoverishment policy. The new base amount is 150% of the federal poverty level for a family of two.

The amendment will function by extending to Medicaid applicants the new base amount, which will benefit applicants.

The amendment is adopted 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. The amendment is adopted in compliance with federal requirements effective July 1, 1992.

§15.503. Protection of Spousal Income and Resources.

(a) Effective September 30, 1989, Public Law 100-360 provided for the protection of income for the community spouse and certain dependent family members when the other spouse is institutionalized. A standard spousal allowance is diverted to the community spouse whose income is less than the allowance. The allowance is deducted from the couple's combined monthly income.

(1) The dependent allowance is calculated by subtracting the dependent's income from 150% of the monthly federal poverty level (FPL) for a family of two, and dividing by three. A dependent family member may be the couple's child (minor or adult), or a parent or sibling (including half-sibling, step-sibling, or adopted sibling), of either member of the couple. The dependent family member must have been living in the client's home before the client's absence, must continue to live with the community spouse, and must be unable to support himself outside the home because of medical, social, or other reasons. There must be a community-based spouse for there to be a dependent allowance.

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

(b)-(h) (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 24, 1992.

TRD-9210108 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: July 1, 1992

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

Chapter 49. Child Protective Services

Subchapter C. Eligibility for Child Protective Services

The Texas Department of Human Services (DHS) adopts amendments to §§49.311, 49.501, 49.502, 49.511, and 49.1712; the repeal of §§49.505, 49.507, 49.510, 49.513-49.518, 49.701, 49.702, and 49.1302-49.1307; and new §§49.505, 49.507, 49.510, 49.513-49.518, 49.701, 49.702, and 49.1302-49.1307; and new §§49.505, 49.507, 49.510, 49.513-49.515, 49.517, 49.518, 49.701, 49.702, and

49.1301-49.1306 are adopted without changes and will not be republished.

The justification for most of the amendments, repeals, and new sections is to establish policies for a statewide system of providing services based on assessments of risk. The justification for repealing §§49.515-49.517 is to renumber them as §§49.516-49.518 in a retitled subchapter concerning intake, investigation, and assessment services.

The amendments, repeals, and new sections will enable staff to offer, plan, and provide services to families, not only when abuse or neglect has already occurred, but also when a family is facing stresses that are likely to lead to abuse or neglect (as defined in §34.012 of the Texas Family Code) in the foreseeable future. The amendments, repeals, and new sections will encourage staff to concentrate on protecting children who are in danger of immediate harm and on helping parents to understand and manage those elements of family functioning that are placing their children at risk.

The amendments, repeals, and new sections will function by improving services to children at risk of abuse or neglect by enabling CPS caseworkers to better identify them, to concentrate on protecting them from immediate harm, and to help their families learn to Child Protective Services manage the circumstances that have placed them at risk.

The department received no comments regarding adoption of the amendments, repeals, and new sections. The department, however, has initiated one change to the text of §49.516 to correct a typographical error. In the last sentence of §49.516(d), the department has replaced the word "interview" with the word "review."

• 40 TAC §49.311

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The amendment is also adopted under the Texas Family Code, Title 2, Chapter 34, which authorizes the department to provide services to alleviate the effects of child abuse and neglect.

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 27, 1992.

TRD-9210197 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: September 1, 1992

Proposal publication date: June 2, 1992

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

Subchapter E. Intake, Investigation, and Assessment

• 40 TAC §§49.501, 49.502, 49.511

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The amendments are also adopted under the Texas Family Code, Title 2, Chapter 34 which authorizes the department to provide services to alleviate the effects of child abuse and neglect.

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 27, 1992.

TRD-9210198 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: September 1, 1992

Proposal publication date: June 2, 1992

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

Subchapter E. Intake and Investigation Services

• 40 TAC §§49.505, 49.507, 49.510, 49.513-49.517

The repeals are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The repeals are also adopted under the Texas Family Code, Title 2, Chapter 34 which authorizes the department to provide services to alleviate the effects of child abuse and neglect.

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 27, 1992.

TRD-9210200 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: September 1, 1992

Proposal publication date: June 2, 1992

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

• 40 TAC §§49.505, 49.507, 49.510, 49.513-49.518

The new sections are adopted under the Human Resources Code, Title 2, Chapter 22,

which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The new sections are also adopted under the Texas Family Code, Title 2, Chapter 34 which authorizes the department to provide services to alleviate the effects of child abuse and neglect.

§49.516. Administrative Review of Investigation Findings.

(a) Anyone whom Child Protective Services (CPS) designates as an alleged perpetrator may request an administrative review of investigation findings unless the case involves a court determination consistent with a disposition of reason-to-believe. The alleged perpetrator must request the review in writing within 15 days after receiving the Texas Department of Human Services' (DHS's) written notice of findings.

(b) If court proceedings related to the abuse or neglect or to a custody dispute are pending at the time or are started after a review is requested, CPS may postpone the review until the court proceedings are completed.

(c) Civil suits to remove a child or to obtain a protective order to remove an alleged perpetrator are not delayed by a request for an administrative review.

(d) The alleged perpetrator may appear in person at the review and may have a representative. The alleged perpetrator may submit written material that is relevant to the case. If the alleged perpetrator does not speak English or is deaf, DHS provides a certified interpreter unless the alleged perpetrator prefers to choose his own certified interpreter. The alleged perpetrator is responsible for any costs he may incur for the review, except for interpreter services provided by DHS.

(e) The regional director for CPS or his designee conducts the review. The reviewer must decide to sustain, alter, or reverse CPS's original findings. The reviewer bases his decision on the same requirements and criteria that workers and supervisors use in conducting intake services and investigations of allegations of child abuse or neglect. Within 30 days after the review is completed, the reviewer notifies the alleged perpetrator of the review decision.

(f) If the person conducting the review alters or reverses the findings or specifies other action for the worker to take, the worker:

(1) changes the designation of the alleged perpetrator and/or case disposition on CANRIS to match any changes made by the reviewer;

(2) notifies each person who was told of the original findings about the

findings established by the administrative review; and

(3) takes any other action specified by the reviewer.

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 27, 1992.

TRD-9210203 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: September 1, 1992

Proposal publication date: June 2, 1992

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

Subchapter G. In-home Protective Services

• 40 TAC §49.701, §49.702

The repeals are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The repeals are also adopted under the Texas Family Code, Title 2, Chapter 34 which authorizes the department to provide services to alleviate the effects of child abuse and neglect.

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 27, 1992.

TRD-9210201 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: September 1, 1992

Proposal publication date: June 2, 1992

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

Subchapter G. Family Preservation Services

• 40 TAC §49.701, §49.702

The new sections are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The new sections are also adopted under the Texas Family Code, Title 2, Chapter 34 which authorizes the department to provide services to alleviate the effects of child abuse and neglect.

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 27, 1992

TRD-9210204

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

Effective date: September 1, 1992

Proposal publication date: June 2, 1992

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

Subchapter M. Substitute-care Placement Services

• 40 TAC §§49.1302-49.1307

The repeals are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The repeals are also adopted under the Texas Family Code, Title 2; Chapter 34 which authorizes the department to provide services to alleviate the effects of child abuse and neglect.

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 27, 1992.

TRD-9210202

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

Effective date: September 1, 1992

Proposal publication date: June 2, 1992

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

• 40 TAC §§49.1301-49.1306

The new sections are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The new sections are also adopted under the Texas Family Code, Title 2, Chapter 34 which authorizes the department to provide services to alleviate the effects of child abuse and neglect.

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 27, 1992.

TRD-9210205

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

Effective date: September 1, 1992

Proposal publication date: June 2, 1992

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

Subchapter Q. Purchased Pro- tective Services

• 40 TAC §49.1712

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The amendment is also adopted under the Texas Family Code, Title 2, Chapter 34 which authorizes the department to provide services to alleviate the effects of child abuse and neglect.

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 27, 1992.

TRD-9210199

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

Effective date: September 1, 1992

Proposal publication date: June 2, 1992

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

Part VIII. Children's Trust Fund of Texas Council

Chapter 201. Child Abuse and Neglect Prevention

Subchapter B. Children's Trust Fund

• 40 TAC §§201.1-201.9

The Children's Trust Fund of Texas Council adopts the repeal of §§201.1-201.10, concerning child abuse and neglect prevention, without changes to the proposed text as published in the June 19, 1992, issue of the *Texas Register* (17 TexReg 4433).

The repeal of these sections will implement new rules in response to the establishment of the Children's Trust Fund of Texas Council as a state agency on May 19, 1991. The Children's Trust Fund of Texas Council received administrative support from the Texas Department of Human Resources prior to May 19.

The adopted repeal and new sections will consolidate into two chapters the rules governing the Council and its policies and procedures for funding child abuse and neglect prevention programs, service, and awarding contracts.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Human Resources Code, Title 3, Chapter 74, §74.003(a)(11), which provides the Children's Trust Fund of Texas Council with the authority to adopt rules governing the administration of the agency and its programs.

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

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

TRD-9210181

Janie D. Fields, MPA
Executive Director
Children's Trust Fund of
Texas Council

Effective date: August 17, 1992

Proposal publication date: June 19, 1992

For further information, please call: (512)
458-1281

• 40 TAC §§201.1-201.10

The Children's Trust Fund of Texas Council adopts the new §§201.1-201.10, concerning council administration: policies and procedures, without changes to the proposed text as published in the June 19, 1992, issue of the *Texas Register* (17 TexReg 4433).

The Children's Trust Fund of Texas Council adopts new rules Chapter 201, §§201.1-201.10 in response to the establishment of the Children's Trust Fund of Texas Council as a state agency (May 19, 1991).

The new chapter will consolidate and clarify the administrative policies, procedures, and authority of the Children's Trust Fund of Texas Council.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Human Resources Code, Title 3, Chapter 74, §74.003(a)(11), which provides the Children's Trust Fund of Texas Council with the authority to adopt rules governing the administration of the agency and its programs.

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

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

TRD-9210182

Janie D. Fields, MPA
Executive Director
Children's Trust Fund of
Texas Council

Effective date: August 17, 1992

Proposal publication date: June 19, 1992

For further information, please call: (512)
458-1281

Chapter 202. Funded Program Awards and Contracts

• 40 TAC §§202.1-202.18

The Children's Trust Fund of Texas Council adopts new §§202.1-202.18, concerning

funded program awards and contracts, without changes to the proposed text as published in the June 19, 1992, issue of the *Texas Register* (17 TexReg 4433).

The sections will increase the public's awareness of the availability of and procedures related to the Children's Trust Fund of Texas Council's funds to support community programs to prevent child abuse and neglect.

The new sections consolidate with Chapter 201 the necessary policies and procedures

for allocating funds to eligible public entities, nonprofit organizations, and individuals providing child abuse and neglect prevention services to families, children, and professionals statewide.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Human Resources Code, Title 3, Chapter 74, §74.003(a)(11), which provides the Children's Trust Fund of Texas Council with the authority to adopt rules governing the administration of the agency and its programs.

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

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

TRD-9210179

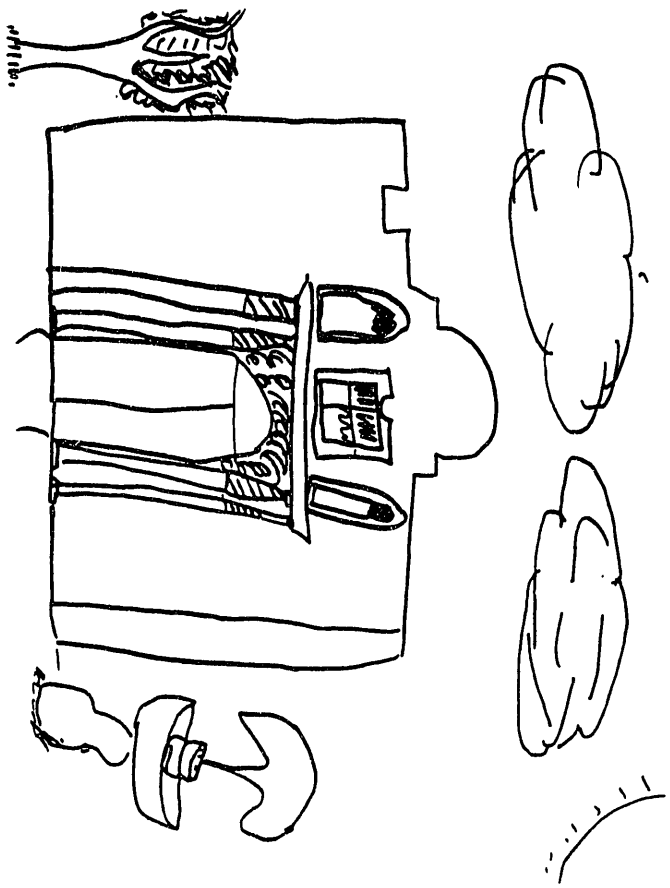
Janie Fields, MPA
Executive Director
Children's Trust Fund of
Texas Council

Effective date: August 17, 1992

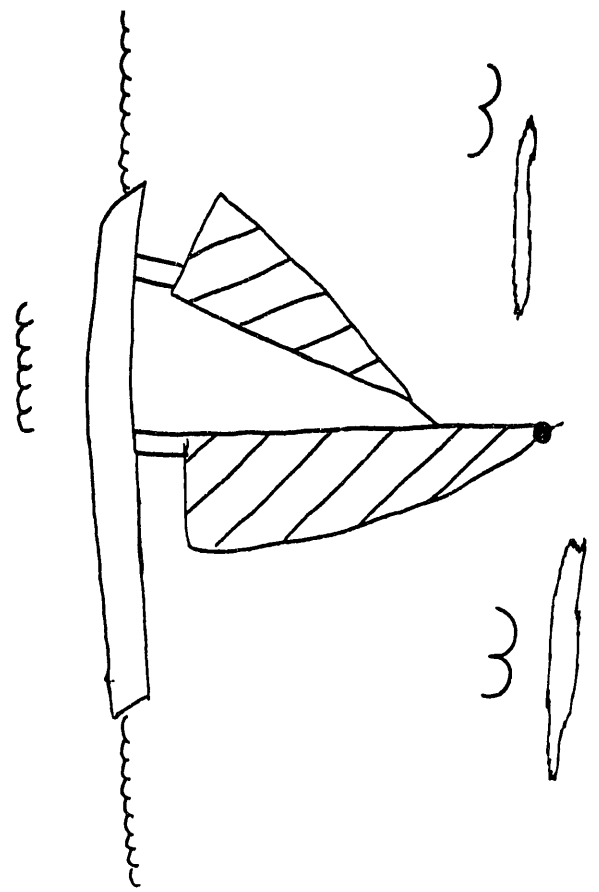
Proposal publication date: June 19, 1992

For further information, please call: (512) 458-1281

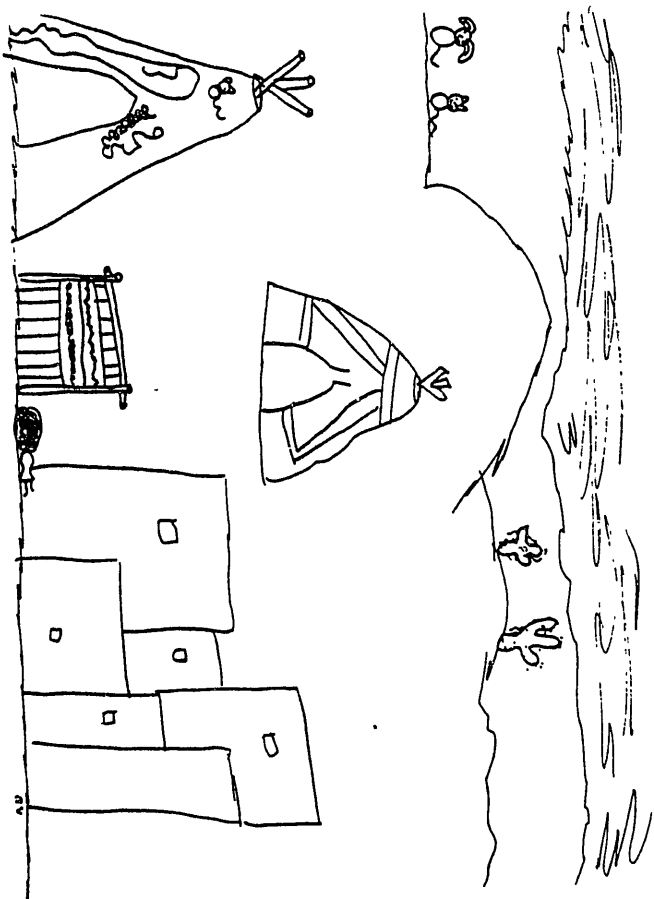
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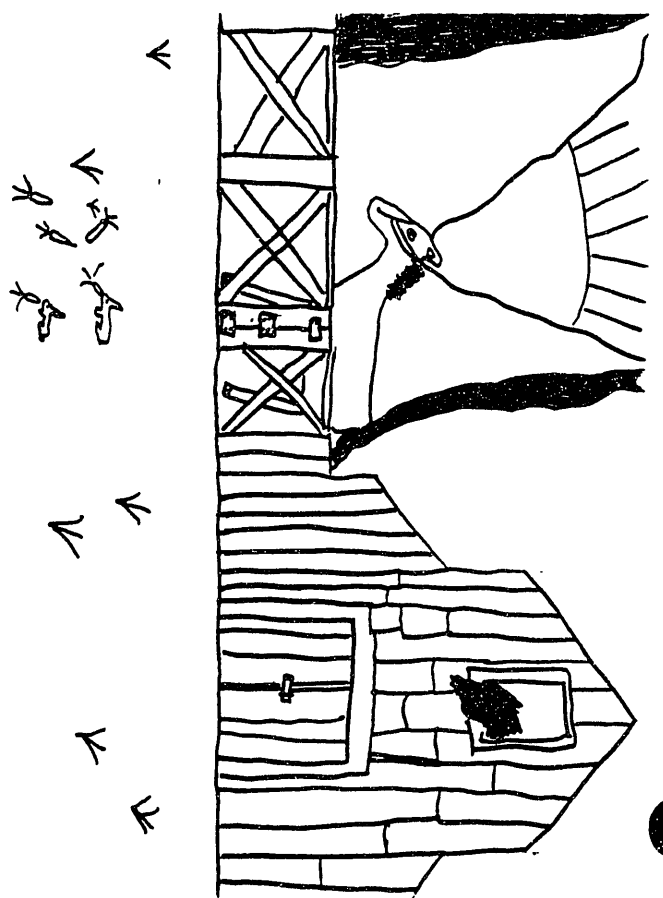


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Open Meetings

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

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

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

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).

Texas Department of Agriculture

Wednesday, September 16, 1992, 9 a.m. The Office of Hearings Examiner of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §76.116(a)(1) and 4 TAC §7.22 by Randy Hale.

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

Filed: July 27, 1992, 2:10 p.m.

TRD-9210235

Wednesday, September 23, 1992, 9 a.m. The Office of Hearings Examiner of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §76.116(a)(1) and 4 TAC §7.22 by Jerry Hunt.

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

Filed: July 27, 1992, 2:10 p.m.

TRD-9210236

State Aircraft Pooling Board

Wednesday, August 5, 1992, 3:30 p.m. The State Aircraft Pooling Board will meet at 4900 Old Manor Road, Austin. Accord-

ing to the complete agenda, the board will call the meeting to order; make introductions; discuss approval of minutes of board meeting, May 6, 1992; fiscal years 1994-1995 legislative appropriations request; discuss executive director's report; set time and place for next meeting; and final adjournment.

Contact: Gladys Alexander, 4900 Old Manor Road, Austin, Texas 78723, (512) 477-8900.

Filed: July 23, 1992, 2:42 p.m.

TRD-9210076

Texas Commission on Alcohol and Drug Abuse

Friday, August 7, 1992, 1 p.m. The Criminal Justice Issues Committee of the Texas Commission on Alcohol and Drug Abuse will meet at 816 Congress Avenue, Suite 500, Texas Department of Criminal Justice Conference Room, Austin. According to the complete agenda, the committee will give updates and current status of request for proposals for House Bill 93 beds; update on existing Senate Bill 828 beds; report on aftercare issues; report on status of immersion training; judiciary awareness training; report on future Senate Bill 828 beds; and report on human resource development for treatment and aftercare.

Contact: Ted Sellers, 720 Brazos, Suite 403, Austin, Texas 78701, (512) 867-8805.

Filed: July 27, 1992, 11:02 a.m.

TRD-9210210

Children's Trust Fund of Texas Council

Wednesday, July 29, 1992, 10 a.m. The Children's Trust Fund of Texas Council met at the Office of Children's Trust Fund of Texas Council, 8929 Shoal Creek Boulevard, Suite 200, Austin. According to the revised agenda, the council discussed approval of renewal grants for fiscal year 1993; reason for adding the item above: delay in receiving renewal information.

Contact: Sue Marshall, 8929 Shoal Creek Boulevard, #200, Austin, Texas 78758, (512) 458-1281.

Filed: July 23, 1992, 2:36 p.m.

TRD-9210075

Texas Board of Chiropractic Examiners

Tuesday, August 4, 1992, 9:30 a.m. The Texas Board of Chiropractic Examiners will meet at 8716 MoPac Expressway North, Suite 301, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of minutes; discuss and act on Rules 73.2, 73.3, 75.6, 76.1, 77.3, 78, 78.1, 79, 80.1, 80.4, 81, 82, 82.1 and on personnel matters and waiver; information items regarding planning, OSHA/CLIA mailing, and committee reports; discuss items regarding Rule 81; chiropractic facilities; other business to include calendar, deadlines and miscellaneous; and period of public comment. (The meeting may possibly extend into Wednesday, August 5, 1992, at 9:30 a.m.).

Contact: Joyce Kershner, 8716 MoPac, Suite 301, Austin, Texas 78759, (512) 343-1895.

Filed: July 27, 1992, 3:38 p.m.

TRD-9210244

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Texas State Board of Examiners of Professional Counselors

Thursday, August 6, 1992, 2 p.m. The Complaints Committee of the Texas State Board of Examiners of Professional Counselors will meet at Room S-402, Board Offices, Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the committee will discuss and possibly act on order concerning license of P.S.H.; agreed order concerning license of M.T.; agreed order concerning license of N.S.M.; telephone counseling and 1-900 numbers; request for settlement concerning the Gerald Caldwell lawsuit; and report on complaints; investigations and pending hearing(s).

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 27, 1992, 4:03 p.m.

TRD-9210254

Friday, August 7, 1992, 8 a.m. The Rules and Specialties Committee of the Texas State Board of Examiners of Professional Counselors will meet at Room S-402, Board Offices, Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the committee will discuss and possibly act on comments submitted by licensed professional counselors (Reynolds, Clark, Ramsey, others) regarding current rules; supervisor training rules; list of national associations as approved organizations and acceptable sponsors for continuing education; and revision of board rules.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 27, 1992, 4:03 p.m.

TRD-9210253

Friday, August 7, 1992, 9:30 a.m. The Testing and Continuing Education Committee of the Texas State Board of Examiners of Professional Counselors will meet at Room S-402, Board Offices, Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the committee will consider and possibly act on list of national associations as approved organizations and acceptable sponsors for continuing

education; report by ad hoc examination committee; report by Jim Zukowski on breakdown of candidate performance on March 28, 1992, and July 25, 1992 examinations; and 1993 exam dates.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 27, 1992, 4:03 p.m.

TRD-9210252

Friday, August 7, 1992, 11 a.m. The Applications, Licensing and Renewals Committee of the Texas State Board of Examiners of Professional Counselors will meet at Room S-402, Board Offices, Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the committee will discuss and possibly act on action regarding pending applications of Madeleine Marie Byrne, Sherry Hale Humphrey, Susan Istre, Lucian Thomas Jones, Charles A. Pharis, Cynthia B. Pharis, Kathy Jo Smith, Lee Thomas West, and others; and report on status on license renewals.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 27, 1992, 4:03 p.m.

TRD-9210251

Friday, August 7, 1992, 2 p.m. The Public and Professional Relations Committee of the Texas State Board of Examiners of Professional Counselors will meet at Room S-402, Board Offices, Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the committee will discuss and possibly act on information and articles for the next newsletter (Examiner).

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 27, 1992, 4:03 p.m.

TRD-9210250

Friday, August 7, 1992, 3 p.m. The Personnel and Administration Committee of the Texas State Board of Examiners of Professional Counselors will meet at Room S-402, Board Offices, Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the committee will discuss and possibly act on personnel and administration issues.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 27, 1992, 4:02 p.m.

TRD-9210249

Friday, August 7, 1992, 3:30 p.m. The Texas State Board of Examiners of Professional Counselors will meet at Room S-400, Board Offices, Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the board will discuss and possibly act on sunset issues presented by Bill Wells, Executive Director, Sunset Commission.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 27, 1992, 4:04 p.m.

TRD-9210256

Friday, August 7, 1992, 5 p.m. The Fees and Budget Committee of the Texas State Board of Examiners of Professional Counselors will meet at Room S-402, Board Offices, Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the committee will discuss and possibly act on financial report through June 30, 1992; 1993 budget; 1994-1995 budget; and current budget.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 27, 1992, 4:02 p.m.

TRD-9210248

Saturday, August 8, 1992, 9 a.m. The Texas State Board of Examiners of Professional Counselors will meet at Room S-400, Board Offices, Exchange Building, 8407 Wall Street, Austin. According to the agenda summary, the board will hear announcements; discuss approval of minutes of previous meetings, and discuss and possibly act on personnel and administration; fees and budget; rules and specialties; applications, licensing and renewals; testing and continuing education; complaints; orders; agreed orders; telephone counseling; settlement on G. Caldwell lawsuit; investigations; pending hearings; public and professional relations; update by legal counsel concerning Attorney General's opinion, lawsuit involving the Texas Psychological Association, ethics relating to board members; hear persons who wish to appear be-

fore the board; and consider other matters relating to the licensure and regulation of professional counselors not involving board action.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 27, 1992, 4:04 p.m.

TRD-9210255

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Texas Board of Criminal Justice

Friday, August 7, 1992, 1 p.m. The Subcommittee on Substance Abuse of the Texas Board of Criminal Justice will meet at the TDCJ Austin Office, First City Centre, 816 Congress Avenue, Suite 500, Austin. According to the complete agenda, the subcommittee will give updates and current status of RFPs for House Bill 93 beds; update on existing Senate Bill 828 Beds; report on aftercare issues; report on status on immersion training; judiciary awareness training; future Senate Bill 828 beds; and Human Resource Development for treatment and aftercare.

Contact: Andrea Scott, P.O. Box 99, Huntsville, Texas 77342-0099, (409) 294-2931.

Filed: July 27, 1992, 12:43 p.m.

TRD-9210221

◆ ◆ ◆
Texas Office for Prevention of Developmental Disabilities

Thursday, August 6, 1992, 2 p.m. The Executive Committee of the Texas Office for Prevention of Developmental Disabilities will meet at the Texas Medical Association, 401 West 15th Street, Tenth Floor, Austin. According to the agenda summary, the committee will hear reports from task forces and search committee; and hiring decision for project director.

Contact: Wendy Saari, P.O. Box 12068, Austin, Texas 78711, (512) 463-0331.

Filed: July 27, 1992, 1:55 p.m.

TRD-9210222

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Texas Education Agency

Monday-Wednesday, August 3-5, 1992, 9 p.m., 8:30, and 8:30 a.m. respectively. The State Textbook 1993 Proclamation Advisory Committee for Social Studies will

meet at 1701 North Congress Avenue, William B. Travis Building, Room 1-110, Austin. According to the complete agenda, the committee will meet for an orientation session and to provide suggestions on the specifications for the content of textbooks and learning systems and on the criteria used to evaluate textbooks and learning systems submitted for consideration.

Contact: Larry Perry, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9581.

Filed: July 24, 1992, 3:26 p.m.

TRD-9210138

◆ ◆ ◆
Texas Employment Commission

Tuesday, August 4, 1992, 8 a.m. The Texas Employment Commission will meet at the TEC Building, 101 East 15th Street, Room 644, Austin. According to the agenda summary, the commission will discuss approval of prior meeting notes; meet in executive session to discuss Administaff, Inc. versus James Kaster et al.; relocation of agency headquarters; consider settlement offer and possible litigation regarding tax liability for certain Horizon Dental Centers accounts; and consider settlement offer in TEC versus Progressive Metals, Inc.; actions, if any, resulting from executive session; staff reports; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 30 and 31; and set date of next meeting.

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

Filed: July 27, 1992, 4:12 p.m.

TRD-9210259

◆ ◆ ◆
Texas Commission on Fire Protection

Wednesday, August 26, 1992, 9 a.m. The Funds Allocation Advisory Committee of the Texas Commission on Fire Protection will meet at 3006B Longhorn Drive, Austin. According to the complete agenda, the committee will discuss and possibly act on applications for funding received by July 10, 1992.

Contact: Jack Woods, 3006B Longhorn Boulevard, Austin, Texas 78759-6735, (512) 873-1700.

Filed: July 28, 1992, 4:32 p.m.

TRD-9210089

Wednesday, August 26, 1992, 1 p.m. The Texas Commission on Fire Protection will

meet at 3006B Longhorn Drive, Austin. According to the complete agenda, the commission will discuss and possibly approve policies that define the respective responsibilities of the commission and the staff of the commission, including, but not limited to, disciplinary actions against persons and entities regulated by the commission and appeals to the commission; and discuss and possibly act on recommendations for funding from the funds allocation advisory committee.

Contact: Jack Woods, 3006B Longhorn Boulevard, Austin, Texas 78759-6735, (512) 873-1700.

Filed: July 23, 1992, 4:32 p.m.

TRD-9210090

◆ ◆ ◆
General Services Commission

Monday, July 27, 1992, 1:30 p.m. The General Services Commission held an emergency meeting at 1711 San Jacinto Street, Central Services Building, Room 402, Austin. According to the complete agenda, the commission considered mandatory participation in the Texas Public Finance Authority Master Lease Program and potential litigation resulting therefrom. The emergency status was necessary as imminent threat to the fiscal operations of the agency in being able to pay its obligations timely required emergency action by the commission.

Contact: Judith M. Porras, 1711 San Jacinto Street, Austin, Texas 78701, (512) 463-3446.

Filed: July 27, 1992, 11:25 a.m.

TRD-9210218

◆ ◆ ◆
Office of the Governor

Thursday-Friday, August 6-7, 1992, 11 a.m. and 9 a.m. respectively. The Committee on People with Disabilities of the Office of the Governor will meet at 1100 West 49th Street, Texas Department of Health, Seventh Floor Board Room, Austin. According to the agenda summary, the committee will confirm executive director; discuss briefings on requirements of Open Meetings Act and health and human services goals; hear report on ADA implementation; report from disability policy consortium; and review of 1992-1993 plan. Ad hoc subcommittees will meet and report on: employment awards, ADA implementation, fund raising for ADA media campaign, community services report; and Barbara Jordan awards.

Contact: Virginia Roberts, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4381.

Filed: July 24, 1992, 10:50 a.m.

TRD-9210110

◆ ◆ ◆
**Office of the Governor,
Criminal Justice Division**

Thursday, August 6, 1992, 3 p.m. The Juvenile Justice and Delinquency Prevention Advisory Board Executive Committee of the Criminal Justice Division of the Office of the Governor will meet at the Sam Houston Building, 201 East 14th Street, Room 710, Austin. According to the complete agenda, the committee will call the meeting to order; opening remarks; status of balancing the scales: the report of the committee on minority youth in the juvenile justice system; process for making recommendations to the Governor on JJDP Act Fund grant awards; report of the applications review committee regarding statewide and demonstration projects; report on local purchase of services projects; process for making recommendations concerning the new three year plan; and adjourn.

Contact: Jim Kester, P.O. Box 12428, Austin, Texas 78701, (512) 463-1919.

Filed: July 27, 1992, 4:36 p.m.

TRD-9210265

Friday, August 7, 1992, 10 a.m. The Juvenile Justice and Delinquency Prevention Advisory Board of the Criminal Justice Division of the Office of the Governor will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the complete agenda, the board will call the meeting to order; opening remarks; report of the committee on minority youth in the juvenile justice system; report of the applications review committee regarding statewide and demonstration projects; board recommendations to the Governor on statewide and demonstration projects; report on local purchase of services projects; board recommendations to the Governor on local purchase of services projects; board recommendations to the Governor on local purchases of services projects; lunch; report on existing three year Juvenile Justice and Delinquency Prevention Act (JJDP) Plan; board recommendations to the Governor on new JJDP three year plan; priority problem statements; eligible types of projects; and adjourn.

Contact: Jim Kester, P.O. Box 12428, Austin, Texas 78701, (512) 463-1919.

Filed: July 27, 1992, 4:37 p.m.

TRD-9210266

Texas Department of Health

Wednesday, August 5, 1992, 10:30 a.m. The Advisory Committee on Mental Retardation Facilities will meet at 1100 West 49th Street, Texas Department of Health, Room T-607, Austin. According to the complete agenda, the committee will introduce new members, and discuss and possibly act on: update on the precertification subcommittee; proposed licensure revision; and update on plan reviews, construction inspection and feasibility fees.

Contact: Robert Smith, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: July 24, 1992, 4:03 p.m.

TRD-9210149

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Statewide Health Coordinating Council

Thursday, August 6, 1992, 9 a.m. The Plan Development Committee of the Statewide Health Coordinating Council will meet at the Criss Cole Rehabilitation Center for the Blind, Auditorium, 4800 North Lamar Boulevard, Austin. According to the complete agenda, the committee will discuss and possibly act on a report from last meeting and the revised draft state health plan for 1993-94.

Contact: Carol Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 27, 1992, 4:04 p.m.

TRD-9210257

Thursday, August 6, 1992, 1 p.m. The Statewide Health Coordinating Council will meet at the Criss Cole Rehabilitation Center for the Blind, Auditorium, 4800 North Lamar Boulevard, Austin. According to the complete agenda, the council will discuss approval of the minute of the July 7, 1992 meeting, and discuss and possibly act on the report of Chief, Bureau of State Health Data and Policy Analysis, Texas Department of Health, and plan development committee report and adoption of preliminary state health plan.

Contact: Carol Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 27, 1992, 4:04 p.m.

TRD-9210258

Texas High-Speed Rail Authority

Friday, July 31, 1992, 10 a.m. The Texas High-Speed Rail Authority will meet at the John Reagan Building, Room 101, 15th and Congress Avenue, Austin. According to the agenda summary, the authority will discuss minutes; fiscal year 1993 budget; procurement policy and bill payment; communications protocol confidentiality agreement; report on environmental impact study items; meet in executive session; report from Texas High Speed Rail Corporation; interagency contracts with Attorney General and Office of Administrative Hearings.

Contact: Allan Rutter, 823 Congress Avenue, Suite 1502, Austin, Texas 78701, (512) 478-5484.

Filed: July 23, 1992, 4:49 p.m.

TRD-9210092

◆ ◆ ◆
Texas Historical Commission

Saturday, July 25, 1992, 9:30 a.m. The State Board of Review of the Texas Historical Commission met at the Austin History Center, 810 Guadalupe Street, Austin. According to the emergency revised agenda summary, the board heard announcements; discussed approval of minutes of March 28, 1992 meeting; reviewed nominations to the National Register; and held a workshop. The emergency status was necessary because a large group of individuals from Houston were coming to the meeting, so the schedule was rearranged to accommodate them.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: July 24, 1992, 3:40 p.m.

TRD-9210145

◆ ◆ ◆
Texas Commission on Human Rights

Wednesday, August 12, 1992, 9 a.m. The Texas Commission on Human Rights will meet at the Stouffer Austin Hotel, Nueces Room, 9721 Arboretum Boulevard, Austin. According to the agenda summary, the commission will discuss and vote on agenda item(s) covered in executive session as necessary or required; welcoming of guests; discuss approval of minutes; hear administrative reports; conduct commission's 1992 annual EEO conference; discuss cash flow and budget projection; 1992 IAOHRA annual conference; final commission strategic plan to be used for budget preparation; preliminary fiscal years 1994-1995 legislative appropriations request; memorandum of un-

derstanding for deferral relations between EEOC and the commission on the ADA; article for the Texas Bar Journal; Task Force developing amendments to the TCHRA; certification for the City of Dallas Fair Housing Ordinance; HUD proposal; EEO compliance training; new training program on managing cultural diversity; HUD notice to utilize CDBG; commissioner issues; and unfinished business.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 837-8534.

Filed: July 24, 1992, 9:14 a.m.

TRD-9210100

Texas Department of Human Services

Thursday, August 6, 1992, 10 a.m. The Client Self-Support Services Advisory Council of the Texas Department of Human Services will meet at 701 West 51st, Second Floor, East Tower, Classroom 2, Austin. According to the complete agenda, the council will call the meeting to order; discuss approval of minutes of June 4, 1992; deputy commissioner's remarks; proposed restructure of CSSAC; recognition of exiting members; family planning proposal update; program initiative update; teen parent initiative program planning for fiscal year 1993; federal legislation update; modification or deletion of selection child and adult care food program day care home policies; commercial delivery of commodities; discussion of contents for September report to the DHS board; recruitment of new council members; planning next meeting agenda; and adjourn.

Contact: Lucretia Dennis-Small, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4921.

Filed: July 23, 1992, 3:06 p.m.

TRD-9210080

Texas Department of Insurance

Monday, August 3, 1992, 9 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, William P. Hobby Building, Room 100, Austin. According to the complete agenda, the board will hold a public hearing in Docket Number 1869 concerning a motion for rehearing filed by the Office of Public Insurance Counsel regarding credit insurance presumptive rates. The motion for rehearing requests reconsideration of the board's Order Number 59721 dated July 1, 1992.

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

Filed: July 24, 1992, 9:37 a.m.

TRD-9210102

Wednesday, August 5, 1992, 11 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application for Amendment to the Articles of Incorporation of Colonial Life Insurance Company of Texas, Fort Worth, increasing the authorized capital stock. Docket Number 11516.

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

Filed: July 28, 1992, 8:43 a.m.

TRD-9210268

Friday, August 7, 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. According to the complete agenda, the section will conduct a public hearing to consider appeal on behalf of Legal Security Life Insurance Company regarding the bid solicitation process. Docket Number 11538.

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

Filed: July 28, 1992, 8:43 a.m.

TRD-9210269

Friday, August 7, 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. According to the complete agenda, the section will conduct a public hearing to consider the application for amendment of the articles of agreement of State Farm Lloyds, Dallas, providing for the increase of free surplus. Docket Number 11539.

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

Filed: July 28, 1992, 8:43 a.m.

TRD-9210270

Monday, August 10, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application for the amendment to the articles of incorporation of Professional Benefits Insurance Company, Houston, increasing the authorized capital and changing the number of directors.

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

Filed: July 28, 1992, 8:43 a.m.

TRD-9210271

Thursday, September 10, 1992, 2 p.m. The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, William P. Hobby Building, Room 100, Austin. According to the complete agenda, the board will hold a public hearing in Docket Number 1866 to consider a motion to dismiss for lack of jurisdiction by staff in response to an appeal by Sam R. Feinhandler of commissioner Order Numbers 91-1551 and 91-1744.

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

Filed: July 24, 1992, 3:33 p.m.

TRD-9210141

Tuesday, September 15, 1992, 9 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, William P. Hobby Building, Room 100, Austin. According to the complete agenda, the board will hold a public hearing in Docket Number R-1921 to consider final action on proposed new 28 TAC 3.1601-3.1611 concerning the submission of actuarial opinions with the annual statement and preparation of memoranda in support thereof. The proposed rules were published in the July 10, 1992 issue of the *Texas Register* (17 TexReg 4928). The comment period expires on August 10, 1992.

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

Filed: July 24, 1992, 3:30 p.m.

TRD-9210140

Texas Commission on Jail Standards

Wednesday, July 29, 1992, 9 a.m. (Emergency revised agenda) The Texas Commission on Jail Standards met at the John H. Reagan Building, Room 105, 15th and Congress, Austin. According to the emergency revised agenda summary, the commission heard directors report on authority to contract with Texas Public Finance Authority. The emergency status was necessary as unexpected development required the immediate attention of the commission.

Contact: Jack E. Crump, P.O. Box 12985, Austin, Texas 78711, (512) 483-5505.

Filed: July 28, 1992, 9:29 a.m.

TRD-9210278

Board of Nurse Examiners/Board of Vocational Nurse Examiners

Thursday, August 6, 1992, 9:30 a.m. The Nursing Education Advisory Committee/Format Implementation Team of the Board of Nurse Examiners/Board of Vocational Nurse Examiners will meet at the Board of Nurse Examiners Conference Room, 9101 Burnet Road, #104, Austin. According to the complete agenda, the committee will meet to develop recommendations for the use of drafted Nursing Education Advisory Committee (NEAC) competencies.

Contact: Mary Anne Hanley, Box 140466, Austin, Texas 78714, (512) 835-8650.

Filed: July 24, 1992, 2:07 p.m.

TRD-9210121

Texas State Board of Pharmacy

Wednesday-Friday, August 5-7, 1992, 1 p.m., 9 a.m., and 9 a.m. respectively. The Texas State Board of Pharmacy will meet at 1812 Centre Creek, Room 203, Austin. According to the agenda summary, the board will welcome new personnel; discuss approval of October 16, 1991, December 11, 1991, February 26, 1992, April 27, 1992, board business meeting minutes; discuss approval of FY91 annual report; FY92 expenditures to date; FY93 goals and objectives; FY93 operating budget and cash flow; FY93 contract with Texas Pharmaceutical Association for the Peer Assistance Program; FY94-FY95 biennium/budget and strategic plan; advisory committee on the patient counseling requirements of OBRA '90; recommendations and consideration of Rule amendments to §§291.31-291.36; agency sunset evaluation; board policy on Senate Bill 3; office of administrative hearings (OAH); Senate Health and Human Services Committee's recommendation regarding pharmaceutical services in private psychiatric hospitals; consumer products safety commission's position on blanket authorization for use of non-safety caps; update on Pharm D issue; approval of ACPE Accredited Professional Programs of Colleges and Schools of Pharmacy; approval of Texas Colleges of Pharmacy Internship Programs; review of meetings/events; election of officers; and consideration of and action on proposed agreed orders.

Contact: Fred S. Brinkley, Jr., R.Ph., MBA, 8505 Cross Park Drive, #110, Austin, Texas 78754-4594, (512) 832-0661.

Filed: July 27, 1992, 3:13 p.m.

TRD-9210241

Texas State Board of Podiatry Examiners

Thursday-Friday, August 6-7, 1992, 2 p.m. and 8 a.m. respectively. The Texas State Board of Podiatry Examiners will meet at the Embassy Suites, 5901 North IH-35, Austin. According to the complete agenda, the board will discuss PMLexis contract; Sunset Review; Nitrous Oxide Rule; rule 373.2a, practitioner identification; discuss rad-tech renewal fee; discuss procedure for turning a case over to the DA's office; disciplinary orders; elect new disciplinary liaison; and discuss jurisprudence exam; and on Friday, oral exams; complete agenda by grading and compiling grades and signing of the licenses.

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

Filed: July 27, 1992, 9:31 a.m.

TRD-9210173

State Preservation Board

Friday, July 31, 1992, 3 p.m. The State Preservation Board will meet at the Capitol Building, Senate Finance Committee Room, Room 301, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of minutes; old or unfinished business; new business; and adjourn.

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

Filed: July 23, 1992, 11:48 a.m.

TRD-9210068

Public Utility Commission of Texas

Monday, August 17, 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 complete agenda, the division will hold a prehearing conference in Docket Number 11292, application of Entergy Corporation and Gulf States Utilities Company for sale, transfer, or merger.

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

Filed: July 24, 1992, 2:42 p.m.

TRD-9210135

Tuesday, August 18, 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 complete agenda, the division will hold an interim hearing in Docket Number 11266-application of Guadalupe-Blanco River Authority for a rate increase for the Guadalupe Valley Hydro System.

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

Filed: July 27, 1992, 2:42 p.m.

TRD-9210238

Thursday, August 27, 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 complete agenda, the division will hold a prehearing conference in Docket Number 11303-compliance filing of United Telephone Company, pursuant to PUC Substantive Rule 23.23(d)(6).

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

Filed: July 27, 1992, 2:43 p.m.

TRD-9210239

Railroad Commission of Texas

Monday, August 3, 1992, 9:30 a.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room, #12-126, Austin. Agendas follow.

The commission will consider and act on the automatic data processing division director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78711, (512) 463-7251.

Filed: July 24, 1992, 10:52 a.m.

TRD-9210111

The commission will consider and act on the investigation division director's report on division administration, investigations, budget, and personnel matters.

Contact: Marcelo Montemayor, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6828.

Filed: July 24, 1992, 10:52 a.m.

TRD-9210112

The commission will consider and act on the personnel division director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711.

Filed: July 24, 1992, 10:53 a.m.

TRD-9210113

The commission will consider and act on the office of information services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, Railroad Commission of Texas, Austin, Texas 78701, (512) 463-6710.

Filed: July 24, 1992, 10:53 a.m.

TRD-9210114

The commission will consider and act on the administrative services division director's report on division administration, budget, procedures and personnel matters, including discussion about signing the master equipment lease purchase agreement and the equipment lease financing resolution.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711, (512) 463-7257.

Filed: July 24, 1992, 10:53 a.m.

TRD-9210115

The commission will consider and act on the office of the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. The commission will discuss the implementation of individual operating budgets for each individual commissioner's office. The commission will discuss a proposed training agreement for the gas utility section of the legal division. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel, and pending litigation. Consideration of a contract for public information services.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: July 24, 1992, 10:53 a.m.

TRD-9210116

The commission will consider and act on the division director's report on budget and personnel matters related to organization of the alternative fuels research and education division.

Contact: Dan Kelly, P.O. Box, 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: July 24, 1992, 10:53 a.m.

TRD-9210117

The commission will consider category determination under sections 102(c) (1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Box 12967, Austin, Texas 78711, (512) 463-6755.

Filed: July 24, 1992, 10:53 a.m.

TRD-9210118

The commission will consider and/or decide various applications and other matters within the jurisdiction of the agency including oral argument at the time specified on the attached agenda. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-6921.

Filed: July 24, 1992, 10:54 a.m.

TRD-9210119

School Land Board

Tuesday, August 4, 1992, 10 a.m. The School Land Board will meet at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 831, Austin. According to the agenda summary, the board will discuss approval of previous board meeting minutes; meet in executive session to consider direct land sale, Dallas County; opening and consideration of bids received for the August 4, 1992 sealed bid land sale; opening and consideration of bids received for the August 4, 1992 oil and gas lease sale; consideration of nominations, terms, conditions and procedures for the October 6, 1992 oil, gas and other minerals lease sale; direct land sales, Dallas County and Eastland County; pooling applications, Willow Slough, N. (F-3 Sand), Chambers County; Christian Mississippian Field, Stephens County; Brazos River Bend (Conglomerate) Field, Stonewall County; Valentine (Glorieta) Field, Crane and Pecos County; and Lassater Field, Marion County; coastal public lands-commercial easement applications, Oyster Creek, Brazoria County; Adams Bayou, Orange County; Colorado River, Matagorda County; Clear Lake, Harris County; lease application, Hynes Bay, Refugio County; easement applications, Redfish Bay, Nueces County; East Bay, Galveston County; Clear Lake, Harris County; structure permit renewal, Laguna Madre, Kenedy County; and structure permit amendments, Chocolate Bay, Brazoria County; Laguna Madre, Willacy County; and Guyton Cut, Brazoria County; and meet in executive session to discuss pending and proposed litigation.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: July 27, 1992, 4:15 p.m.

TRD-9210260

State Securities Board

Monday, July 27, 1992, 9 a.m. (Rescheduled from July 16, 1992, 9 a.m.) The State Office of Administrative Hearings of the State Securities Board met at 300 West 15th Street, Fourth Floor, Room 408, Austin. According to the emergency revised agenda summary, the board held a hearing for the purpose of determining whether an order should be issued to revoke the registration of Omni Securities, Inc., as a securities dealer and Michael T. Churchill as the designated officer of Omni Securities, Inc. The emergency status was necessary because of the request of the State, which did not receive official notice of the date and time of re-setting from the State Office of Administrative Hearings until July 20, 1992.

Contact: John Morgan, 221 West Sixth Street, Suite 700, Austin, Texas 78701, (512) 474-2233.

Filed: July 23, 1992, 4:41 p.m.

TRD-9210091

Stephen F. Austin State University

Tuesday, July 28, 1992, 10 a.m. The Board of Regents of Stephen F. Austin State University met at the Stephen F. Austin Campus, Room 307, Austin Building, Nacogdoches. According to the complete agenda, the board discussed university budget; bank depository; personnel; university affairs, academic affairs, and fiscal affairs.

Contact: Dr. William J. Brophy, P.O. Box 6078, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: July 24, 1992, 9:37 a.m.

TRD-9210103

Tuesday, July 28, 1992, 10 a.m. The Board of Regents of Stephen F. Austin State University met at the Stephen F. Austin Campus, Room 307, Austin Building, Nacogdoches. According to the revised agenda, the board discussed university budget; bank depository; met in executive session to discuss personnel; university affairs, academic affairs, and fiscal affairs.

Contact: Dr. William J. Brophy, P.O. Box 6078, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: July 24, 1992, 3:29 p.m.

TRD-9210139

Structural Pest Control Board

Wednesday, August 19, 1992, 9 a.m. The Continuing Education Committee of the Structural Pest Control Board will meet at the Thompson Conference Center, Room 3.120, 2405 East Campus Drive, Austin. According to the complete agenda, the committee will welcome new committee members; and review continuing education requirements for the next three year recertification cycle, January 1, 1993-December 31, 1995.

Contact: Benny M. Mathis, Jr., 9101 Burnet Road, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: July 27, 1992, 9:31 a.m.

TRD-9210175

Wednesday, August 19, 1992, 1 p.m. The Technician Examination Subcommittee will meet at the Thompson Conference Center, Room 3.120, 2405 East Campus Drive, Austin. According to the complete agenda, the subcommittee will review materials and questions for technician licensure exams.

Contact: Benny M. Mathis, Jr., 9101 Burnet Road, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: July 27, 1992, 9:31 a.m.

TRD-9210174

Tuesday, August 25, 1992, 9 a.m. The Integrated Pest Management Committee of the Structural Pest Control Board will meet at the Joe C. Thompson Conference Center, Room 2.110, 2405 East Campus Drive, Austin. According to the complete agenda, the committee will welcome new committee members; discuss interests in public health, pest control issues; discuss committee purpose; and integrated pest management in urban environments.

Contact: Benny M. Mathis, Jr., 9101 Burnet Road, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: July 27, 1992, 9:32 a.m.

TRD-9210176

Texas Southern University

Wednesday, August 5, 1992, 4 p.m. The Building and Grounds Committee of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider construction change orders; payments to architects contractors and engineers; authorization and ratification of contracts and awards; and status of on going construction and current contractual relations.

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

Filed: July 24, 1992, 9:13 a.m.

TRD-9210097

Texas Turnpike Authority

Tuesday, August 4, 1992, 9 a.m. The Board of Directors of the Texas Turnpike Authority will meet at the Dallas Marriott Quorum, 14901 Dallas Parkway, Dallas. According to the agenda summary, the board will discuss approval of minutes of prior board of directors and contract awards committee meetings; receive delegation, Mission; meet in executive session; discuss purchase of Dallas North Tollway right-of-way, preliminary civil engineering investigation of DNT Phase 3; contract awards committee action; progress report on DNT Phase 2; contract extension with financial advisor; refinancing of the Houston Ship Channel Bridge; contract HSC-RM-807; adoption of guidelines for private involvement in TTA Projects; request of Camino Falcon; interagency agreements; salary increase for authority employees; committee chairmen reports and member comments; and hear executive director's report.

Contact: Jimmie Newton, 3015 Raleigh Street, Dallas, Texas 75219, (214) 522-6200.

Filed: July 27, 1992, 3:42 p.m.

TRD-9210246

Tuesday, August 4, 1992, 9 a.m. (Emergency revised agenda). The Board of Directors of the Texas Turnpike Authority will meet at the Dallas Marriott Quorum, 14901 Dallas Parkway, Dallas. According to the emergency revised agenda summary, the board will discuss state interagency agreement between the TTA and TxDOT which must be renewed prior to September 1, 1992. The emergency status is necessary as we had overlooked contract that must be approved prior to the beginning of the state fiscal year 1992-1993.

Contact: Jimmie Newton, 3015 Raleigh Street, Dallas, Texas 75219, (214) 522-6200.

Filed: July 28, 1992, 9:14 a.m.

TRD-9210274

Texas Water Commission

Wednesday, September 2, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin State Office Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a hearing to deter-

mine whether to affirm, modify, or set aside Emergency Order Number 92-13E granted on July 8, 1992 to Texaco Refining and Marketing, Inc. The order authorizes Texaco to continue use of its underground injection wells for disposal of groundwater generated as part of groundwater cleanup activities. The facility is located in Amarillo, Potter County.

Contact: Sally Jo Hahn, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: July 27, 1992, 2:06 p.m.

TRD-9210227

Wednesday, September 9, 1992, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Sulphur Springs City Hall, Council Room, 125 South Davis, Sulphur Springs. According to the agenda summary, the commission will consider an application by Jack H. Kempenaar for an amendment to Permit Number 03188 in order to add a feedlot operation with a maximum of 990 head. The proposed amendment would also authorize and increase in the dairy from 800 milking cows to 990 milking cows. The dairy and feedlot are located along County Road 2346 at the intersection of County Road 2346 and County Road 2333, approximately 1.5 miles southwest of the intersection of Farm to Market Road 3105 and Farm to Market Road 269 in Hopkins County.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: July 27, 1992, 2:06 p.m.

TRD-9210226

Wednesday, September 9, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin State Office Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct an agenda hearing on Harris County Municipal Utility District Number 221's application requesting approval of standby fees.

Contact: Water Utilities District Administration, P.O. Box 13087, Austin, Texas 78711, (512) 463-8152.

Filed: July 24, 1992, 2:07 p.m.

TRD-9210122

Thursday, September 10, 1992, 1 p.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Rolling Hills Water Treatment Plant, Classroom, 2500 Southeast Loop 820, Fort Worth. According to the agenda summary, the commission will consider an application by Human Health Services, Inc. for Proposed Permit Number 13588-01 to authorize a discharge of treated domestic wastewater effluent via pipeline to an unnamed tributary of Village Creek; thence to Village

Creek; thence to Lake Arlington in Segment Number 0828 of the Trinity River Basin.

Contact: Linda Sorrells, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: July 27, 1992, 2:06 p.m.

TRD-9210223

Thursday, September 10, 1992, 1 p.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Rolling Hills Water Treatment Plant, Classroom, 2500 Southeast Loop 820, Fort Worth. According to the agenda summary, the commission will consider an application by Pride Companies, LP for Proposed Permit 03490 to authorize a discharge of treated wastewater into an unnamed tributary; thence to the Clear Fork Trinity River below Lake Weatherford in Segment Number 0831 of the Trinity River Basin.

Contact: Linda Sorrells, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: July 27, 1992, 2:06 p.m.

TRD-9210224

Thursday, September 10, 1992, 6:30 p.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Rice High School Gymnasium, Altair. According to the agenda summary, the commission will hold a public comment session to consider an application for hazardous waste permit by Tricil Environmental Response, Inc. The 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 78711, (512) 463-7875.

Filed: July 27, 1992, 2:06 p.m.

TRD-9210225

Wednesday, September 16, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin State Office Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct an agenda hearing on Application Number 5421 submitted by the City of Refugio for a water use permit to authorize construction and maintenance a dam and reservoir on Little Creek, tributary of Mission River, tributary of Mission Bay, tributary of Copano Bay, tributary of Aransas Bay, San Antonio-Nueces Coastal Basin. The dam and reservoir will be used for in-place recreational purposes approximately 0.5 miles west of Refugio, Refugio County.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 371-6384.

Filed: July 24, 1992, 2:08 p.m.

TRD-9210127

Wednesday, September 16, 1992, 9 a.m. The Texas Water Commission will meet in

the Stephen F. Austin State Office Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct an agenda hearing on Application Number 5259 submitted by Rio Grande Valley Municipal Water Authority and Public Utilities Board of Brownsville. The application includes proposed construction of Brownsville Reservoir on the Rio Grande approximately four miles southeast of Brownsville and use of water for municipal purposes from the proposed reservoir and the United States' share of storage in Anzalduas Reservoir on the Rio Grande approximately 15.4 miles southeast of Edinburg. As requests for public hearing on this application have already been received, the executive director is recommending that the commission remand the application to a commission hearings examiner for public hearing on Thursday, October 15, 1992 at 10 a.m. in Room 119 of the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 371-6386.

Filed: July 24, 1992, 2:08 p.m.

TRD-9210126

Wednesday, September 23, 1992, 9 a.m. The Texas Water Commission will meet in the Stephen F. Austin State Office Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct an agenda hearing on ELF-Atochem North America, Inc.'s application number 5422 for a water use permit to divert and treat 119 acre-feet of water per annum from Finfeather Lake on an unnamed tributary of Burton Creek, tributary of Carters Creek, tributary of the Navosota River, tributary of the Brazos River, Brazos River Basin. All of the diverted water will be returned to the unnamed tributary of Burton Creek at the spillway pipe of Finfeather Lake at the same location as the diversion point. The reservoir (Finfeather Lake) is in the Zeno Phillips Survey, abstract Number 45, 1.7 miles south of the Brazos County Courthouse in Bryan, Brazos County. Diverted water will be pumped through a water treatment plant to remove excess levels of arsenic pursuant to the Modified Emergency Order Number 91-17E issued by the commission on February 3, 1992.

Contact: Mark Evans, P.O. Box 13087, Austin, Texas 78711, (512) 371-6389.

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

TRD-9210128

Wednesday, September 23, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin State Office Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct an agenda

hearing on John W. Klein's Application Number 5061A to amend Water Use Permit Number 5061 to increase the amount of land within which irrigation is authorized from 1240.002 acres to 2529.048 acres and increase the amount of land authorized for irrigation per annum from 900 acres to 1,300 acres; authorize diversion from Little Elkhart Creek and Big Elkhart Creek at any point within the 2529.408 acres; remove the term from the permit; and add the use of three off-channel reservoirs located on applicant's land to be used as part of the irrigation system. Permit Number 5061 currently authorizes diversion and use of not to exceed a maximum of 500 acre-feet of water per annum from a point on Little Elkhart Creek, tributary of Big Elkhart Creek and diversion and use of not to exceed a maximum of 1,000 acre-feet of water per annum from a point on Big Elkhart Creek, tributary of the Trinity River, Trinity River Basin. Diverted water is authorized to be used to irrigate 900 acres of applicant's land, located about 13 miles northwest of Crockett in Houston County.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 371-6386.

Filed: July 24, 1992, 2:08 p.m.

TRD-9210124

Wednesday, September 30, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin State Office Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct an agenda hearing on the City of San Antonio's Application Number 5423 seeking a permit to maintain and use for recreational purposes five existing on-channel reservoirs on various unnamed tributaries of Huesta Creek, San Antonio River Basin, Bexar County. Applicant also seeks to divert 200 acre-feet of water per annum from the largest reservoir (irrigation reservoir) located on an unnamed tributary of Huesta Creek, tributary of Leon Creek, tributary of Medina River, tributary of the San Antonio River, San Antonio River Basin. The water will be used to irrigate 148 acres (Cedar Creek Golf Course) out of a 172.156-acre tract of land owned by the applicant, located approximately 16.8 miles northwest of San Antonio.

Contact: Lann Bookout, P.O. Box 13087, Austin, Texas 78711, (512) 371-6385.

Filed: July 24, 1992, 2:07 p.m.

TRD-9210123

Thursday, October 1, 1992, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin State Office Building, Room 1149A, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing before a hearings examiner on a petition

filed by Richland Water Supply Corporation for conversion to a special utility district of McCulloch and San Saba Counties, and transfer of certificate of convenience and necessity Number 11614 from Richland Water Supply Corporation to Richland Special Utility District.

Contact: Leslie Craven, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: July 24, 1992, 2:08 p.m.

TRD-9210125

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Regional Meetings

Meetings Filed July 23, 1992

The Alamo Area Council of Governments Area Judges met at the St. Phillips College, San Antonio, July 28, 1992, at 11:30 a.m. Information may be obtained from Al J Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9210074.

The Bosque Central Appraisal District Appraisal Review Board met at the Bosque Central Appraisal District Office, 104 West Morgan Street, Meridian, July 29, 1992, at 9 a.m. Information may be obtained from Billye L. McGehee, P.O. Box 393, Meridian, Texas 76665. TRD-9210093.

The Dallas Area Rapid Transit Minority Affairs met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, July 28, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9210078.

The Dallas Area Rapid Transit Audit Committee met at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, July 28, 1992, at 1:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9210077.

The Dallas Area Rapid Transit Board of Directors met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, July 28, 1992, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9210079.

The Lamar County Appraisal District Board met at the Lamar County Appraisal District Office, 521 Bonham Street, Paris, July 28, 1992, at 5 p.m. Information may be obtained from Joe Welch, 521 Bonham Street, Paris, Texas 75460, (903) 785-7822. TRD-9210072.

The Leon County Central Appraisal District Board of Directors met at the Leon County Central Appraisal District Office, Gresham Building, Centerville, July 27,

1992, at 7:30 p.m. Information may be obtained from Robert M. Winn, P.O. Box 536, Centerville, Texas 75833, (903) 536-2252. TRD-9210073.

The Mental Health and Mental Retardation Authority Board of Trustees met at 804 Texas Avenue, Conference Room A, Bryan, July 30, 1992, at 1:30 p.m. (Rescheduled from July 23, 1992). Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77803, (409) 822-6467. TRD-9210070.

The Middle Rio Grande Development Council Texas Review and Comment System Committee met at the Civic Center Reading Room, 300 East Main, Uvalde, July 29, 1992, at 1 p.m. Information may be obtained from Dora Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9210067.

The Sabine Valley Center Personnel Committee met at the First Methodist Church, Corner of Lafayette and Houston, Marshall, July 27, 1992, at 9:30 a.m. (Revised agenda). Information may be obtained from Mack O. Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9210066.

The Sharon Water Supply Corporation Board of Directors met at the Office of Sharon Water Supply Corporation, Route 5, Box 25-C-10, Winnsboro, July 27, 1992, at 7 p.m. Information may be obtained from Gerald Brewer, Route 5, Box 25-C-10, Winnsboro, Texas 75494, (903) 342-3525. TRD-9210065.

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Meetings Filed July 24, 1992

The Andrews Center Board of Trustees met at 2323 West Front Street, Board Room, Tyler, July 30, 1992, at 4 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (903) 597-1351. TRD-9210096.

The Ark-Tex Council of Governments Executive Committee met at the Bowie County Courthouse, New Boston, July 30, 1992, at 9 a.m. Information may be obtained from Susan J. Rice, P.O. Box 5307, Texarkana, Texas 75505-5307, (903) 832-8636. TRD-9210146.

The Austin-Travis County Mental Health and Mental Retardation Center Board of Trustees met at 1430 Collier Street, Board Room, Austin, July 30, 1992, at 7 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548. TRD-9210148.

The Austin-Travis County Mental Health and Mental Retardation Center Executive Committee met at 1430 Collier Street, Board Room, Austin, July 30, 1992, at 7 a.m. Information may be obtained from

Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548. TRD-9210147.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 200 Academy Drive, Austin, July 29, 1992, at 7 p.m. Information may be obtained from Bill Couch, 1124-A Regal Row, Austin, Texas 78748, (512) 282-8441. TRD-9210142.

The Capital Area Rural Transportation System (CARTS) Board of Directors met at 5111 East First Street, Austin, July 30, 1992, at 9 a.m. Information may be obtained from Pearl Jackson, 5111 East First Street, Austin, Texas 78702, (512) 478-7433. TRD-9210137.

The Carson County Appraisal District Board of Directors met at 102 Main Street, Panhandle, July 28, 1992, at 9 a.m. Information may be obtained from Donita Herber, P.O. Box 970, Panhandle, Texas 79068, (806) 537-3569. TRD-9210143.

The Carson County Appraisal District Board of Directors met at 102 Main Street, Panhandle, July 28, 1992, at 9:15 a.m. Information may be obtained from Donita Herber, P.O. Box 970, Panhandle, Texas 79068, (806) 537-3569. TRD-9210144.

The Central Appraisal District of Taylor County Appraisal Review Board met at 1534 South Treadaway, Abilene, July 30, 1992, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9210094.

The Central Appraisal District of Taylor County Appraisal Review Board met at 1534 South Treadaway, Abilene, August 7, 1992, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9210095.

The Gonzales County Appraisal District Appraisal Review Board met at 928 St. Paul Street, Gonzales, July 29, 1992, at 9 a.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9210152.

The Gonzales County Appraisal District Appraisal Review Board met at 928 St. Paul Street, Gonzales, July 30, 1992, at 1 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9210153.

The Harris County Appraisal District Board of Directors will meet at 2800 North Loop West, Eighth Floor, Houston, August 5, 1992, at 9:30 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77092, (713) 957-5291. TRD-9210104.

The Lower Rio Grande Valley Development Council Board of Directors met at the Harlingen Chamber of Commerce, 311 East

Tyler, Harlingen, July 30, 1992, at 1:30 p.m. Information may be obtained from Kenneth N. Jones, Jr. 4900 North 23rd Street, McAllen, Texas 78504, (512) 682-3481. TRD-9210098.

The Nolan County Central Appraisal District Board of Directors met at the Nolan County Courthouse, Third Floor, Sweetwater, July 30, 1992, at 7 a.m. Information may be obtained from Lane Comp-ton, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9210099.

The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, August 6, 1992, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9210120.



Meetings Filed July 27, 1992

The Brazos Valley Development Council Bootstrap/Family Self Sufficiency Coordinating Body held an emergency meeting at the Council's Office, 3006 East 29th Street, Door #2, Bryan, July 30, 1992, at 9 a.m. The emergency status was necessary as signature was not available, and was informed that someone could sign for Mr. Cook as long as he was aware of the meeting and they also signed their name. Information may be obtained from Sandy Shumaker, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9210177.

The Brazos Valley Development Council Audit and Nominating Committee will meet at the Council Offices, 3006 East 29th Street, Bryan, August 4, 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-9210179.

The Central Texas Council of Governments Transportation Planning Policy Group will meet at the Olive Garden Restaurant, 1902 SW H. K. Dodgen, Temple, August 5, 1992, at 10 a.m. Information may be obtained from Gerald B. Bunker, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9210178.

The Ellis County Appraisal District Board of Directors met at 406 Sycamore Street, Waxahachie, July 30, 1992, at 7 p.m. Information may be obtained from Richard Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9210220.

The Erath County Appraisal District Board of Directors will meet at 1390 Harbin Drive, Board Room, Stephenville, August 3, 1992, at 4:30 p.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9210233.

The Gregg Appraisal District Appraisal Review Board will meet at 2101 Gilmer Road, Longview, August 4, 1992, at 9 a.m. Information may be obtained from Bill Carroll, P.O. Box 6700, Longview, Texas 75608, (903) 759-0015. TRD-9210234.

The Hunt County Appraisal District Appraisal Review Board will meet at the Hunt County Appraisal District, Board Room, 4801 King Street, Greenville, August 3, 1992, at 1:30 p.m. Information may be obtained from Mildred Compton, P.O. Box 1339, Greenville, Texas 75401, (903) 454-3510. TRD-9210211.

The Johnson County Rural Water Supply Corporation Board met at the JCRWSC Corporate Office, Highway 171 South, Cleburne, July 30, 1992, at 4 p.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9210245.

The Kaufman County Education District Board of Trustees will meet at 3950 South Houston Street, Kaufman, August 3, 1992, at 7 p.m. Information may be obtained from Carolyn Harrison, P.O. Box 819, Kaufman, Texas 75142, (214) 932-6081. TRD-9210247.

The Lavaca County Central Appraisal District Board of Directors will meet at the Lavaca County Central Appraisal District, 113 North Main, Hallettsville, August 10, 1992, at 6 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9210232.

The Sulphur River Basin Authority Board of Directors will meet at the Mt. Pleasant Chamber of Commerce Building, 1604 North Jefferson, Mt. Pleasant, August 10, 1992, at 11 a.m. Information may be obtained from William O. Morriss, P.O. Box 240, Texarkana, Texas 75504, (903) 793-5511. TRD-9210231.

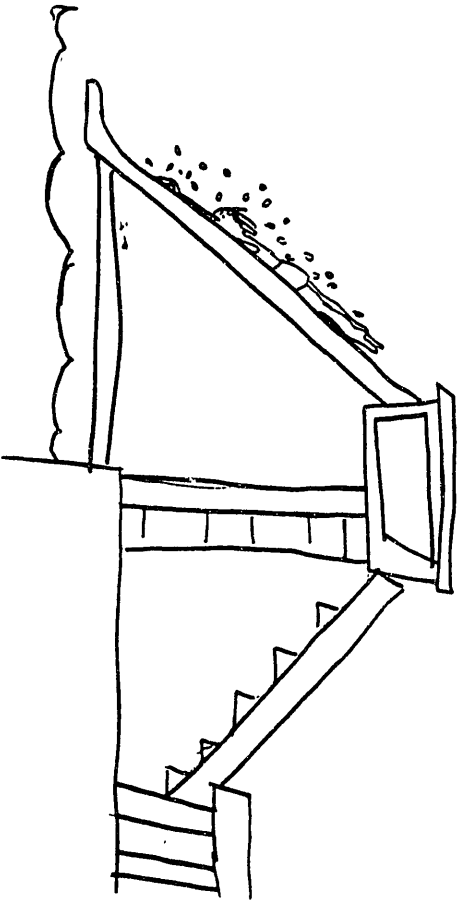


Meetings Filed July 28, 1992

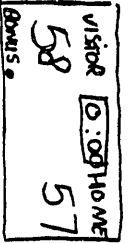
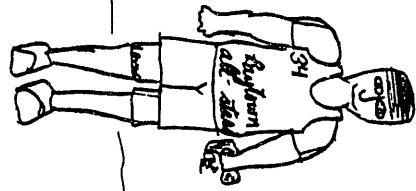
The Texas Panhandle Mental Health Authority Board of Trustees will meet at 7120 I-40 West, Suite 150, Amarillo, August 4, 1992, at 10:30 a.m. Information may be obtained from Mellisa Talley, P.O. Box 3250, Amarillo, Texas 79116, (806) 353-3699. TRD-9210267.

The Millersview-Doole Water Supply Corporation Board of Directors will meet at the Corporation's Business Office, One Block West of F. M. 765 and F.M. 2134, Millersview, August 3, 1992, at 8 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438. TRD-9210272.

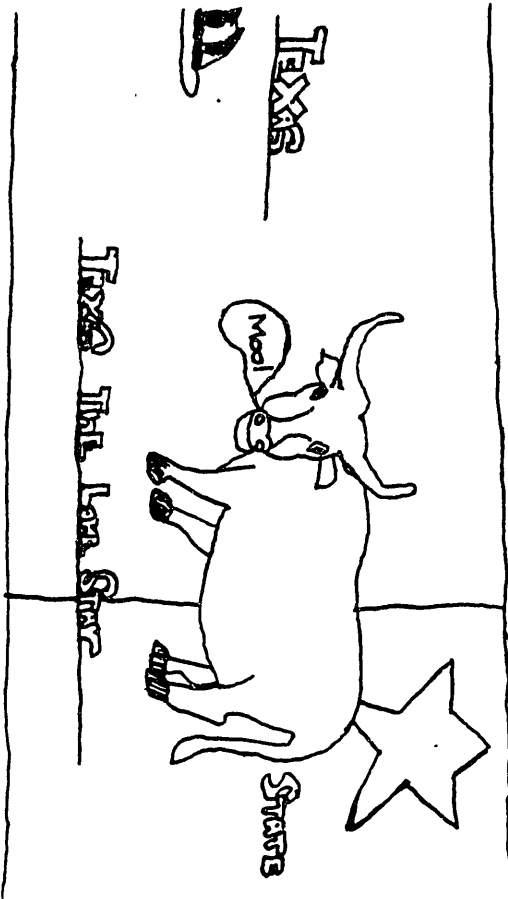




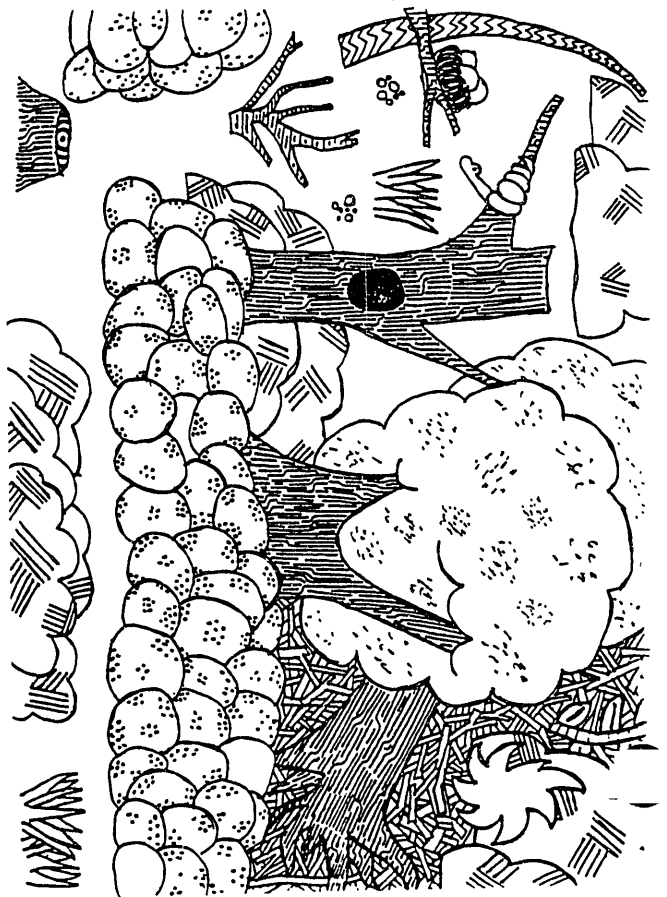
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In Addition

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.

Texas State Board of Public Accountancy

Quality Review Oversight Board Members

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas State Board of Public Accountancy (board) requests proposals for persons wishing to serve on the board's quality review oversight board.

Description of services. The board invites individual certified public accountants to offer their part-time services, to evaluate and identify specific technical issues as part of the oversight and monitoring of sponsoring organizations for compliance and implementation of the minimum standards for performing and reporting on the quality reviews established by the quality review rules of the board. Copies of the rules which provide greater detail of the Quality Review Program may be obtained by contacting the board.

Two individuals must meet the following minimum requirements: must hold a current Texas license as a Certified Public Accountant in good standing, have had extensive leadership experience in American institute of Certified Public Accountants (AICPA) and/or Texas Society of Certified Public Accountants (TSCPA) peer reviews and quality reviews; have served at a senior manager or partner level of a CPA firm; and ending within the past two years, have had no less than 10 years in public practice in the accounting and auditing services.

Term of contract. It is anticipated that the contract will begin September 1, 1992 and end August 31, 1993. The total amount awarded will not exceed \$20,000 for each contract plus expenses which may not exceed \$5,000 for each contract.

Evaluation and selection. The Texas State Board of Public Accountancy intends to evaluate each proposal and may then award a contract based upon cost and the proposer's demonstrated competence, capabilities, knowledge, and qualifications for the expected services. The proposal should include a resume of relevant engagements, a proposed budget specifying consultant cost on an hourly basis, out-of-pocket expenses to be charged, and a not-to-exceed budget.

The previous contracts were awarded to the following two people at a contract price of \$100 per hour for which the board is being provided the initial implementation design for the oversight and monitoring of sponsoring organizations for compliance with the minimum standards for performing and reporting on the quality reviews: John Mason Andres, Thomas & Thomas CPAs, 701 Arkansas Boulevard, Texarkana, Arkansas 75502 and Marlow C. Hunter, CPA, 2777 Stemmons Freeway, #1659, Dallas, Texas 75207-2229.

Contact person. For additional information contact William Treacy, Executive Director, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 450-7001.

Closing date. The closing date for receiving proposals in August 19, 1992.

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

TRD-9210088 William Treacy
Executive Director
Texas State Board of Public Accountancy

Filed: July 23, 1992

For further information, please call: (512) 450-7001



In accordance with Texas Civil Statutes, Article 6252-11c, the Texas State Board of Public Accountancy (board) requests proposals for persons wishing to serve on the board's quality review oversight board.

Description of services. The board invites individuals to offer their part-time services to evaluate and identify specific technical issues as part of the oversight and monitoring of sponsoring organizations for compliance and implementation of the minimum standards for performing and reporting on the quality reviews established by the quality review rules of the board. Copies of the rules which provide greater detail of the Quality Review Program may be obtained by contracting the board. Individuals must meet the following minimum requirement. Have no less than 10 years experience in the preparation and/or use of financial statements at a senior level.

Term of contract. It is anticipated that the contract will begin September 1, 1992 and end August 31, 1993. The total amount awarded will not exceed \$20,000 plus expenses which may not exceed \$5,000.

Evaluation and selection. The Texas State Board of Public Accountancy intends to evaluate each proposal and may then award a contract based upon cost and the proposer's demonstrated competence, capabilities, knowledge, and qualifications for the expected services. The proposal should include a resume of relevant engagements, a proposed budget specifying consultant cost on an hourly basis, out-of-pocket expenses to be charged, and a not-to-exceed budget.

The previous contract was awarded to the following listed person at a contract price of \$100 per hour for which the board is being provided the initial implementation design for the oversight and monitoring of sponsoring organizations for compliance with the minimum standards for performing and reporting on the quality reviews: Joel P. Kay, Sheinfeld, Maley & Kay, Attorneys at Law, 3700 First City Tower, Houston, Texas 77002-6797.

Contact person. For additional information contact William Treacy, Executive Director, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 450-7001.

Closing date. The closing date for receiving proposals in August 19, 1992.

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

TRD-9210087 William Treacy
Executive Director
Texas State Board of Public Accountancy

Filed: July 23, 1992

For further information, please call: (512) 450-7001

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Office of the Attorney General
Texas Clear Air Act Enforcement
Settlement Notice

Notice is given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Texas Clean Air Act. The Texas Health and Safety Code, §382.096 provides that before the state may settle a judicial enforcement action under the Clean Air Act, the state shall permit the public to comment in writing on the proposed judgment. The attorney general will consider any written comments and may withdraw or withhold consent to the proposed agreed judgment if the comments disclose facts or considerations that indicate that the consent is in appropriate, improper, inadequate, or inconsistent with the requirements of the Texas Clean Air Act.

Case Title and Court. City of Houston, Texas and State of Texas v. Elf Atochem North America, Inc. Case Number 92-012523 in the 164th District Court of Harris County, Texas.

Natural of Defendant's Operations. Elf Atochem North America, Inc. is a Pennsylvania corporation. On January 22, 1992, one of its tank trucks allegedly discharged air contaminants.

Proposals Agreed Judgment. The proposed agreed final judgment provisions for civil penalties and attorney's fees.

Civil Penalties and Attorney's Fees. The judgment requires the defendant to pay \$25,000 in civil penalties and attorney's fees to be divided between the state and City of Houston.

For a complete description of the proposed settlement, the complete proposed agreed final judgment should be reviewed. Requests for copies of the judgment, and written comments on the judgment, should be directed to Susan Theisen, Assistant Attorney General, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012. Written comments must be received by August 30, 1992, at 5 p.m. Written comments may be sent by facsimile machine to Susan Theisen at (512) 440-8002.

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

TRD-9210136 Will Pryor
First Assistant Attorney General
Office of the Attorney General

Filed: July 24, 1992

For further information, please call: (512) 463-2012
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State Banking Board
Notice of Hearing Cancellation

As no opposition has been noted in the application for the National Bank of Grand Prairie, Grand Prairie, to convert to a state charter under the name of Grand Prairie State Bank, the hearing previously scheduled for Monday, August 3, 1992, has been CANCELLED.

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

TRD-9210130 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: July 24, 1992

For further information, please call: (512) 475-1337
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Texas Department of Commerce
JTPA Service Delivery Area Training
Courseware Develop Supplemental RFP

In accordance with the Job Training Partnership Act (JTPA), Public Law 97-300, the Texas Department of Commerce announces a Request for Proposals (RFP) to develop courseware, deliver training workshops and provide follow-up technical assistance to JTPA Service Delivery Area (SDA) staffs, Private Industry Council (PIC) administrators and board members, and Chief Elected Officials (CEOs) in Texas.

The department has issued this supplemental Request for Proposals to follow an original RFP published May 20, 1992, in order to select one or more entities to provide technical assistance and training to workshop participants for those courses not funded as a result of the original RFP. This program is intended to be designed around a competency-based adult education model to support the local participant training effort. Training offerings will be developed for two training levels: core and advanced. The training subjects covered in this RFP include the following general areas: JTPA Administration/Policy; Client Services; and MIS/Statistics/Research.

Detailed information regarding this project format is set forth in the Request for Proposal instructions which will be available July 27, 1992, at the following location: Texas Department of Commerce, Work Force Development Division, First City Centre, 816 Congress Avenue, Suite 1300, P.O. Box 12728, Austin, Texas 78711-2728.

The deadline for receipt of proposals in response to this request will be Monday, August 31, 1992, at 4 p.m. (CST). Responses received after this deadline will not be considered. A Bidder's Conference will be held at the Texas Department of Commerce at the previously mentioned address on August 7, 1992. From 9 a.m.-noon, department personnel will convene an informational session of particular interest to vendors new to JTPA procurement, covering response expectations, guidelines and interpretations. From 1:30-4 p.m., department personnel will review the RFP and answer related questions.

The department reserves the right to accept or reject any or all proposals submitted. The department is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends the materials provided only as a means of identifying the various contractor alternatives. The department intends to use responses as a basis

for further negotiation of specific project details with potential contractors. The department will base its choice on demonstrated competence, qualifications, and evident of superior conformance with criteria. This RFP does not commit the department to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates the department to award a contract or to pay any costs incurred in the preparation of a response. The department specifically reserves the right to vary all provisions set forth any time prior to execution of a contract where the department deems it to be in the best interest of the State of Texas.

For further information regarding this notice, or to obtain copies of the RFP instructions, please contact: Gwen Marlin, Texas Department of Commerce, Work Force Development Division, First City Centre, 816 Congress Avenue, Suite 1300, P.O. Box 12728, Austin, Texas 78711-2728, (512) 320-9852.

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

TRD-9210154 Cathy Bonner
Executive Director
Texas Department of Commerce

Filed: July 27, 1992

For further information, please call: (512) 320-9666



JTPA Texas Training Program Video Production RFP

In accordance with the Job Training Partnership Act (JTPA), Public Law 97-300, the Texas Department of Commerce announces a Request for Proposals (RFP) to provide video production services in conjunction with the Texas Job Training Partnership Act (JTPA) quarterly, regional training forum program.

The department has issued this Request for Proposals to select one or more entities to provide videotaping of interactive workshops, on-line editing and reproduction of finished tapes to support the local participant training effort.

Detailed information regarding this project format is set forth in the Request for Proposal instructions which will be available July 27, 1992, at the following location: Texas Department of Commerce, Work Force Development Division, First City Centre, 816 Congress Avenue, Suite 1300, P.O. Box 12728, Austin, Texas 78711-2728.

The deadline for receipt of proposals in response to this request will be Monday, August 24, 1992, at 4 p.m. (CST). Responses received after this deadline will not be considered. A Bidder's Conference will be held at the Texas Department of Commerce at the previously mentioned address on August 10, 1992, from 1-4 p.m. to review the RFP and answer related questions.

The department reserves the right to accept or reject any or all proposals submitted. The department is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends the materials provided only as a means of identifying the various contractor alternatives. The department intends to use responses as a basis for further negotiation of specific project details with potential contractors. The department will base its choice on demonstrated competence, qualifications, and evident of superior conformance with criteria. This RFP does not commit the department to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates Commerce to award a contract or to pay any costs incurred in the preparation of a response. Commerce specifically reserves the right to vary all provisions set forth any time prior to execution of a contract where Commerce deems it to be in the best interest of the State of Texas.

For further information regarding this notice, or to obtain copies of the RFP instructions, please contact: Gwen Marlin, Texas Department of Commerce, Work Force Development Division, First City Centre, 816 Congress Avenue, Suite 1300, P.O. Box 12728, Austin, Texas 78711-2728, (512) 320-9852.

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

TRD-9210155 Cathy Bonner
Executive Director
Texas Department of Commerce

Filed: July 27, 1992

For further information, please call: (512) 320-9666



Texas General Land Office List of Certified Discharge Cleanup Organizations

The Texas General Land Office (GLO), pursuant to the Oil Spill Prevention and Reponse Act of 1991 (The Natural Resources Code, Chapter 40) has issued the following list of certified discharge cleanup organizations (DCO). The Act requires GLO to certify discharge cleanup organizations that will be listed in a facility response plan, or be utilized in a state funded cleanup. The criteria used to certify DCOs' included the verification of response equipment, training, and estimated deployment and response times. The certification issued by GLO only applies to those DCOs that intend to respond to oil spills that enter or threaten coastal waters.

This list includes those DCOs that met GLO's June 16th filing deadline. Companies which submit applications at a later date, will be added to the list as appropriate. Please note that the certification process is not designed to guarantee a level of performance by the DCO. This responsibility rests solely with the DCO and their customer/client.

LIST OF CERTIFIED DISCHARGE CLEANUP ORGANIZATIONS (DCO)
DEVELOPED PURSUANT TO THE OIL SPILL PREVENTION AND RESPONSE ACT OF 1991
TEXAS GENERAL LAND OFFICE

APPROXIMATE DCO RESPONSE TIMES IN HOURS (NEAREST/FARTHEST)¹

NAME	PHONE #	APPROXIMATE DCO RESPONSE TIMES IN HOURS (NEAREST/FARTHEST) ¹						
		ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6	ZONE 7
ANTI POLLUTION, INC.	(504) 384-9517	5/6.5	6.5/8	7/8	8/9	9/11	11/12.5	11.5/14
B & S LEASE SERVICE INC.	(512) 758-7623	X	X	X	X	1/3	1/3.5	X
BURLINGTON ENVIRONMENTAL, INC.?	(206) 223-0500	SPILL MANAGEMENT ONLY						
CLEAN CHANNEL ASSOCIATION	(713) 868-6455	X	2/2.5 TO 7	X	X	X	X	X
COMPLETE ENVIRONMENTAL SERVICES INC.	(713) 353-5438	1/2.75	0/2	1/2	2/4	4.5/6	5/6	6.5/8
CORPUS CHRISTI AREA OIL SPILL CONTROL	(512) 882-2656	X	X	X	X	3/6	2/4	4/6
CRAIN BROTHERS, INC.	(409) 842-1174	.75/1.5	1.5/.4	4/5.5	5.5/6.5	6.5/8	8/9.5	9.5/12
EMTECH ENVIRONMENTAL SERVICE, INC.	(817) 332-5481	1.5/3	.5/1.5	1.5/2.5	2.5/3	1/2.5	.5/1.5	1.5/3
GARNER ENVIRONMENTAL SERVICES	(713) 920-1300	.75/2	.75/2	.75/2	2.5/3.5	3.5/5.0	5/7	7/10
HALLIBURTON SERVICES?	(318) 837-7441	-	-	-	-	-	-	-
INDUSTRIAL CLEANUP, INC.	(504) 535-2697	7/7.5	7.5/8.75	8.75/9.5	9.5/10.75	10.75/11.75	11.75/12.5	12.5/15
J. KING, INC.	(713) 471-7634	2/3	1/2	2/3	3/4	4.5/6	6.5/8	9/10
KIVA CONSTRUCTION & ENGINEERING INC.	(409) 252-3211	6/18	0/5	4/8	8/16	16/24	22/28	26/38
KRUG LIFE SCIENCE INC.	(713) 488-5970	SPILL MANAGEMENT ONLY						
LAIDLAW	(409) 796-1388	1/2	1/3	3/4	4/5.5	5.5/7	7/8	8/9
LARCO	(318) 474-3660	1/2	2/4.5	3.5/4	5/6	4.5/7	6.5/7	7.5/8.5
MALONE POLLUTION CONTROL	(713) 487-6500	4	3	4	X	X	X	X
MARINE SERVICES	(512) 943-2648	X	X	X	X	X	X	.5/4
MARTECH USA	(318) 364-3880	3/4.5	4.5/6	6/7	8/9	10/11	12/13	14/15
MILLER ENVIRONMENTAL SERVICES, INC.	(512) 883-5726	X	X	X	6/8	3/6	1/3	3/6
O'BRIEN'S OIL POLLUTION SERVICE (COOPS)	(504) 394-0893	SPILL MANAGEMENT ONLY						
OHM CORPORATION	(713) 875-0000	1.5/3.75	.75/2.5	1.75/3	3/4.75	4.75/6.5	6.5/9.5	9.5/12

LIST OF CERTIFIED DISCHARGE CLEANUP ORGANIZATIONS (DCO) (CONT.)
DEVELOPED PURSUANT TO THE OIL SPILL PREVENTION AND RESPONSE ACT OF 1991
TEXAS GENERAL LAND OFFICE

APPROXIMATE DCO RESPONSE TIMES IN HOURS (NEAREST/FARTHEST)¹

NAME	PHONE #	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6	ZONE 7
P.W.I. INC.	(409) 842-6262	.5/1.5	.75/3	2.5/4	4/5	4.5/5	6/8	8/10
PETRO BOOM ENVIRONMENTAL, INC.	(713) 999-4422	3/4.5	2/3	3/4	4/5	4.5/6	5.5/7	7/8.5
RIEDEL-PETERSON ENVIRONMENTAL SERVICES	(713) 479-5295 **	1.5/2.5	.25/3	1/3.5	1.5/3	3/4.5	4.5/6	6/8
RYAN ENVIRONMENTAL	(800) 392-4551	6/12	4/8	3/6	2/4	3/6	6/12	8/16
SPILL RESPONSE INCORPORATED	(512) 782-7651	3.5/4.5	2.5/3.5	1.5/2.5	.5/1.5	.5/2	2/3	3/5
SSCI ENVIRONMENTAL & CONSULTING SERVICE	(713) 486-1943	.75/2	.75/2	.75/2	2.5/3.5	3.5/5	5/7	7/10
SMS ENVIRONMENTAL	(409) 536-6767	1.5/2.5	1.5/3.25	X	X	X	X	X
T & I LEASE SERVICE	(713) 585-5381	5/8	1.5/4	1/3.5	2.5/5.5	X	X	X
TENNESSEE PIPELINE CONSTRUCTION	(512) 364-2703	10/12	10/12	8/10	8/10	6/8	2/4	4/6
TRIANGLE INDUSTRIAL SERVICE, INC.	(409) 735-8197	.5/2	2/4	X	X	X	X	X
W & C SERVICES	(409) 543-2318	X	X	X	1/1.5	1/2	3/5	X
ZAVALL-TEX CONSTRUCTION CO.	(409) 842-3664	2/4	4/6	8/10	X	X	X	X

LEGEND
** ADD ONE HOUR IF NOT DURING NORMAL BUSINESS HOURS
X = DCO DOES NOT PLAN TO RESPOND IN THIS ZONE

NOTE¹ = The zone designation information indicates where each DCO plans to operate and the approximate response time in which they could arrive on scene. It is recommended that each facility contact any of the listed DCO's to obtain information on the specific spill response services they can provide and in what time frame.

NOTE² = Burlington Environmental can provide spill management services in the State of Texas, but maintains little or no equipment within the state. They have been certified as a cleanup contractor by the State of Washington, therefore, equipment could be transported for use in a long term cleanup.

NOTE³ = Halliburton Services should be contacted at (318) 837-7441 to obtain specific information on equipment, mobilization methods, membership and response times.

- Zone 1 - Jefferson/Orange Counties
- Zone 2 - Galveston/Harris/Chambers/Counties
- Zone 3 - Brazoria County
- Zone 4 - Matagorda County
- Zone 5 - Jackson/Victoria/Calhoun
- Zone 6 - San Antonio/Nueces/Kleberg Counties
- Zone 7 - Kennedy/Willacy/Cameron Counties

Issued in Austin, Texas, on July 27, 1992.

TRD-9210206 Garry Mauro
Commissioner
General Land Office

Filed: July 27, 1992

For further information, please call. (512) 463-5019

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Texas Department of Health

Designation of Sites Serving Medically Underserved Populations

The Department of Health is required under Texas Civil Statutes, Article 4495b, §3.06, to designate sites serving medically underserved populations. In addition, the department is required to publish notice of its designations in the *Texas Register* and to provide an opportunity for public comment on the designations.

Accordingly, the department has designated the following as a site serving medically underserved populations: Austin Diagnostic Clinic, P.A., 801 West 34th Street, Austin, Texas 78705. Designation is based on proven eligibility as a site serving a disproportionate number of clients eligible for federal, state or locally funded health care programs.

Oral and written comments on the designations may be directed to Carol Daniels, Chief, Bureau of State Health Data and Policy Analysis, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756; (512) 458-7261. Comments will be accepted for 30 days from the date of this notice.

Issued in Austin, Texas, on July 23, 1992

TRD-9210084 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: July 23, 1992

For further information, please call: (512) 458-7261

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The Department of Health is required under Texas Civil Statutes, Article 4495b, §3.06, to designate sites serving medically underserved populations. In addition, the department is required to publish notice of its designations in the *Texas Register* and to provide an opportunity for public comment on the designations.

Accordingly, the department has designated the following as a site serving medically underserved populations: Centro San Vicente health care clinic, 8061 Alameda Avenue, El Paso, Texas 79915. Designation is based on proven eligibility as a site located in an area with an insufficient number of physicians providing services to eligible clients of federal, state, or locally funded health care programs.

Oral and written comments on the designations may be directed to Carol Daniels, Chief, Bureau of State Health Data and Policy Analysis, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756; (512) 458-7261. Comments will be accepted for 30 days from the date of this notice.

Issued in Austin, Texas, on July 23, 1992

TRD-9210085 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: July 23, 1992

For further information, please call: (512) 458-7261

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The Department of Health is required under Texas Civil Statutes, Article 4495b, §3.06, to designate sites serving medically underserved populations. In addition, the department is required to publish notice of its designations in the *Texas Register* and to provide an opportunity for public comment on the designations.

Accordingly, the department has designated the following as a site serving medically underserved populations: Diboll State Detention Unit, 1501 South First Street, Diboll, Texas 75941. This unit is an offender detainee facility of the Texas Department of Criminal Justice. Designation is based on proven eligibility as a site serving a disproportionate number of clients eligible for federal, state or locally funded health care programs.

Oral and written comments on the designations may be directed to Carol Daniels, Chief, Bureau of State Health Data and Policy Analysis, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756; (512) 458-7261. Comments will be accepted for 30 days from the date of this notice.

Issued in Austin, Texas, on July 23, 1992

TRD-9210086 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: July 23, 1992

For further information, please call: (512) 458-7261

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Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table following. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED

Location	Name	License Number	City	Amendment #	Date of Action
Dallas	North Texas Heart Center, P.A.	L04608	Dallas	0	06/29/92
Fort Worth	Cook-Fort Worth Children's Medical Center	L04587	Fort Worth	0	06/26/92
Tatum	TU Electric, Martin Lake Plant	L04593	Tatum	0	06/30/92
Throughout Texas	Davis Great Guns Logging, Inc.	L04604	Corpus Christi	0	06/30/92
Throughout Texas	Dean World Company	L04588	New Braunfels	0	06/26/92

AMENDMENTS TO EXISTING LICENSES ISSUED

Location	Name	License Number	City	Amendment #	Date of Action
Amarillo	Coleman Taylor, M.D.	L00515	Amarillo	12	06/18/92
Baytown	Baytown Medical Center, Inc.	L02462	Baytown	11	06/09/92
Beaumont	Beaumont Medical Surgical Hospital	L02102	Beaumont	33	06/29/92
Beaumont	Reuben A. Isern, M.D.	L04516	Beaumont	2	07/11/92
Corpus Christi	Spohn Hospital	L02495	Corpus Christi	35	06/29/92
DFW Airport	Delta Airlines	L03967	DFW Airport	6	06/29/92
Dallas	Texas Employers Insurance Association	L02004	Dallas	6	06/29/92
Dallas	Syncor International Corporation	L02048	Dallas	71	07/09/92
Deer Park	Quantum Chemical Corporation	L00204	Deer Park	32	06/29/92
Fort Worth	Consultants in Cardiology	L04445	Fort Worth	1	07/09/92
Houston	Lark Sequencing Technologies, Inc.	L04387	Houston	3	06/30/92
Houston	DuMont Enterprises	L04444	Houston	3	06/29/92
Houston	The Institute for Rehabilitation and Research	L04000	Houston	9	07/09/92
Houston	Ben Taub General Hospital	L01303	Houston	28	07/09/92
Kingsville	Spohn Kleberg Memorial Hospital	L02917	Kingsville	10	06/30/92
Longview	Texas Eastman Company	L00301	Longview	71	07/09/92
Pampa	Mundy Industrial Service, Inc.	L04360	Houston	6	07/10/92
Pasadena	Phillips Pipe Line Company	L02083	Alvin	9	06/30/92
Port Arthur	AMI Park Place Medical Center	L01300	Port Arthur	19	06/30/92
Port Arthur	St. Mary Hospital of Port Arthur	L01212	Port Arthur	47	07/10/92
San Antonio	Syncor International Corporation	L02033	San Antonio	59	06/30/92
San Antonio	Cancer Therapy and Research Center	L01922	San Antonio	27	07/09/92

AMENDMENTS TO EXISTING LICENSES CONTINUED

Location	Name	License Number	City	Amendment #	Date of Action
Throughout Texas	Longview Inspection, Inc.	L03720	Longview	36	06/29/92
Throughout Texas	Ellerbee-Walczak, Inc.	L04440	Fort Worth	1	06/26/92
Throughout Texas	Guardian NDT Services, Inc.	L04099	Corpus Christi	17	06/29/92
Throughout Texas	Basin Industrial X-Ray, Inc.	L02280	Corpus Christi	39	06/26/92
Throughout Texas	Goolsby Testing Laboratories, Inc.	L03115	Humble	35	06/26/92
Throughout Texas	Koch Engineering Company, Inc.	L03913	La Porte	34	06/29/92
Throughout Texas	Global X-Ray & Testing Corporation	L03663	Houston	22	06/26/92
Throughout Texas	Midland Inspection and Engineering, Inc.	L03724	Midland	33	07/02/92
Throughout Texas	Gilvin-Terrill, Inc.	L04196	Amarillo	2	07/03/92
Throughout Texas	Sperry-Sun Drilling Services, Inc.	L02603	Houston	33	07/03/92
Throughout Texas	Nuclear Scanning Services, Inc.	L04339	Houston	8	07/02/92
Throughout Texas	Ellerbee-Walczak, Inc.	L04440	Fort Worth	2	07/05/92
Throughout Texas	DEVELCO	L04452	Houston	10	07/07/92
Throughout Texas	METCO	L03018	Houston	22	07/07/92
Throughout Texas	MQS Inspection Incorporated	L00087	Elk Grove Vil,IL	56	07/07/92
Throughout Texas	Walzel & Associates, Inc.	L04523	Aransas Pass	1	07/03/92
Throughout Texas	Dowell Schlumberger Incorporated	L00764	Houston	60	07/08/92
Throughout Texas	Trinity Engineering Testing Corporation	L01351	Corpus Christi	30	07/08/92
Throughout Texas	Non-Destructive Inspection Corporation	L02712	Lake Jackson	27	07/08/92
Throughout Texas	Trinity Testing and Inspection Company	L03628	Victoria	8	07/08/92
Throughout Texas	Midland Inspection and Engineering, Inc.	L03724	Midland	34	07/10/92
Throughout Texas	H & G Inspection Company, Inc.	L02181	Houston	67	07/09/92
Throughout Texas	Brazos Valley Inspection Services, Inc.	L02859	Bryan	30	07/10/92
Throughout Texas	City of Brownwood - Engineering Department	L02552	Brownwood	8	07/14/92

RENEWALS OF EXISTING LICENSES ISSUED

Location	Name	License Number	City	Amendment #	Date of Action
Austin	Texas Research Institute, Inc.	L02632	Austin	9	06/30/92
Bellville	Bellville General Hospital	L03295	Bellville	10	06/26/92
Houston	Anacon, Inc.	L03214	Houston	5	06/29/92
Houston	Thermal Fabricating Company	L02196	Houston	7	06/30/92
Houston	Koppers Industries, Inc.	L02226	Houston	10	07/07/92
Houston	Gulf Materials Recycling Corporation	L02734	Houston	11	07/07/92
Nederland	Texas Environment Services, Inc.	L03641	Nederland	2	07/13/92
Pasadena	Graver Tank & Manufacturing Co., Inc.	L02176	Houston	27	06/29/92
Rowlett	Lakepointe Medical Center	L04060	Rowlett	2	07/01/92
San Angelo	Shannon West Texas Memorial Hospital	L02174	San Angelo	25	06/29/92
San Antonio	Sheldon P. Braverman, M.D.	L01226	San Antonio	10	06/26/92
San Antonio	MedCenter Imaging	L04098	San Antonio	10	07/09/92
Throughout Texas	Little Bit Wireline Service	L03168	Beaumont	6	06/30/92
Throughout Texas	Lone Star Testing Laboratories	L04013	Houston	5	06/23/92
Throughout Texas	Parkland Engineering and Testing, Inc.	L04089	Irving	3	06/29/92
Throughout Texas	Petroleum Industry Inspectors	L04081	Houston	24	07/01/92
Throughout Texas	Qualitex Industrial X-Ray, Inc.	L04079	Odessa	7	07/06/92
Throughout Texas	Phoenix Surveys, Inc.	L04108	Graham	5	07/08/92
Throughout Texas	U.S. Leak Detection, Inc.	L03268	South Houston	8	07/07/92

TERMINATIONS OF LICENSES ISSUED

Location	Name	License Number	City	Amendment #	Date of Action
Houston	SMS of Texas	L03307	Houston	2	06/29/92
San Antonio	Royce L. Gragg, Ph.D.	L02418	San Antonio	4	07/01/92
San Antonio	Southwest Immunodiagnostics, Inc.	L03796	San Antonio	11	07/10/92
Throughout Texas	Knight Inspection Company, Inc.	L04504	Baytown	1	07/13/92

AMENDMENTS TO EXISTING LICENSES DENIED

Location	Name	License Number	City	Amendment #	Date of Action
Alvin	Phillips Pipe Line Company	L02083	Alvin	0	07/01/92
Tyler	Community Hospital of Tyler	L02057	Tyler	0	07/01/92

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an

agent, the name and address of the agent must be stated

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, the Exchange Building, 8407 Wall Street, Austin, Texas, from 8 a.m. to 5 p.m. Monday-Friday (except holidays).

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

TRD-9210101 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: July 24, 1992

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



Notice of Emergency Cease and Desist Orders

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Robert D. Balboa, D.D.S. (registrant) of Dallas, doing business as Grove Dental Care, to cease and desist using any sources of radiation in his possession until all violations found during a recent inspection of his operations have been corrected, all sources of radiation at his facility have been properly registered, and all appropriate registration fees have been paid. The bureau determined that the continued use of sources of radiation at this facility constitutes a threat to public health and safety. The registrant is further required to provide written evidence satisfactory to the bureau regarding the actions to correct the violations and the 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 27, 1992.

TRD-9210183 Robert A. MacLean, MD
Deputy Commissioner
Texas Department of Health

Filed: July 27, 1992

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

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Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Rene M. Chavez, D.C. (registrant-R15587) of Brownsville to cease and desist using any sources of radiation in his possession until all violations found during a recent inspection of his operations have been corrected and all registration fees have been paid. The bureau determined that the continued use of sources of radiation at this facility constitutes a threat to public health and safety. The registrant is further required to provide written evidence satisfactory to the bureau regarding the actions to correct the violations and the method to prevent their recurrence

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210184 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: July 27, 1992

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

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Notice is hereby given that the Bureau of Radiation Control (bureau) ordered R. J. Whitten, M.D. (registrant-R02596) of Killeen to cease and desist using any sources of radiation in his possession until all violations found during a recent inspection of his operations have been corrected. The bureau determined that the continued use of sources of radiation at this facility constitutes a threat to public health and safety. The registrant is further required to provide written evidence satisfactory to the bureau regarding the actions to correct the violations and the method to prevent their recurrence.

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

Issued in Austin, Texas, on July 27, 1992.

TRD-9210185 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: July 27, 1992

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

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Notice of Revocation of Certificate of Registration

The Texas Department of Health, having duly filed a complaint pursuant to Texas Regulations for Control of Radiation, Part 13 (25 TAC §289.112), has revoked the following certificate of registration: R. Michael Henderson, D.D.S., Amarillo, R13304, July 20, 1992.

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 27, 1992.

TRD-9210186 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: July 27, 1992

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

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Texas Department of Insurance Correction of Error

The Texas Department of Insurance adopted a new rule, pursuant to the Insurance Code, Chapter 5, Subchapter L, establishing a Take Out Credit Rule, which provides in part, that a member of the Texas Workers' Compensation Insurance Facility (Facility) or the state fund shall receive a credit against the amount of its voluntary market writings if the insurer provides coverage for at least two years to a rejected risk that was most recently insured through the employers' rejected risk fund. The rule was published in the May 12, 1992, *Texas Register* (17 TexReg 3479). Due to an error in the agency's submission, the word "more" should have been printed instead of the word "less". Therefore, paragraph number 5 should read as follows.

"5. If a member company fails to provide coverage for at least two years for any reason other than those listed in Texas Amendatory Endorsement WC 42 03 01 C, Part Six, Paragraph D(3) and if the Facility rate is more than..."

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Joint Interim Committee on the Environment Subcommittee on Air Quality

Correction of Error

The Subcommittee on Air Quality of the Joint Interim Committee on the Environment submitted a Notice of Public Hearing, which was published in the July 24, 1992, *Texas Register* (17 TexReg 5245).

Due to a typographical error by the *Texas Register* in the second paragraph, the date of the subcommittee's next meeting was incorrectly printed as July 13, 1992. The correct date is July 31, 1992.

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Texas Commission on Law Enforcement Officer Standards and Education

Correction of Error

The Texas Commission on Law Enforcement Officer Standards and Education proposed 37 TAC §§229.1, 229.5, 229.10, 229.15; and 229.20, concerning the Texas Peace Officers' Memorial Advisory Committee. The rules were published in the July 21, 1992, *Texas Register* (17 TexReg 5074).

Due to an editing error by the *Texas Register* the rules were published under Part V, Chapter 141. They should be under Part VII, Chapter 229.

The definition for the term "line of duty" is garbled on page 5074, but printed correctly on page 5075.

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Middle Rio Grande Development Council

Public Notice for Proposals for Bank Depository

The Middle Rio Grande Development Council is requesting proposals from qualified banking institutions to select the Bank Depository for this agency for a five year period beginning September 1, 1992, and ending August 30, 1997. This request is being filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The 1st National Bank of Dimmit County has been the Bank Depository for the Middle Rio Grande Development Council for over 10 years and the Middle Rio Grande Development Council intends to award this service contract to them due to their qualifications and experience with out agency unless a more substantial offer is submitted.

All interested banking institutions wishing to make an offer for this service may contact Ramon S. Johnston, Deputy Director of Administration at (512) 876-3533 for a copy of the request for proposal. All proposals must be clearly marked "Bank Depository Proposals" and mailed to the attention of Ramon S. Johnston, Middle Rio Grande Development Council, P.O. Box 1199, Carrizo Springs, Texas 78834 by no later than 5 p.m. Monday, August 17, 1992.

All proposals will be reviewed by a team of the management staff and a contract will be awarded on the basis of the banking institution's experience, knowledge of service to be performed, and costs associated for providing this service. The Middle Rio Grande Development Council reserves the right to negotiate this contract with the banking institution at the end of each contract period through August 30, 1997.

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

TRD-9210172 Ramon S. Johnston
Deputy Director of Administration
Middle Rio Grande Development Council

Filed: July 27, 1992

For further information, please call: (512) 876-3533

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Public Utility Commission of Texas

Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Texas Higher Education Coordinating Board, Austin.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Texas Higher Education Coordinating Board Pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 11319.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Texas Higher Education Coordinating Board. The geographic service market for this specific service is the Austin area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9210048 John M. Renrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 22, 1992

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

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Shell Development Company, Houston.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Shell Development Company Pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 11324.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Shell Development Company. The geographic service market for this specific service is the Houston area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9210045 John M. Renrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 22, 1992

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

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for City of Bedford.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for City of Bedford Pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 11323.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for City of Bedford. The geographic service market for this specific service is the Bedford area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9210047 John M. Rerfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 22, 1992

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

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for State of Texas Auditor, Austin.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for State of Texas Auditor Pursuant to Public Utility Commission Rule 23.27(k). Tariff Control Number 11320.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for State of Texas Auditor. The geographic service market for this specific service is the Austin area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9210048 John M. Rerfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 22, 1992

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

Railroad Commission of Texas Correction of Error

The Railroad Commission of Texas proposed an amendment to 16 TAC §11. 1004, concerning definitions for

Subchapter E. Quarry Pit and Safety Act. Due to a typographical error by the *Texas Register* in subparagraph (C), the word constitution replaced constitutes. It should read "...within 200 feet of a right-of-way of a public road constitutes..."

Senate State Affairs Subcommittee on Workforce Development

Notice of Changed Hearing Dates

The Senate State Affairs Subcommittee on Workforce Development recently published a schedule of hearings to be held around the state during the Summer and early Fall. Please be advised that the last two hearings scheduled for August 10 and September 14 in Austin will be changed. New dates for these hearings will be announced in the *Texas Register* soon. Please note that the hearing scheduled for August 4 in Fort Worth will remain the same. For further information, please call the Senate State Affairs Committee office at 463-0380.

Issued in Austin, Texas on July 22, 1992.

TRD-9210043 Joseph Gagen
Certifying Official
Senate State Affairs Subcommittee on
Workforce Development

Filed: July 22, 1992

For further information, please call: (512) 463-0380

Texas A&M University System Public Notice

Pursuant to Senate Bill 404 and House Bill 1654, Acts of the 71st Legislature of the State of Texas, the following candidates are finalists for the position of Deputy Chancellor for Agriculture of the Texas A&M University and Director of the Texas Agricultural Experiment Station and upon the expiration of 21 days final action is to be taken by the Board of Regents of the Texas A&M University System: Dr. Zerle L. Carpenter, Dr. Edward A. Hiler, and Dr. J. Charles Lee.

Issued in College Station, Texas, on July 24, 1992.

TRD-9210171 Bill Presnal
Executive Secretary of the Board of
Regents
The Texas A&M University System

Filed: July 27, 1992

For further information, please call: (409) 845-9600

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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