

Texas Register

Volume 17, Number 64, August 25, 1992

5865
Page 5765-5815

In This Issue...

Office of the Attorney General

Letter Opinions

LO-92-28 (RQ-348)	5775
LO-92-29 (RQ-390)	5775
LO-92-30 (RQ-292)	5775
LO-92-31 (ID-16177)	5775
LO-92-32 (ID-16639)	5775
LO-92-33 (ID-16627)	5775

Open Records Decision

ORD-607 (RQ-389)	5775
------------------------	------

Opinions

DM-146 (RQ-355)	5775
DM-147 (RQ-106)	5776
DM-148 (RQ-167)	5776
DM-153 (RQ-322)	5776
DM-154 (RQ-371)	5777

Emergency Sections

Texas Water Commission

Municipal Solid Waste

31 TAC §330.5	5779
---------------------	------

31 TAC §§330.801-330.802, 330.804-330.863, 330.865	5779
--	------

31 TAC §§330.801, 330.802, 330.805, 330.818, 330.821-330.828, 330.831, 330.848, 330.851-330.857, 330.861-330.867, 330.871-330.880 330.891	5779
---	------

Proposed Sections

State Board of Barber Examiners

Practice and Procedure

22 TAC §51.16	5781
---------------------	------

22 TAC §51.131	5781
----------------------	------

Texas State Board of Pharmacy

Pharmacies

22 TAC §§291.31-291.36	5782
------------------------------	------

Texas Department of Human Services

Emergency Response Services

40 TAC §52.101	5788
----------------------	------

40 TAC §52.201, §52.202	5788
-------------------------------	------

40 TAC §52.401, §52.402	5788
-------------------------------	------

40 TAC §52.501, §52.503	5789
-------------------------------	------

40 TAC §52.601	5789
----------------------	------

CONTENTS CONTINUED INSIDE

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.

Material in the **Texas Register** is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the **Texas Register** director, provided no such republication shall bear the legend **Texas Register** or "Official" without the written permission of the director. The **Texas Register** is published under Texas Civil Statutes, Article 6252-13a. Second class postage is paid at Austin, Texas.

POSTMASTER: Please send Form 3579 changes to the Texas Register, P.O. Box 13824, Austin, Texas 78711-3824.

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.

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 TRD number.

Texas Administrative Code

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

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

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

Texas Register Art Project

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

Texas Register Publications



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

Secretary of State
John Hannah, Jr.

Director
Dan Procter

Assistant Director
Dee Wright

Circulation/Marketing
Jill S. Dahnert
Roberta Knight

TAC Editor
Dana Blanton

TAC Typographer
Madeline Chrlnser

Documents Section Supervisor
Patty Moore

Documents Editors
Lisa Martin
Janlene Allen

Open Meetings Clerk
Brenda Bernal

Production Section Supervisor
Ann Franklin

Production Editors/Typographers
Janice Rhea
Carla Carter

The Office of the Secretary of State does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment of the provision of services.

Adopted Sections

Railroad Commission of Texas

Transportation Division

16 TAC §5.152 5791

State Board of Barber Examiners

Practice and Procedure

22 TAC §51.97 5791

Texas Water Commission

Private Sewage Facilities 5791

Texas Commission on Fire Protection

Fire Suppression

37 TAC §§423.3, 423.5, 423.9 5798

Fire Fighter Safety

37 TAC §435.1, §435.3 5798

Fees

37 TAC §437.3 5798

Examinations for Certification

37 TAC §439.3, §439.5 5798

Continuing Education

37 TAC §441.5, §441.7 5799

Administrative Inspections and Penalties

37 TAC §§445.1, 445.3, 445.5, 445.7, 445.9, 445.11, 445.13, 445.15, 445.17, 445.19, 445.21 5799

Voluntary Regulation of State Agencies and State Agency Employees

37 TAC §§491.1, 491.3, 491.5, 491.7 5799

Voluntary Regulation of Federal Agencies and Federal Agency Employees

37 TAC §§493.1, 493.3, 493.5, 493.7 5800

Voluntary Regulation of Nongovernmental Departments

37 TAC §§495.1, 495.3, 495.5 5800

Texas Department of Human Services

Family Violence Program

40 TAC §54.102, 54.103 5800

40 TAC §§54.102-54.104 5800

40 TAC §54.201, 54.205 5801

40 TAC §§54.201, 54.203, 54.204, 54.205 5801

40 TAC §§54.301, 54.302, 54.304-54.307, 54.310, 54.311 5802

40 TAC §§54.302, 54.304, 54.307 5802

40 TAC §54.403, §54.405 5802

Open Meetings

Texas Department of Agriculture 5803

Texas Department of Criminal Justice 5803

Texas Commission on Fire Protection 5803

Funds Review Advisory Committee 5803

Texas Department of Human Services 5803

Texas Department of Insurance 5803

Texas Department of Licensing and Regulation 5804

Texas State Board of Medical Examiners 5804

Texas Parks and Wildlife Department 5804

Public Utility Commission of Texas 5805

The Texas A&M University System, Board of Regents 5806

Texas Appraiser Licensing and Certification Board 5806

Texas Department of Transportation 5806

Texas State Treasury Department 5806

University of Texas System, M. D. Anderson Cancer Center 5806

Texas Water Commission 5806

Texas Water Development Board 5807

Texas Public Workers' Compensation Program 5807

Texas Workers' Compensation Insurance Fund 5807

Regional Meetings 5807

In Addition Sections

Office of the Attorney General

Texas Clean Air Act 5809

Office of Consumer Credit Commissioner

Notice of Rate Ceilings 5809

Court Reporters Certification Board

Certification of Court Reporters5809

Texas Education Agency

Notice of Contract Amendment.....5810

Notice of Public Hearing.....5810

Request for Applications.....5810

General Services Commission

Cancellation of Request for Proposals.....5811

Governor's Budget and Planning Office

Request for Proposals5811

Texas Department of Health

HIV Reporting Procedures Public Hearing.....5811

Texas Department of Human Services

Notice of Award.....5811

Invitation to Bid5812

Commission on Jail Standards

Consultant Proposal Request.....5812

North Central Texas Council of Governments

Request for Proposals5812

Railroad Commission of Texas

Invitation for Bids.....5813

Texas Water Commission

Notice of Application for Waste Disposal Permit.....5813

Notice of Receipt of Applications for Municipal Solid Waste Permits5814

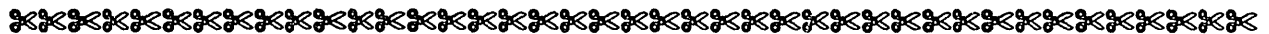
Request for Proposal.....5815

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

You will be able to continue to VOTE throughout the summer on what you think is the best of the 1991-1992 school art project submissions. In this issue, we finish publishing the fourth category of artwork, featuring submissions from children in tenth through twelfth grade. Also in this issue we will start republishing all the artwork from the students starting with the first category-Kindergarten through third grade, this will allow you one final chance to make your vote count. The pictures are labeled first by the category, and then by a number reflecting the individual piece. For example "10-1" will indicate that the picture is the first submission in the tenth through twelfth grade group. You will be able to vote as often as you would like. Simply fill out the attached form, and mail it to the Texas Register, Roberta Knight, P.O. Box 13824, Austin, Texas 78711-3824.

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

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



1991 - 1992 Texas Register Readers Choice Award.

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

Picture #10-_____.

Picture #K-_____.

Picture #10-_____.

Picture #K-_____.

Picture #10-_____.

Picture #K-_____.

Optional Information:

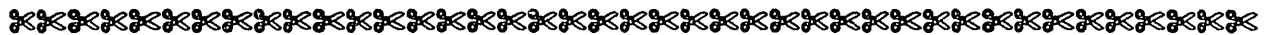
Subscription #: _____

Name: _____

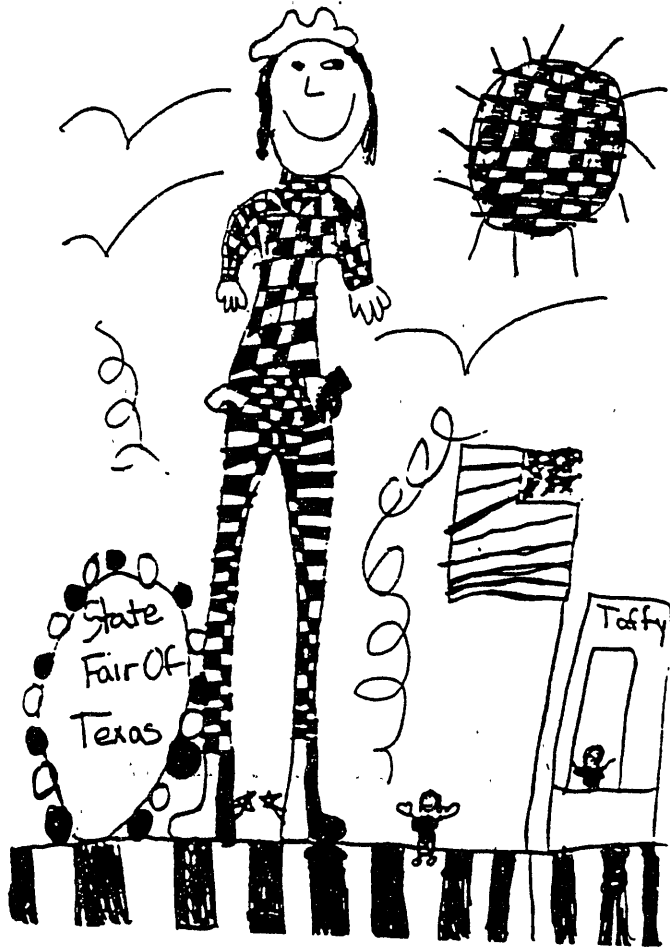
Organization: _____

Please return this form to: Texas Register, P.O. Box 13824, Austin, TX 78711-3824.

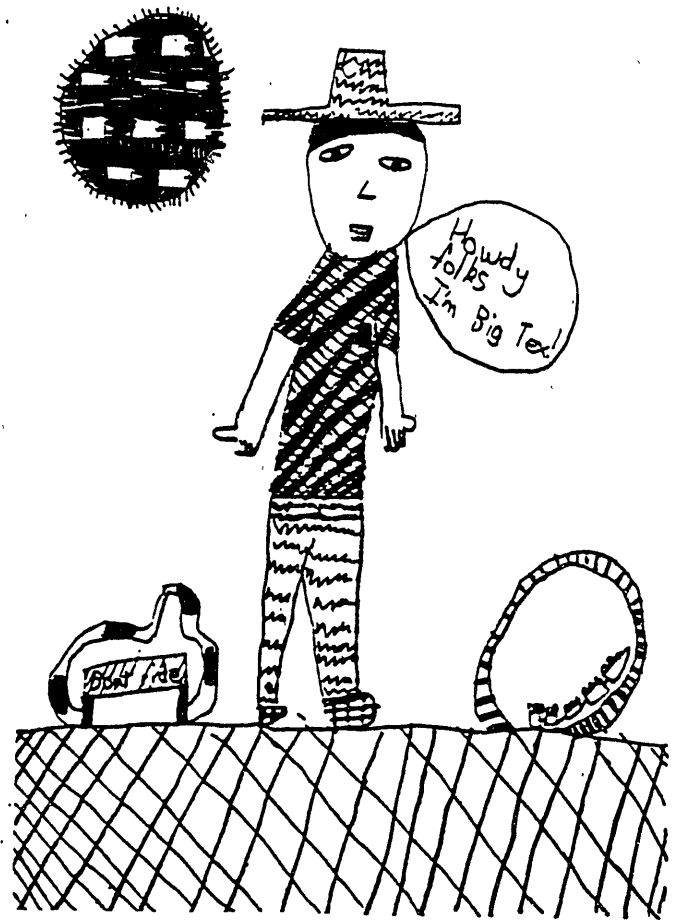
For more information contact Roberta Knight (512) 463-5561.



Make Your Vote Count!



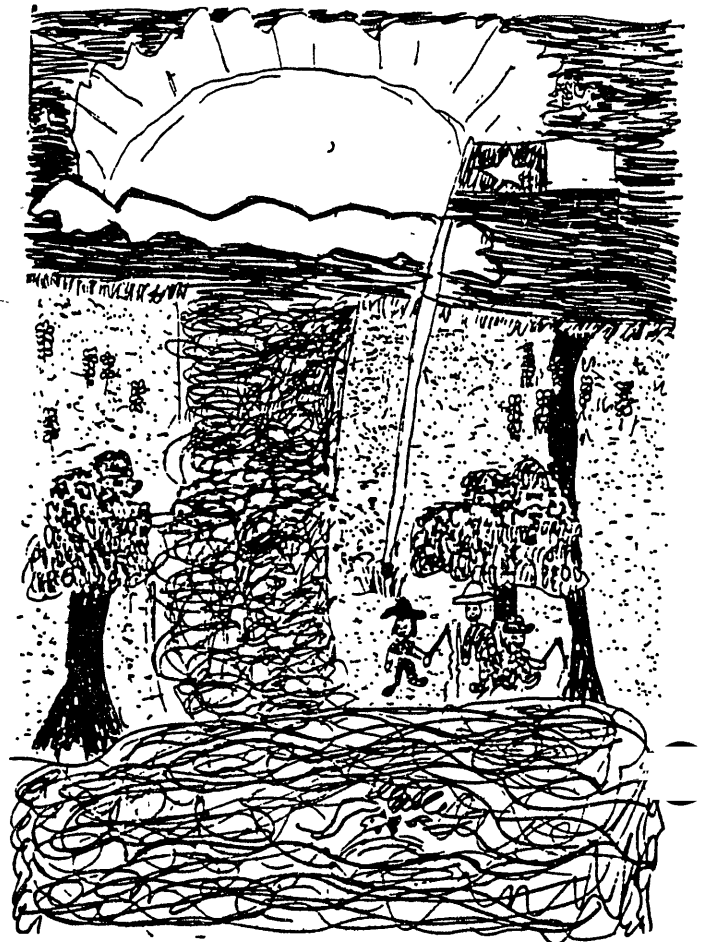
K-1



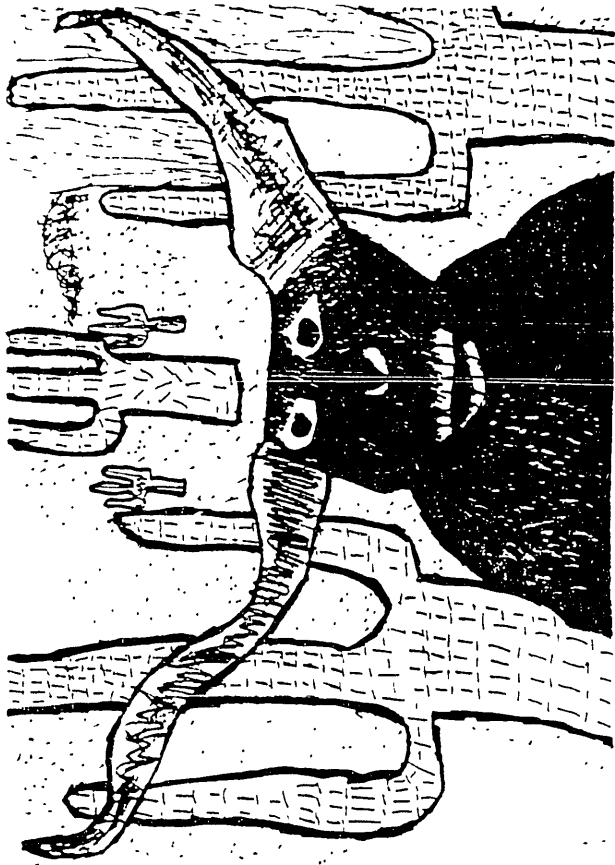
K-2



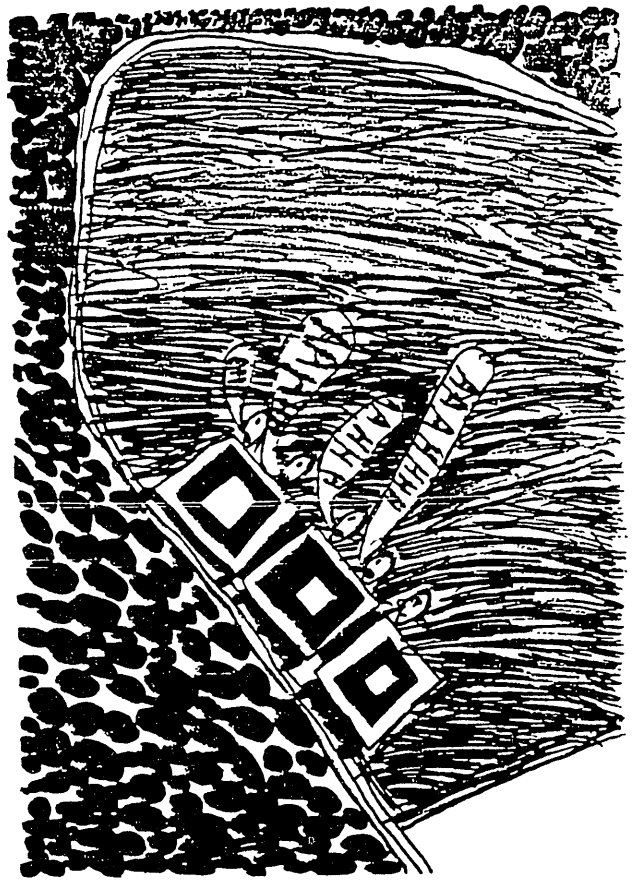
K-3



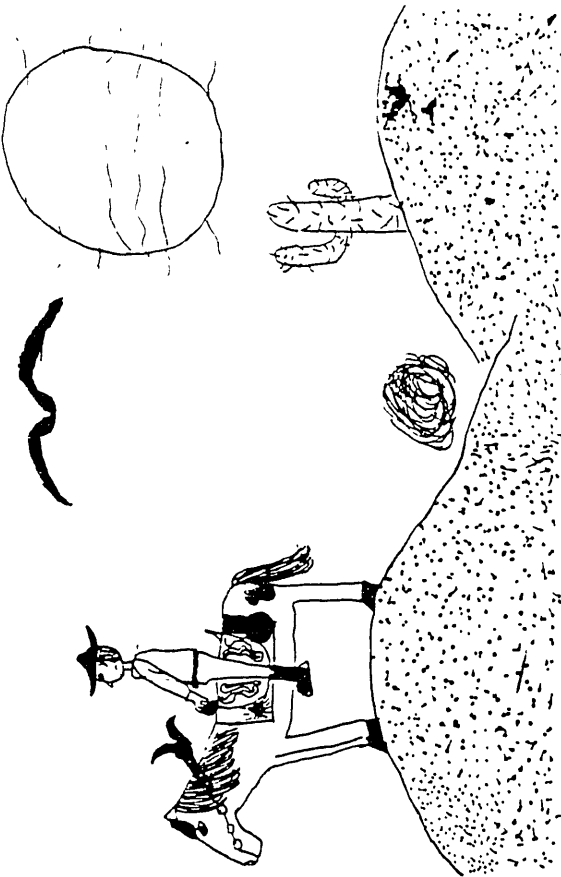
K-4



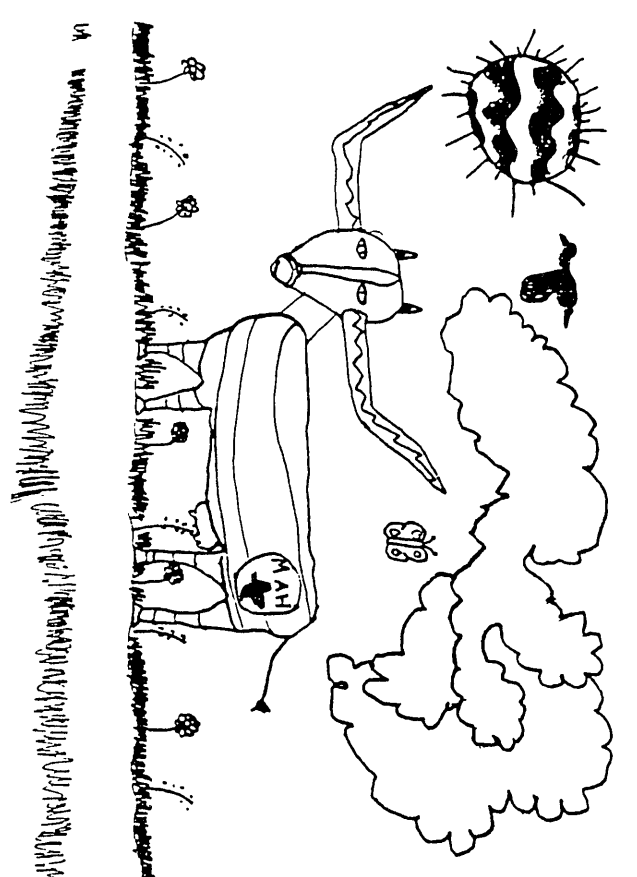
K-5



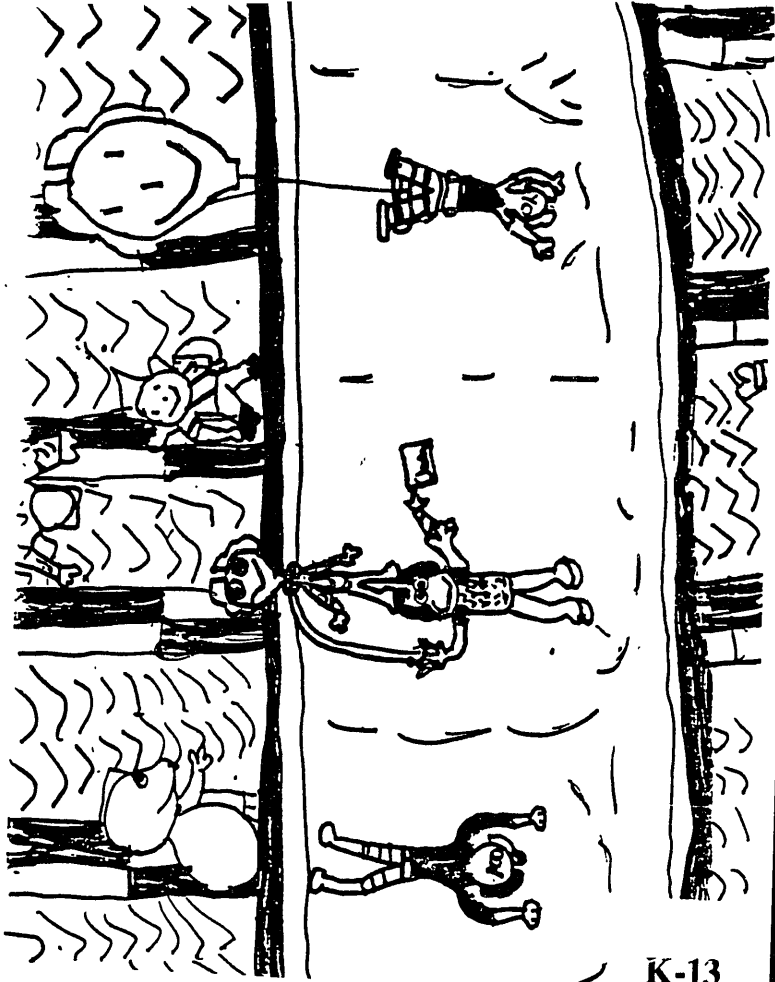
K-6



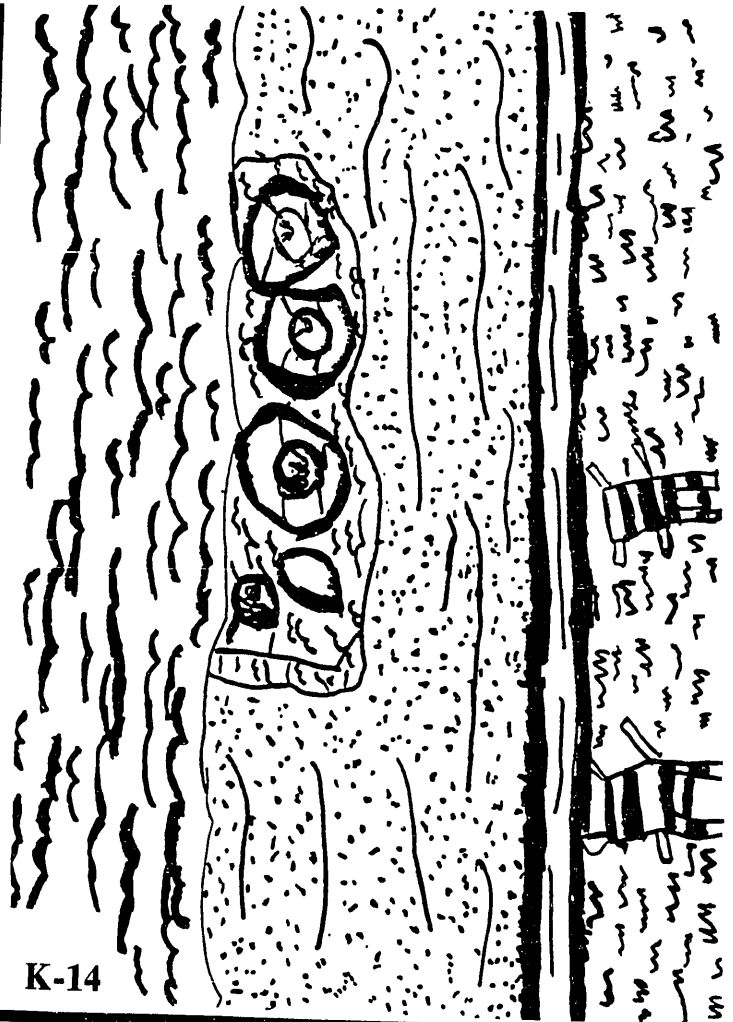
K-7



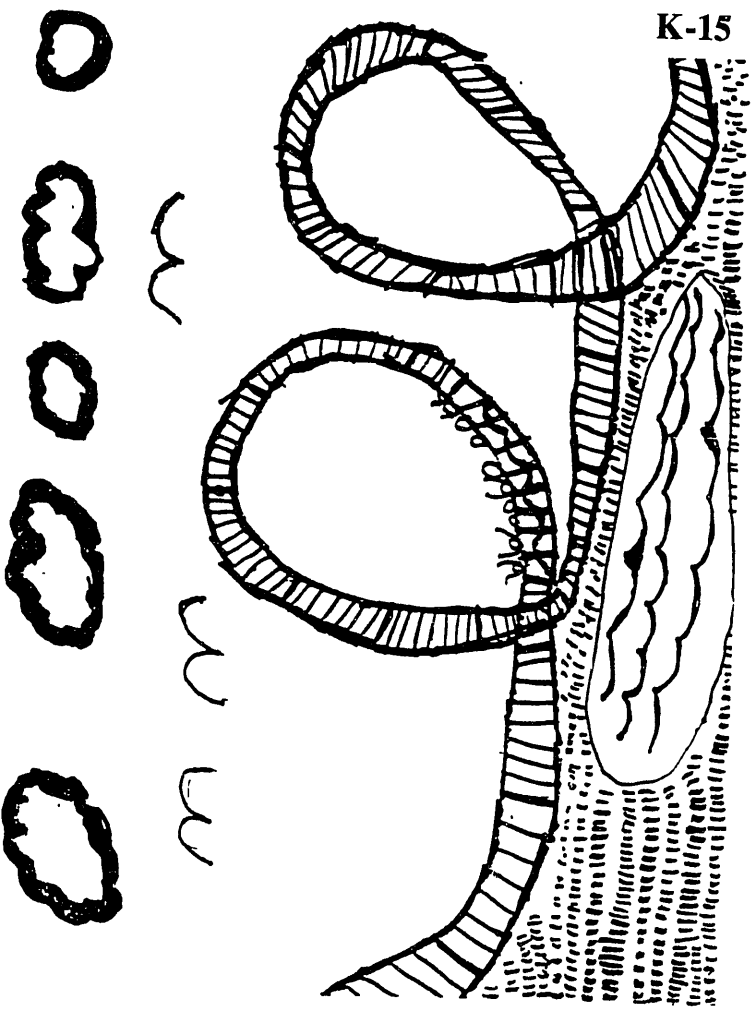
K-8



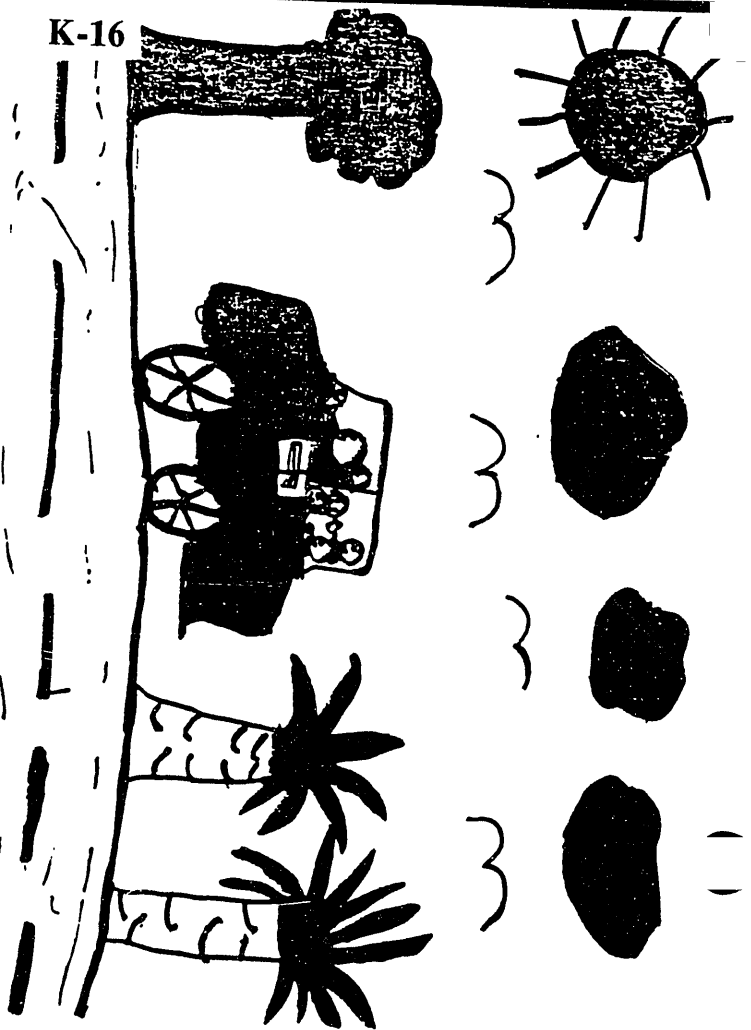
K-13



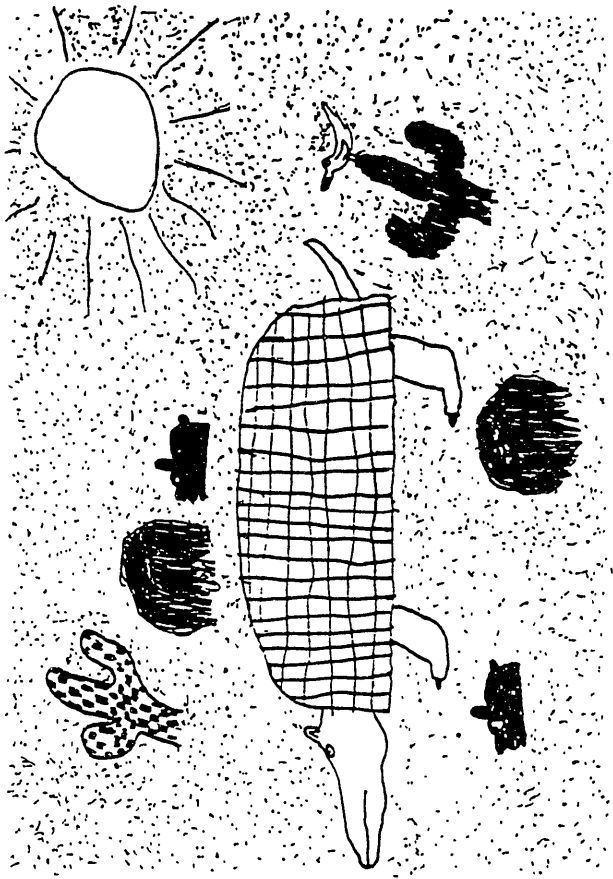
K-14



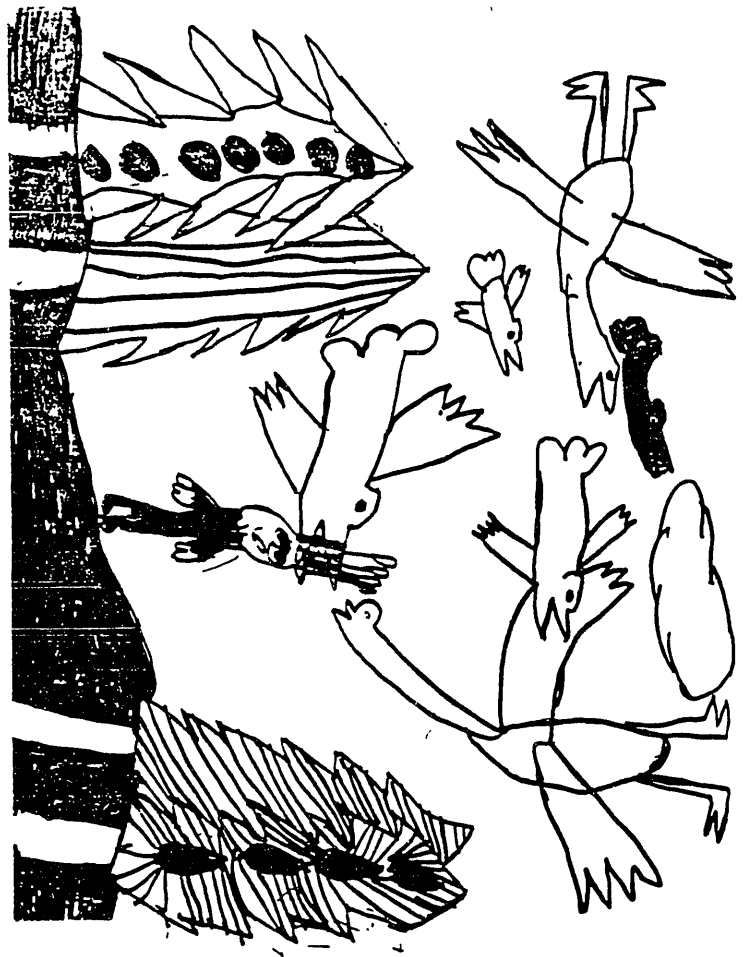
K-15



K-16



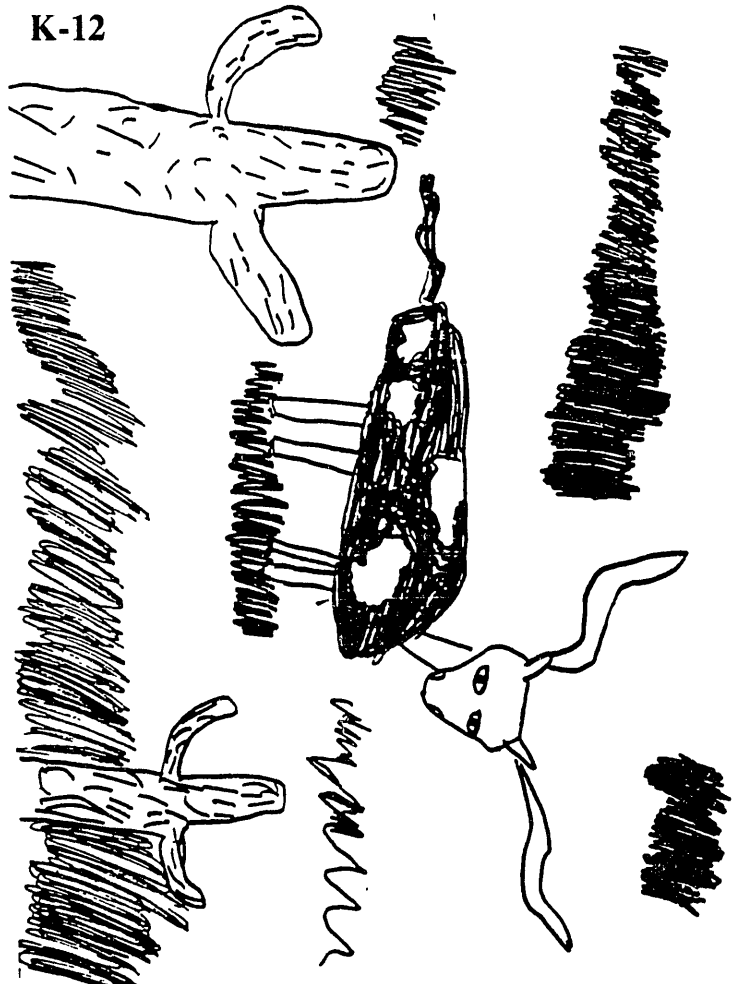
K-9



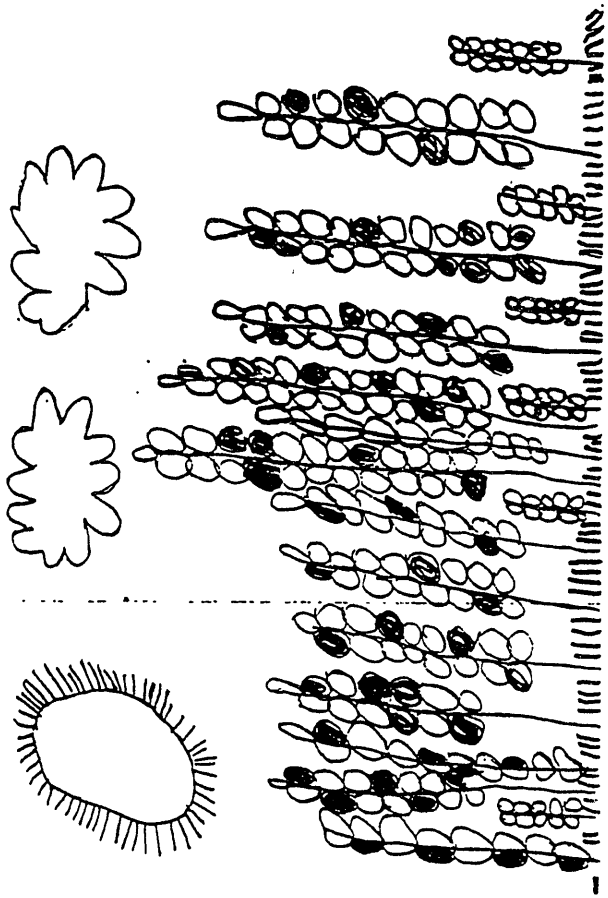
K-10



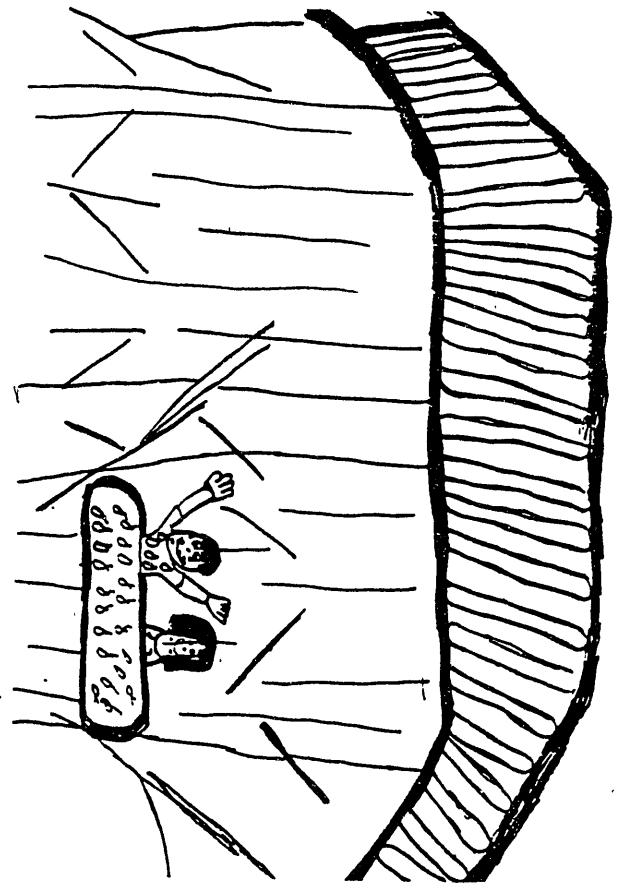
K-11



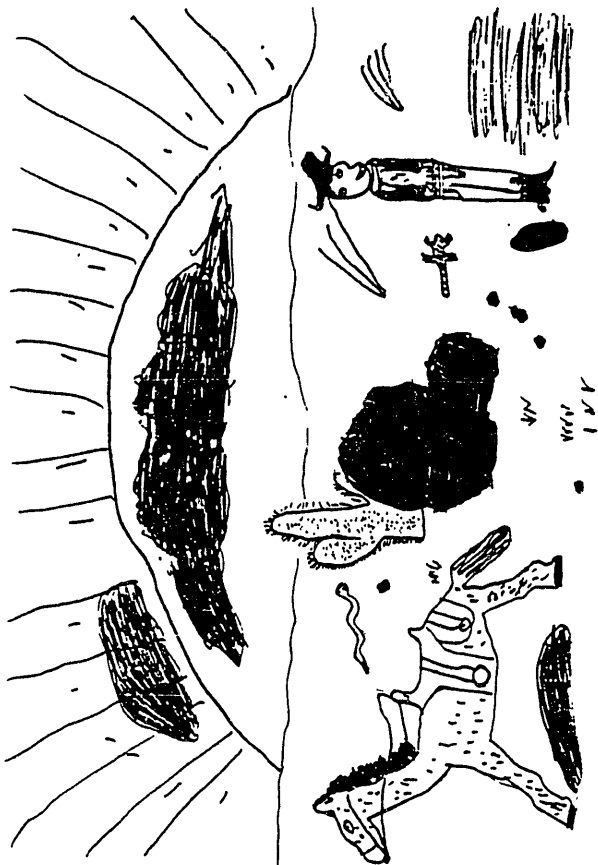
K-12



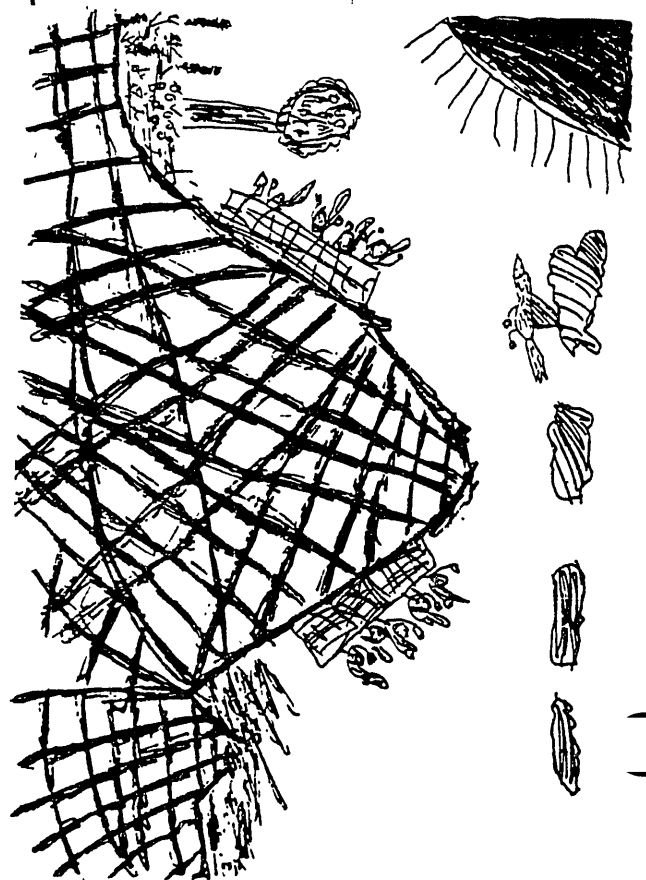
K-17



K-18



K-19



K-20

Attorney General

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

Letter Opinions

LO-92-28 (RQ-348). Request from Allen Ross Hightower, Chairman, Environmental Affairs Committee, Texas House of Representatives, Austin, concerning distribution of funds to fire departments by rural fire prevention district board.

Summary of Opinion. A rural fire prevention district is not authorized to distribute funds to fire departments within its jurisdiction, but, so long as there are adequate controls, the district may contract with such a fire department to provide services which the district itself is empowered to perform.

TRD-9211346

LO-92-29 (RQ-390). Request from Carl Parker, Chairman, Education Committee, Texas State Senate, Austin, concerning whether the university bookstore at a Texas public university may extend credit to university students for the purpose of purchasing textbooks and supplies.

Summary of Opinion. The university bookstore at a Texas public university may extend credit to its students for the purpose of purchasing textbooks and supplies if such an extension of credit accomplishes a public purpose and if the university places sufficient controls on the transaction to ensure that the public purpose will be carried out.

TRD-9211347

LO-92-30 (RQ-292). Request from Frank Tejada, Chairman, Subcommittee on Urban Affairs, The Texas Senate, Austin, concerning whether a home rule city may require fees and permits of a metropolitan transit authority for certain operations within its city limits.

Summary of Opinion. As considered in this opinion, portions of the city of San Antonio's proposed amendment to its Comprehensive Grounds Transportation Ordinance regulating the safe condition of charter vehicles; the equipment in such vehicles; the rates of fare charged by a charter bus operator; the conduct, attire, and worker conditions of charter vehicle drivers; the procurement of liability insurance or self insurance; and the procurement and submis-

sion of a performance bond would be unenforceable against the VIA Metropolitan Transit Authority as a matter of law. Other portions of the proposed ordinance requiring charter bus drivers to obtain a city chauffeur's license and requiring VIA to submit proof of liability insurance or self insurance, where VIA voluntarily has secured such protection pursuant to other law, would be applicable to the transit authority.

TRD-9211348

LO-92-31 (ID-16177). Request from Morris Samford, Jr., Panola County Attorney, Carthage, concerning duty of cattle owner to prevent cattle from running at large.

Summary of Opinion. Where the local option stock law is in effect, the owner of the designated class of livestock must prevent his stock from running at large in the county.

TRD-9211349

LO-92-32 (ID-16639). Request from Bill Sims, Chairman, Natural Resources Committee, Texas State Senate, Austin, concerning statutes of Dallas County Levee Improvement District Number 1.

Summary of Opinion. Since, under the facts presented, nonelection has been or can be held in the Dallas County Levee Improvement District Number 1, the Dallas County Commissioners Court should continue to appoint the directors of the district pursuant to Chapter 57, Water Code.

TRD-9211351

LO-92-33 (ID-16627). Request from Sandra C. Joseph, Disclosure Office, Comptroller of Public Accounts, Austin, concerning whether the address and telephone number of Texas lottery prize winners are deemed confidential by the Texas Lottery Act, Texas Civil Statutes, Article 179g, and related questions.

Summary of Opinion. Pursuant to the Texas Lottery Act, Texas Civil Statutes, Article 179g, §214(3), the addresses and telephone numbers of Texas lottery prize winners are confidential and are exempt from public disclosure under the Texas Open Records Act, unless the prize winner

has consented to release of such information. The comptroller is not required under the Lottery Act to ask prize winners if they wish to consent to release of such information. The Lottery Act does not prohibit the prize winner from consenting to release of such confidential information either orally or in writing, or from designating the persons or class of persons to whom he wishes the confidential information released. The comptroller may, in his discretion, require that a consent to the release of confidential information be in writing.

TRD-9211350

Open Records Decisions

ORD-607 (RQ-389). Request from Earl Bracken, Jr., Waco City Attorney, Waco, concerning whether the subject of an HIV antibody test has a right to a copy of a laboratory report issued under a fictitious name.

Summary of Decision. A laboratory report of the results of a test for HIV antibodies administered under the authority of a physician is made confidential by the Medical Practice Act, Texas Civil Statutes, Article 4495b, §5.08(b). A patient may obtain copies of his or her records in accordance with the provisions of subsections (j) and (k) of §5.08.

TRD-9211344

Opinions

DM-146 (RQ-355). Request from John Whitmire, Chairman, Committee on Intergovernmental Relations, Texas State Senate, Austin, concerning whether the San Antonio Metropolitan Health District may limit public access to and charge a search fee for locating birth and death records which are made public by the Open Records Act.

Summary of Opinion. The San Antonio Municipal Health District Registrar of Vital Statistics, a local registrar under the Health and Safety Code, §191.022, cannot allow

inspection of original birth records over 50 years old and death records over 25 years old. While such records are not excepted from disclosure under the Open Records Act, the local registrar is required to provide copies and to charge a fee, by virtue of the Health and Safety Code, Title 3, which governs vital statistics records, and regulations and instructions promulgated thereunder, 25 TAC Chapter 181; *Bureau of Vital Statistics Manual for Local Registrars*.

TRD-9211345

DM-147 (RQ-106). Request from Ron Jackson, Compact Administrator, Interstate Compact on Juveniles, Texas Youth Commission, Austin, concerning whether the Uniform Compact on Juveniles by Texas authorizes and requires Texas juvenile probation officers to supervise delinquent juveniles as defined by the compact who would not be defined as juvenile delinquents under Chapter 51 of the Texas Family Code.

Summary of Opinion. By adopting the Uniform Interstate Compact on Juveniles (the ICJ) as Family Code, Chapter 25, the legislature authorized juvenile probation departments to extend their services to any case properly referred to them through the ICJ, regardless of the age of the individual so referred or the nature of the adjudicating offense. Once the state accepts supervision

of an out-of-state delinquent juvenile under Article VII of the ICJ, Family Code, §25.08 requires juvenile probation officers to provide the mandated services.

TRD-9211340

DM-148 (RQ-167). Request from William C. Wilson, Adjutant General, Texas Army National Guard, Austin, concerning authority of the Texas National Guard to obtain liability insurance with federal funds to cover National Guard officers and employees who operate a mobile shooting range for recruitment purposes.

Summary of Opinion. The adjutant general, as chief of the Texas National Guard, has authority to obtain liability insurance, with federal funds, to cover National Guard officers and employees who operate a mobile shooting range for recruitment purposes. The funds to pay the insurance premium are appropriated by Article V, §22(1), of the current General Appropriations Act.

Texas Civil Statutes, Article 6252-19a, which requires that the state obtain liability insurance from a company authorized to transact business in Texas, applies only to liability insurance obtained to cover liabilities arising from the use or operation of motor vehicles, power equipment, aircraft,

and watercraft, and thus is not applicable in this case.

TRD-9211341

DM-153 (RQ-322). Request from David R. Smith, M.D., Commissioner, Texas Department of Health, Austin, concerning whether the Texas Abortion Facility Reporting and Licensing Act, Health and Safety Code, Chapter 245, authorizes the Department of Health to release information relating to physicians and nurses to the State Board of Medical Examiners and Board of Nurse Examiners, or authorizes the department to publicly disclose that an office or clinic is not a licensed abortion facility.

Summary of Opinion. The Texas Abortion Facility and Licensing Act, Health and Safety Code, Chapter 245, does not permit the Texas Department of Health to release information to the Board of Medical Examiners or the Board of Nurse Examiners for the purpose of disciplining physicians or nurses for "unprofessional or unethical conduct." Nor does the act permit the department to inform a person that an office, clinic, or facility is not licensed as an abortion facility.

TRD-9211342



(Editor's Note: The Attorney General Opinion DM-154 (RQ-371) is being published in its entirety. An explanation of the opinion is as follows. In the Special Acts of 1991, Chapter 13, §25(b), the Texas Legislature passed the following amendment to §824.304(c): "Section 824.304(c), Government Code, is repealed only if required by federal law. The attorney general shall determine if the repeal is so required, and shall enter a finding to that fact and publish the finding in the Texas Register. That section is repealed only if the attorney general makes such a finding before September 1, 1992." (House Bill 158, Acts 1991, 72nd Legislative, First Called Session, Chapter 13, §25(b), at 266, 273.))

DM-154 (RQ-371).

Mr. Wayne Blevins

Executive Secretary

Teacher Retirement System of Texas

1000 Red River Street

Austin, Texas 78701-2698

Dear Mr. Blevins:

You requested the attorney general's opinion concerning whether Government Code section 824.304(c) conflicts with the federal Age Discrimination in Employment Act of 1967 (the "act"), Pub. L. No. 90-202, 81 Stat. 602 (1967), as amended by the Older Workers Benefit Protection Act, Pub. L. No. 101-433, 104 Stat. 978 (1990), now codified at 29 U.S.C. §§621-34. We conclude that section 824.304(c) conflicts with the federal acts and is therefore pre-empted by federal law and void.

Title 8, subtitle C of the Government Code created the Teachers Retirement System of Texas (TRS) to establish a system of benefits for retired teachers and to provide for administration and management of such a system. See Gov't Code §§824.001-701. The retirement benefits offered by the system are based on years of teaching service. See Gov't Code §§824.202-204. If a member of the system becomes disabled, the member is entitled to a disability retirement annuity. *Id.* §824.302. If a disability retiree is restored to active service, the disability retirement annuity is discontinued and the retiree must again become a member of the retirement system. *Id.* §824.307. However, Government Code section 824.304(c) states the following special provision applicable to TRS members older than 60 years: "If a person receives a disability retirement annuity under Subsection (b) and the retirement begins after or continues until the person becomes 60 years old, the disability is conclusively presumed continuous for the rest of the person's life." Therefore, under the present Government Code, a disabled member who cures his disability before the age of 60 may return to active service and earn additional years of service credit toward retirement; however, a disabled member who cures his disability after reaching the age of 60 is conclusively presumed disabled for life, cannot revoke his disability, and cannot earn additional years of service credit toward retirement.

In 1967 Congress passed the Age Discrimination in Employment Act (ADEA) with the express intent "to promote employment of older persons based on their ability rather than age [and] to prohibit arbitrary age discrimination in employment." 29 U.S.C. §621(b). The ADEA declares:

It shall be unlawful for an employer

(1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age: [or]

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age.

Id. §623(a). The term "employer" includes "a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State." *Id.* §630(b)(2). The act's prohibition against discrimination applies to individuals at least 40 years of age and less than 70 years of age. *Id.* §631(a).

Despite the ADEA's broad prohibition against age discrimination, the Supreme Court in *Public Employees Retirement System of Ohio v. Betts*, 492 U.S. 158 (1989) held that the act prohibited age discrimination in hiring, firing, wages, and salary, but did not prohibit discrimination in the furnishing of fringe benefits such as retirement or pension packages. Congress then passed the Older Workers Benefit Protection Act of 1990 with the express intent of overturning *Betts*. Pub. L. No. 101-433, §101, 104 Stat. 978 (1990); see also S. Rep. No. 101-263, 101st Cong., 2d Sess. 5, 14-19 (1990), reprinted in 1990 U.S.C.C.A.N. 1510, 1519-1524. The Senate Subcommittee on Labor and the Senate Special Committee on Aging endorsed the amendments and the overruling of *Betts* as follows:

Through this legislation, Congress intends to make unmistakably clear that the ADEA's purpose of eliminating arbitrary age discrimination in all employment includes the elimination of age discrimination in all forms of employee benefits. It is little consolation to an older worker to be protected from discriminatory wage payments if an employer is free to discriminate based on age in the broad range of employee benefits that are included as an individual's compensation, benefits that often are valued between one-quarter and one-third of earned wages.

S. Rep. No. 101-263 at 16-17, reprinted in 1990 U.S.C.C.A.N. at 1521-22. The 1990 amendments to the ADEA added the following new subsection to make it clear that Congress intended to prohibit discrimination as to fringe benefits: "The term 'compensation, terms, conditions, or privileges of employment' encompasses all employee benefits, including such benefits provided pursuant to a bona fide employee benefit plan." Pub. L. No. 101-433, §102, now codified at 29 U.S.C. §630(L). The amendments further provided that: "No...employee benefit plan or voluntary early retirement incentive plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by [this act], because of the age of such individual." Pub. L. No. 101-433, §103, now codified at 29 U.S.C. §623(f)(2).

The present Government Code allows a disabled TRS member who cures his disability before the age of 60 to return to active service and earn additional years of service credit towards retirement. See Gov't Code §824.307. However, pursuant to Government Code section 824.304(c), a disabled TRS member who cures his disability after reaching the age of 60 is deemed disabled for life, cannot revoke his disability, cannot rejoin the TRS system, and cannot earn additional years of service credit toward retirement. We conclude that denying an individual older than 60 years old an opportunity to rejoin the retirement system, while granting this same opportunity to one younger than 60 years old, constitutes discrimination against an individual between the ages of 60 and 70 years old "with respect to his compensation, terms, conditions, or privileges of employment." This violates ADEA section 621(b)(1). See *American Ass'n of Retired Persons v. Farmers Group*, 943 F.2d 996, 1001-02(9th Cir. 1991)(pension plan provisions denying accruals of service and salary credits to employees over 65 years old violated ADEA, 29 U.S.C. §623(a)(1)). We also conclude that this disparity adversely affects the status of such employees older than 60 years solely because of their age in violation of section 621(b)(2).

Under the Supremacy Clause of the United States Constitution, article VI, clause 2, state law is pre-empted where the state law conflicts with federal law. *English v. General Electric Co.*, 496 U.S. 72, 110 S.Ct. 2270, 2275 (1990). "[T]he [Supreme] Court has found pre-emption where it is impossible for a private party to comply with both state and federal requirements or where state law 'stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'" *Id.* 110 S. Ct. at 2275. In the present case Government Code section 824.304(c) conflicts with the federal ADEA as amended; therefore, section 824.304(c) is pre-empted by the federal act and is void. See *Maryland v. Louisiana*, 451 U.S. 725, 748 (1981) ("[A] state statute is void...to [the] extent that it conflicts with [a] federal statute."); see also Attorney General Opinion DM-49 (1991) at 7.¹

¹In chapter 13, section 25(b) of the Special Acts of 1991, the Texas Legislature passed the following amendment to section 824.304(c):
Section 824.304(c), Government Code, is repealed only if required by federal law. The attorney general shall determine if the repeal is so required, and shall enter a finding to that fact and publish the finding in the *Texas Register*. That sections is repealed only if the attorney general makes such a finding before September 1, 1992.

H.B. 158, Acts 1991, 72d Leg., 1st C.S., ch. 13, §25(b), at 266, 273.

We believe that the proper procedure for the repeal of section 824. 304(c) is for the Texas Legislature to pass a bill unconditionally and expressly repealing the former law. The Texas Constitution reserves the power to repeal a law to the legislature in article I, section 28, which provides: "No power of suspending laws in this State shall be exercised except by the Legislature." If the Texas Legislature wishes to remove Government Code section 824.304(c) from the books, the legislature should pass a new bill expressly doing so. Tex. Const. art. III, §30. In the meantime and for the reasons previously discussed, Government Code section 824.304(c) is pre-empted by federal law and is void.

Dan Morales

Attorney General of Texas

TRD-9211343



Emergency Sections

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

Symbology in amended emergency sections. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 330. Municipal Solid Waste

Subchapter A. General Information

• 31 TAC §330.5

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §330.5, for a 60-day period effective August 20, 1992. The text of amended §330.5 was originally published in the May 1, 1992, issue of the *Texas Register* (17 TexReg 3091).

Issued in Austin, Texas, on August 19, 1992.

TRD-9211379 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Effective date: August 20, 1992

Expiration date: October 19, 1992

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



Subchapter R. Management of Whole Used or Scrap Tires

• 31 TAC §§330.801, 330.802, 330.804-330.863, 330.865

The Texas Water Commission is renewing the effectiveness of the emergency adoption of repealed §§330.801, 330.802, 330.804-330.863, and 330.865 for a 60-day period effective August 20, 1992. The text of repealed §§330.801, 330.802, 330.804-330.863, and 330.865 was originally published in the May 1, 1992, issue of the *Texas Register* (17 TexReg 3096).

Issued in Austin, Texas, on August 19, 1989.

TRD-9211409 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Effective date: August 20, 1992

Expiration date: October 19, 1992

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



• 31 TAC §§330.801, 330.802, 330.805, 330.818, 330.821-330.828, 330.831, 330.848, 330.851-330.857, 330.861-330.867, 330.871-330.880, 330.891

The Texas Water Commission is renewing the effectiveness of the emergency adoption of new §§330.801, 330.802, 330.805-330.818, 330.821-330.828, 330.831, 330.848, 330.851-330.857, 330.861-330.867, 330.871-330.880, and 330.891 for a 60-day period effective August 20, 1992. The text of new §§330.801, 330.802, 330.805-330.818, 330.821-330.828, 330.831, 330.848, 330.851-330.857, 330.861-330.867, 330.871-330.880, and 330.891 was originally published in the May 1, 1992 issue of the *Texas Register* (17 TexReg 3116).

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

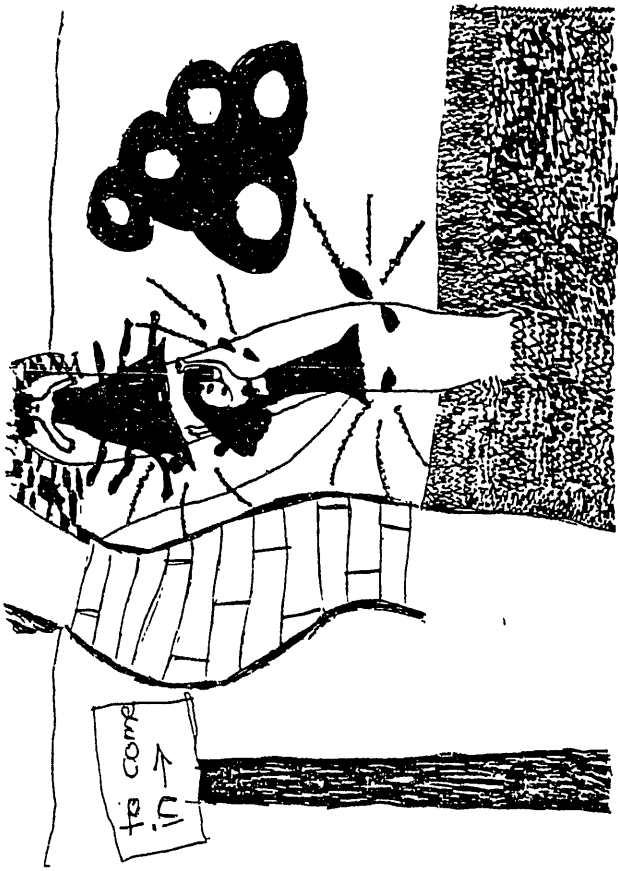
TRD-9211380 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Effective date: August 20, 1992

Expiration date: October 19, 1992

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

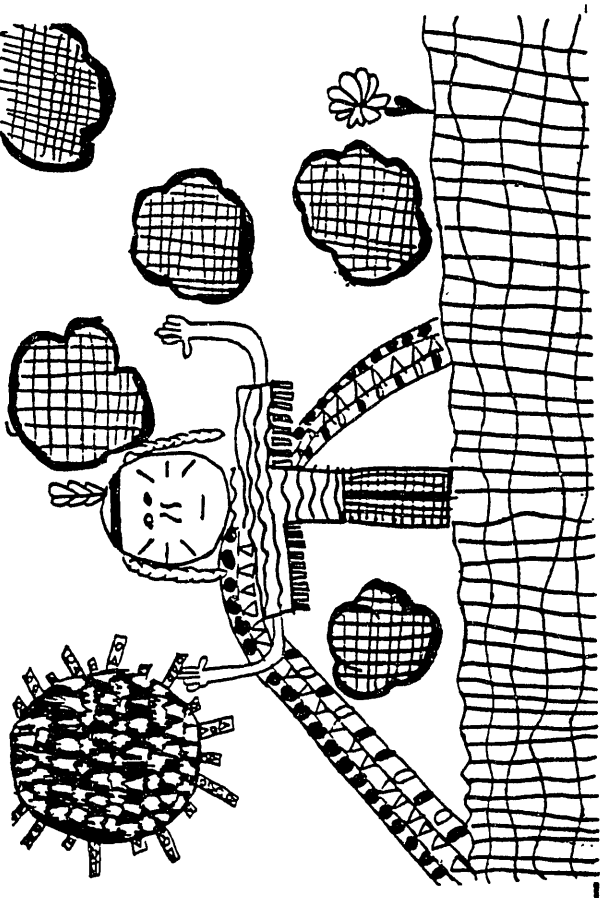




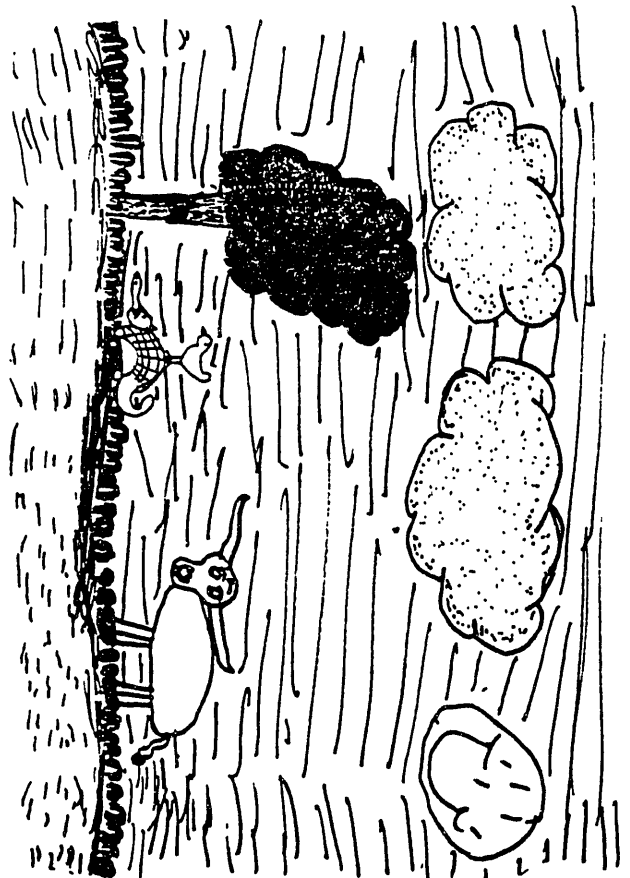
K-21



K-22



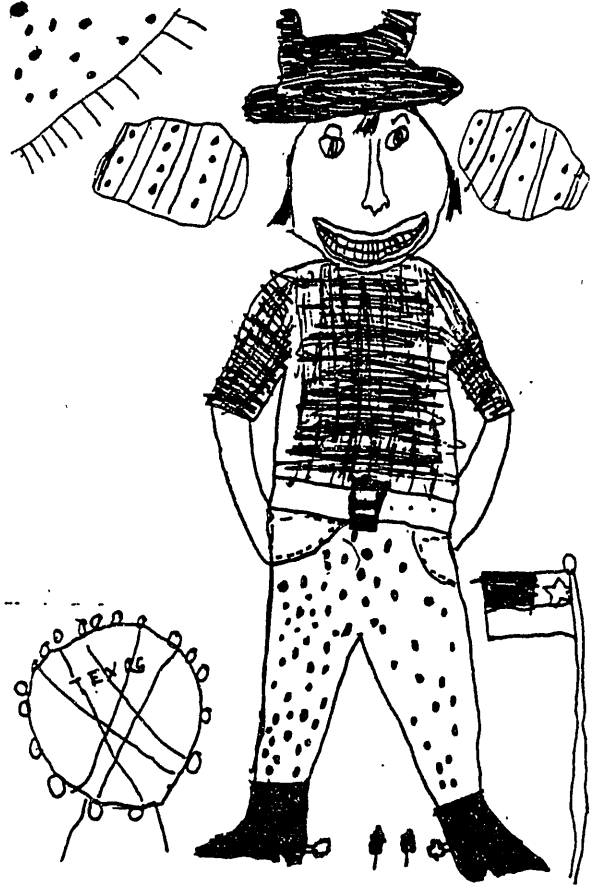
K-23



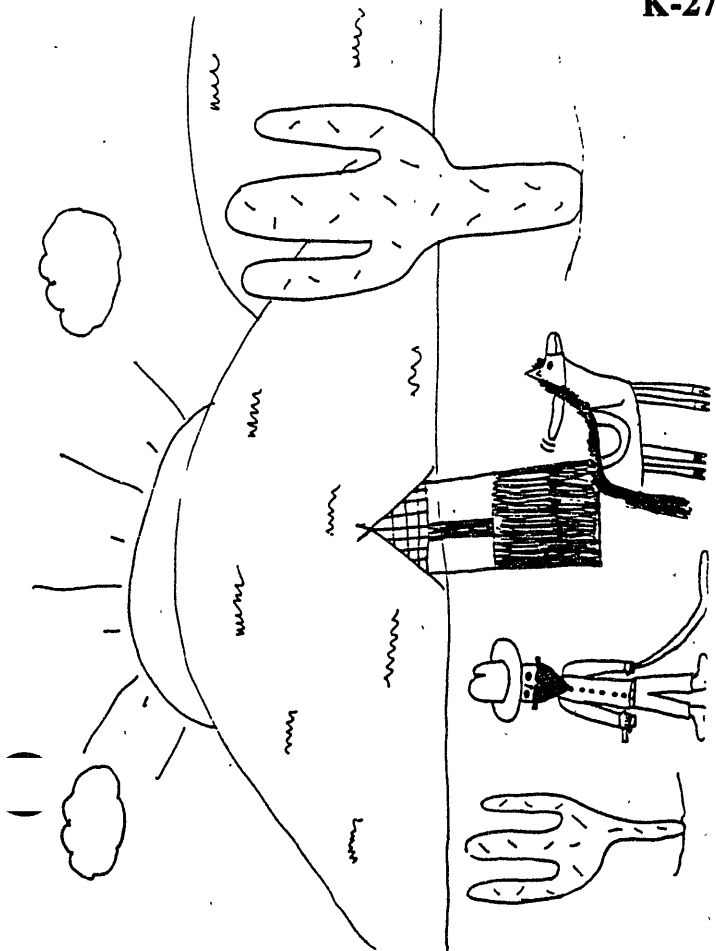
K-24



K-25

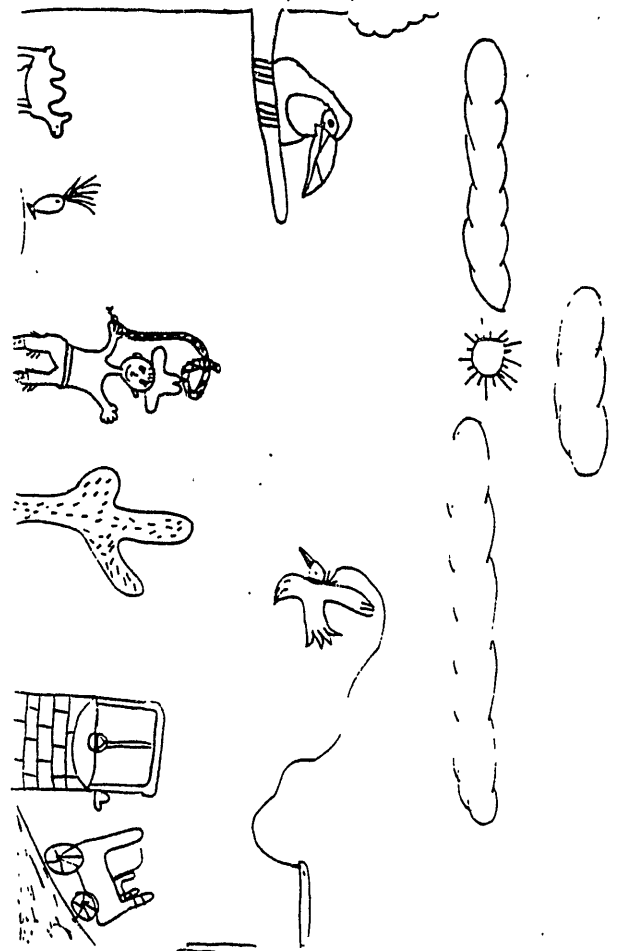


K-26



K-27

K-28



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 22. EXAMINING BOARDS

Part II. State Board of Barber Examiners

Chapter 51. Practice and Procedure

Barber Colleges, Schools, and Students

• 22 TAC §51.16

The State Board of Barber Examiners proposes an amendment to §51.16, concerning equipment for students. The proposed amendment specifies a time period concerning the issuance of textbooks and tools for students and updates required and optional equipment.

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

Ms. McCrorey also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that students will have necessary equipment to provide advertised services. 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 will be none-equipment and textbooks are included in enrollment fees.

Comments on the proposal may be submitted to Jo King McCrorey, Executive Director, 9101 Burnet Road #103, Austin, Texas 78758, (512) 835-2040.

The amendment is proposed under Texas Civil Statutes, Article 8407a, §28(a), which provide the State Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

§51.16. *Equipment for Students.*

(a) The barber school or college must issue within seven days of enrollment each student his or her own textbook or books which shall contain all subjects referred to in the Texas Barber Law, §9. The board will approve each textbook or book before it may be used in the barber school or college curriculum.

(b) Each student must be equipped with all the necessary barber's tools equivalent to any Class A barber's kit, and shall have his or her own new personal tools which shall be issued within 30 days of enrollment including [include] the following tools:

(1) one professional electric clipper of modern design;

(2)-(5) (No change.)

(6) one razor [two razors];

(7)-(15) (No change.)

(c) Optional equipment for the kit will be as follows:

(1) (No change.)

(2) one razor hone; and

(3) one straight razor [one hair net];

[(4) one shave mug; and

(5) one shaving brush.]

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 August 14, 1992.

TRD-9211296

Jo King McCrorey
Executive Director
State Board of Barber
Examiners

Earliest possible date of adoption: September 25, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆ Informal Hearing Disposition

• 22 TAC §51.131

The State Board of Barber Examiners proposes new §51.131, concerning informal hearing dispositions. The proposed new section specifies informal board procedures as required by Senate Bill 430.

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

Ms. McCrorey, also has determined that for each year of the first five years the section is

in effect the public benefit anticipated as a result of enforcing the section will be to provide an individual the opportunity to show compliance of the law. 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 Jo King McCrorey, Executive Director, 9101 Burnet Road, #103, Austin, Texas 78758, (512) 835-2040.

The new section is proposed under Texas Civil Statutes, Article 8407a, §28(a), which provide the State Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

§51.131. *Informal Disposition.* Informal hearings of disciplinary actions may be conducted after the filing of a written complaint, but before any formal board action is taken. Informal disposition may be made of any proceeding by stipulation, agreed settlement, consent order, or default. Informal hearings may be chaired by one board member, or designate or representative of the board. The Barber Board shall present its information and the party or parties affected shall have the opportunity to show compliance with the law at the informal hearing, in an effort to bring about a just and equitable solution of the problems without a formal hearing before the full board. All informal dispositions of matters shall not be final and effective until the full board at a regularly called session, endorses and renders its acceptance of the proposed agreement of the parties. Such informal hearings shall be held without prejudice to the right of the board thereafter, if the controversy is not resolved, to institute a formal hearing governing the same matters, or the right of the licensee involved, if the controversy is not resolved, to request a formal hearing.

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 August 14, 1992.

TRD-9211294

Jo King McCrorey
Executive Director
State Board of Barber
Examiners

Earliest possible date of adoption: September 25, 1992

For further information, please call: (512) 835-2040

Part XV. Texas State Board of Pharmacy

Chapter 291. Pharmacies

Community Pharmacy (Class A)

• 22 TAC §§291.31-291.36

The Texas State Board of Pharmacy proposes amendments to §§291.31-291.36, concerning definitions, personnel, operational standards, records, triplicate prescription requirements, and Class A pharmacies compounding sterile pharmaceuticals. These proposed rules, if adopted, will implement the prospective drug review provisions of the Federal Omnibus Budget Reconciliation Act of 1990 and set standards for patient counseling and prospective drug review for all patients by pharmacists in Class A pharmacies in Texas. In addition, the proposed rules will correct nonsubstantive inconsistencies in the rules.

Fred S. Brinkley, Jr., R.Ph., M.B.A., executive director/secretary, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections are in effect are as follows: fiscal year (FY) 93-\$0; FY 1994-34,475; FY 1995-29,641; FY 1996-29,641; and FY 1997-29,641. There will be no effect on local government.

The cost of compliance with the sections for small and large businesses will be the cost of purchasing written drug information to provide to each patient on the dispensing of a prescription. This cost will vary depending upon the source and extent of information provided and could range from \$160 to \$400 per year per pharmacy.

Mr. Brinkley 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 increased communication between pharmacists and patients concerning drugs and drug therapies. As a result, patients will become better informed about the drugs they are taking, what the drug is supposed to do, when and how to take the drug, side effects of the drug, and what to do in the event of a missed dose.

Such knowledge will promote patient compliance. It is estimated that 30% to 50% of all prescriptions fail to work because they are used improperly. Through increased patient counseling, the proposed rule amendments should have a positive effect on reducing the percentage of patients who misuse their prescription drugs. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to the Fred S. Brinkley, Jr., R. Ph., Executive Director/Secretary, Texas State Board of

Pharmacy, 8505 Cross Park Drive, Suite 110, Austin, Texas, 78754-4594. A public hearing to receive oral comments on the proposed rule amendments will be held, Tuesday, September 15, 1992, at 9 a.m., at the TSBME Board Room, 1812 Centre Creek, Room 203, Austin.

The amendments are proposed under the Texas Pharmacy Act (Texas Civil Statutes, Article 4542a-1) §17, which gives the board the authority to specify minimum standards for drug storage, maintenance of prescription drug records, and procedures for the delivery, dispensing in a suitable container appropriately labeled, or providing of prescription drugs or devices within the practice of pharmacy.

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

Confidential health information—Any health related information maintained by the pharmacy in the patient's records, which is privileged and may be released only to:

(A) the patient, or as the patient directs;

(B) those health care professionals where, in the pharmacist's professional judgment, such release is necessary to protect the patient's health and well being; and

(C) other such persons or governmental agencies authorized by law to receive such confidential information.

Patient counseling—Communication by the pharmacist of information to the patient or patient's agent, in order to improve therapy by ensuring proper use of drugs and devices.

Prospective drug review—A review of the patient's medication record and prescription drug order prior to dispensing.

§291.32. Personnel.

(a) Pharmacist-in-charge.

(1) (No change.)

(2) Responsibilities.

The pharmacist-in-charge shall have the responsibility for, at a minimum, the following:

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

(C) assuring that a pharmacist communicates to the patient or the patient's agent on all new prescription drug orders and on refills as the pharmacist deems necessary, information concerning the prescription drug or device as required in §291.33(c) of this title

(relating to Operational Standards) [assuring that information concerning prescription and over-the-counter drugs is available to the patient when required by law or requested by the patient];

(D) assuring that a pharmacist communicates to the patient or the patient's agent on their request, information concerning any prescription drugs dispensed by the pharmacy;

(E) assuring that a reasonable effort is made to obtain, record, and maintain patient medication records;

(F)(D) education and training of pharmacy supportive personnel;

(G) [(E)] establishment of policies for procurement of prescription drugs and devices and other products dispensed from the Class A pharmacy;

(H)(F) disposal and distribution of drugs from the Class A pharmacy;

(I)(G) bulk compounding of drugs;

(J) [(H)] storage of all materials, including drugs, chemicals, and biologicals;

(K)(I) maintaining records of all transactions of the Class A pharmacy necessary to maintain accurate control over and accountability for all pharmaceutical materials required by applicable state and federal laws and sections;

(L)(J) establishment and maintenance of effective controls against the theft or diversion of prescription drugs, and records for such drugs;

(M) [(K)] maintenance of records in a data processing system such that the data processing system is in compliance with Class A (community) pharmacy requirements; and

(N)(L) legal operation of the pharmacy, including meeting all inspection and other requirements of all state and federal laws or sections governing the practice of pharmacy.

(b) Pharmacists.

(1) (No change.)

(2) Duties. Duties which may only be performed by a pharmacist are as follows:

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

(D) interpreting patient medication records [profiles, if applicable];

(E)-(F) (No change.)

(F) bulk compounding;

(G) affixing the label to the prescription container and performing the final check of the dispensed prescription before delivery to the patient; [and]

(H) communicating [providing information] to the patient or patient's agent on all new prescription drug orders and on refills as the pharmacist deems necessary, information concerning the prescription drug or device as required in §291.33(c) of this title; and [, at the request of the patient or the patient's agent, or as the pharmacist in his or her professional judgement deems necessary for the proper utilization of the drug or device prescribed.]

(I) communicating to the patient or the patient's agent on his or her request, information concerning any prescription drugs dispensed by the pharmacy;

(J) making a reasonable effort to obtain, record, and maintain patient medication records.

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

§291.33. Operational Standards.

(a) (No change.)

(b) Environment.

(1) General requirements.

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

(D) Beginning January 1, 1995, a [A] Class A pharmacy [initially licensed after June 1, 1989.] shall contain an area which is suitable for confidential patient counseling;

(E)-(F) (No change.)

(2) (No change.)

(c) Prescription Dispensing and delivery.

(1) Patient Counseling and provision [Provision] of drug information.

(A) To optimize drug therapy, a pharmacist shall communicate to the patient or the patient's agent, information concerning the dispensed prescription drug or device including, at a minimum, the following:

(i) the name and description of the drug or device;

(ii) dosage form, dosage, route of administration, and duration of drug therapy;

(iii) special directions and precautions for preparation, administration, and use by the patient;

(iv) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;

(v) proper storage;

(vi) refill information; and

(vii) action to be taken in the event of a missed dose.

(B) Such communication shall be:

(i) provided with each new prescription drug order, and if the pharmacist deems appropriate, with prescription drug order refills;

(ii) provided for any prescription drug order dispensed by the pharmacy on the request of the patient or patient's agent;

(iii) communicated orally in person whenever practicable (beginning January 1, 1994, shall be communicated orally in person unless the patient or patient's agent is not at the pharmacy or a specific communication barrier prohibits such oral communication); and

(iv) reinforced with written information.

(C) Nothing in this subparagraph shall be construed as requiring a pharmacist to provide consultation when a patient or patient's agent refuses such consultation.

(D) In addition to the requirements of subparagraphs (A)-(C) of this paragraph, if a prescription drug order is delivered to the patient at the pharmacy the following is applicable.

(i) [To assure the proper utilization of the drug or device prescribed, a pharmacist shall provide to the patient or

his or her agent at their request or as the pharmacist in his or her professional judgement deems necessary:

[(I) any information necessary for the proper utilization of the drug or device prescribed, such as the directions for use; and/or

[(II) any precautions or warnings applicable to the drug or device prescribed, such as warnings of potential harmful effects of combining any product containing alcohol with the drug product prescribed.

[(ii)] So that a patient will have access to information concerning his or her prescription, a prescription may not be delivered to a patient unless a pharmacist is in the pharmacy, except as provided in clause (ii) [(iii)] of this subparagraph.

[(ii)][(iii)] An agent of the pharmacist may deliver a prescription drug order to the patient or his or her agent during short periods of time when a pharmacist is absent from the pharmacy, provided the short periods of time do not exceed two hours, and provided a record of the delivery is maintained containing the following information:

(I)-(V) (No change.)

[(ii)][(iv)] Any prescription delivered to a patient when a pharmacist is not in the pharmacy must meet the requirements described in subparagraph (E) [(B)] of this paragraph.

[(iv)][(v)] A Class A pharmacy shall make available for use by the public, a current or updated edition of the United States Pharmacopeia Dispensing Information, Volume II (Advice to the Patient), or, another source of such information, such as patient information leaflets.

(E) In addition to the requirements of subparagraphs (A)-(C) of this paragraph, [(B)] if [If] a prescription drug order is delivered to the patient or his or her agent at the patient's residence or other designated location, the following is applicable.

(i) if prescriptions are routinely delivered outside the area covered by the pharmacy's local telephone service, the pharmacy shall provide a toll free telephone line which is answered during normal business hours to enable communication between the patient and a pharmacist;

[(ii)][(i)] the pharmacist shall place on the prescription container or on a separate sheet delivered with the prescription container in both English and

Spanish the local and if applicable, toll free telephone number of the pharmacy and the statement: "A pharmacist is available during normal business hours to answer questions concerning your prescription;"

(F)[(ii)] The provisions of this paragraph do [This subparagraph does] not apply to patients in facilities where drugs are administered to patients by a person required [authorized] to do so by the laws of the state (i.e., nursing homes).

(2) Prospective drug review.

(A) For the purpose of promoting therapeutic appropriateness, a pharmacist shall, at the time of dispensing a prescription drug order, review the patient's medication record. Such review shall at a minimum identify clinically significant:

- (i) inappropriate drug utilization;
- (ii) therapeutic duplication;
- (iii) drug-disease contraindications;
- (iv) drug-drug interactions;
- (v) incorrect drug dosage or duration of drug treatment;
- (vi) drug-allergy interactions; and
- (vii) clinical abuse/misuse.

(B) Upon identifying any clinically significant conditions, situations, or items listed in subparagraph (A) of this paragraph, the pharmacist shall take appropriate steps to avoid or resolve the problem including consultation with the prescribing practitioner.

(3)[(2)] Prescription containers.

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

(4)[(3)] Labeling. At the time of delivery of the drug, the dispensing container shall bear a label with at least the following information:

(A)-(M) (No change.)

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

§291.34. Records.

(a) (No change.)

(b) Prescriptions.

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

(3) Verbal prescription drug orders.

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

(C) If a prescription drug order is transmitted to a pharmacist verbally, the pharmacist shall note any substitution instructions by the practitioner or practitioner's agent on the file copy of the prescription drug order. Such file copy may follow the two-line format indicated in paragraph (2)(B) [(1)(B)] of this subsection, or any other format that clearly indicates the substitution instructions.

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

(4) (No change.)

(5) Authorization for substitution.

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

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

(c) Patient Medication Records.

(1) A patient medication record system shall be maintained by all pharmacies for patients to whom prescription drug orders are dispensed.

(2) The patient medication record system shall provide for the immediate retrieval of information for the previous year which is necessary for the dispensing pharmacist to conduct a prospective drug review at the time a prescription drug order is presented for dispensing.

(3) The pharmacist-in-charge shall assure that a reasonable effort is made to obtain and record in the patient medication record at least the following information:

(A) full name of the patient for whom the drug is prescribed;

(B) address and telephone number of the patient;

(C) patient's age or date of birth;

(D) patient's gender;

(E) any known allergies, drug reactions, idiosyncrasies, and chronic conditions or disease states of the patient and the identity of any other drugs currently being used by the patient which may relate to prospective drug review;

(F) pharmacist's comments relevant to the individual's drug therapy, including any other information unique to the specific patient or drug; and

(G) a list of all prescription drug orders dispensed (new and refill) to the patient by the pharmacy during the last two years. Such list shall contain the following information:

(i) date dispensed;

(ii) name, strength, and quantity of the drug dispensed;

(iii) prescribing practitioner's name;

(iv) unique identification number of the prescription; and

(v) name or initials of the dispensing pharmacists.

(4) A patient medication record shall be maintained in the pharmacy for two years. If patient medication records are maintained in a data processing system, all of the information specified in this subsection shall be maintained in a retrievable form for two years and information for the previous year shall be maintained on-line.

(d)[(c)] Prescription drug order records maintained in a manual system.

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

(e)[(d)] Prescription drug order records maintained in a data processing system.

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

(f)[(e)] Limitation to one type of record keeping system. When filing prescription drug order information a pharmacy may use only one of the two systems described in subsection (d) [(c)] or (e) [(d)] of this section.

(g)[(f)] Distribution of controlled substances to another registrant. A pharmacy may distribute controlled substances to a practitioner, another pharmacy, or other registrant, without being registered to distribute, under the following conditions.

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

(h)[(g)] Other records. Other records to be maintained by a pharmacy:

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

(i)[(h)] Permission to maintain central records. Any pharmacy that uses a centralized recordkeeping system for invoices and financial data shall comply with the following procedures.

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

(j)[(i)] Ownership of pharmacy records. For the purposes of these sections, a

pharmacy licensed under the Act is the only entity which may legally own and maintain prescription drug records.

(k)[(j)] Confidentiality. A pharmacist shall provide adequate security of prescription drug order and patient medication records to prevent indiscriminate or unauthorized access to confidential health information.

§291.35. Triplicate Prescription Requirements.

(a)-(e) (No change.)

(f) Pharmacist responsibilities.

(1) (No change.)

(2) No Schedule II prescription may be dispensed after the end of the seventh [second] day following the date of issuance.

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

§291.36. Class A Pharmacies Compounding Sterile Pharmaceuticals.

(a) (No change.)

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

(1)-(8) (No change.)

(9) Confidential health information—Any health related information maintained by the pharmacy in the patient's records, which is privileged and may be released only to:

(A) the patient, or as the patient directs;

(B) those health care professionals where, in the pharmacist's professional judgment, such release is necessary to protect the patient's health and well being; and

(C) other such persons or governmental agencies authorized by law to receive such confidential information.

(10)[(9)] Controlled substance—A drug, immediate precursor, or other substance listed in Schedules I-V or Penalty Groups 1-4 of the Texas Controlled Substances Act, as amended, or a drug, immediate precursor, or other substance included in Schedule I, II, III, IV, or V of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (Public Law 91-513).

(11)[(10)] Cytotoxic—A pharmaceutical that has the capability of killing living cells.

(12)[(11)] Dangerous drug—Any drug or device that is not included in Penalty Groups 1-4 of the Controlled Substances Act and that is unsafe for self-medication or any drug or device that bears or is required to bear the legend:

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

(13) [(12)] Deliver or delivery—The actual, constructive, or attempted transfer of a prescription drug or device or controlled substance from one person to another, whether or not for a consideration.

(14) [(13)] Designated agent—An individual under the supervision of a practitioner, designated by the practitioner, and for whom the practitioner assumes legal responsibility, who communicates the practitioner's instructions to the pharmacist.

(15)[(14)] Device—An instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, that is required under federal or state law to be ordered or prescribed by a practitioner.

(16)[(15)] Dispense—Preparing, packaging, compounding, or labeling for delivery a prescription drug or device in the course of professional practice to an ultimate user or his agent by or pursuant to the lawful order of a practitioner.

(17)[(16)] Distribute—The delivery of a prescription drug or device other than by administering or dispensing.

(18)[(17)] Downtime—Period of time during which a data processing system is not operable.

(19)[(18)] Enteral—Within or by the way of the intestine.

(20)[(19)] Facsimile (FAX) prescription drug order—A prescription drug order which is transmitted by an electronic device which sends an exact image to the receiver (pharmacy) over telephone lines.

(21)[(20)] Full-time pharmacist—A pharmacist who works in a pharmacy from 30 to 40 hours per week or if the pharmacy is open less than 60 hours per week, one-half of the time the pharmacy is open.

(22)[(21)] Hard-copy—A physical document that is readable without the use of a special device (i.e., cathode ray tube (CRT), microfiche reader, etc).

(23)[(22)] Medical Practice Act—The Texas Medical Practice Act, Texas Civil Statutes, Article 4495b, as amended.

(24)[(23)] Original prescription—The:

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

(25)[(24)] Parenteral—Sterile preparations of drugs for injection through one or more layers of the skin.

(26)[(25)] Part-time pharmacist—A pharmacist who works less than full-time.

(27) Patient counseling—Communication by the pharmacist of information to the patient or patient's agent, in order to improve therapy by ensuring proper use of drugs and devices.

(28)[(26)] Pharmacist-in-charge—The pharmacist designated on a pharmacy license as the pharmacist who has the authority or responsibility for a pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

(29)[(27)] Physician assistant—A physician assistant recognized by the Texas State Board of Medical Examiners as having the specialized education and training required under the Medical Practice Act, §3.06(d), and issued an identification number by the Texas State Board of Medical Examiners.

(30)[(28)] Practitioner—

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

(31)[(29)] Repackaging—The act of repackaging and relabeling quantities of drug products from a manufacturer's original commercial container into a prescription container for dispensing by a pharmacist to the ultimate consumer.

(32)[(30)] Prescription drug—

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

(33)[(31)] Prescription drug order—

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

(34)[(32)] Registered nurse—A registered nurse recognized by the Texas State Board of Nurse Examiners as having the specialized education and training necessary to carry out a prescription drug order and issued an identification number by the Texas State Board of Nurse Examiners.

(35)[(33)] Sterile pharmaceutical—A dosage form free from living microorganisms.

(36)[(34)] Supportive personnel—Those individuals utilized in pharmacies whose responsibility it shall be to provide nonjudgmental technical services concerned with the preparation and distribution of drugs under the direct supervision of and responsible to a pharmacist.

(37)[(35)] Texas Controlled Substances Act—The Texas Controlled Substances Act, Health and Safety Code, Chapter 481, as amended.

(c) Personnel.

(1) Pharmacist-in-charge.

(A) (No change.)

(B) Responsibilities. The pharmacist-in-charge shall have the responsibility for, at a minimum, the following:

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

(iii) [assuring that information concerning prescription and over-the-counter drugs is available to the patient when required by law or requested by the patient] assuring that a pharmacist communicates to the patient or the patient's agent on all new prescription drug orders and on refills as the pharmacist deems necessary, information concerning the prescription drug or device as required in subsection (c)(3) of this section;

(iv) assuring that a pharmacist communicates to the patient or the patient's agent on their request, information concerning any prescription drugs dispensed by the pharmacy;

(v) assuring that a reasonable effort is made to obtain, record, and maintain patient medication records;

(vi)[(iv)] education and training of pharmacy supportive personnel;

(vii)[(v)] establishment of policies for procurement of prescription drugs and devices and other products dispensed from the Class A pharmacy;

(viii)[(vi)] disposal and distribution of drugs from the Class A pharmacy;

(ix)[(vii)] bulk compounding of drugs;

(x)[(viii)] preparation and sterilization of sterile pharmaceuticals compounded within the pharmacy;

(xi)[(ix)] admixture of sterile pharmaceuticals, including education and training of personnel concerning incompatibility;

(xii)[(x)] participation in those aspects of the patient care evaluation program relating to pharmaceutical material utilization and effectiveness;

(xiii)[(xi)] implementation of the policies and decisions relating to pharmaceutical services;

(xiv)[(xii)] storage of all materials, including drugs, chemicals, and biologicals;

(xv)[(xiii)] maintaining records of all transactions of the Class A pharmacy necessary to maintain accurate control over and accountability for all phar-

maceutical materials required by applicable state and federal laws and rules;

(xvi)[(xiv)] establishment and maintenance of effective controls against the theft or diversion of prescription drugs, and records for such drugs;

(xvii)[(xv)] maintenance of records in a data processing system such that the data processing system is in compliance with this section;

(xviii)[(xvi)] assuring that the pharmacy has a system to dispose of cytotoxic/biohazardous waste in a manner so as not to endanger the public health; and

(xix)[(xvii)] legal operation of the pharmacy, including meeting all inspection and other requirements of all state and federal laws or rules governing the practice of pharmacy.

(2) Pharmacists.

(A) (No change.)

(B) Duties. Duties which may only be performed by a pharmacist are as follows:

(i)-(iii) (No change.)

(iv) interpreting patient medication records [profiles, if applicable];

(v) affixing the label to the prescription container and performing the final check of the dispensed prescription before delivery to the patient; [and]

(vi) communicating [providing information] to the patient or patient's agent on all new prescription drug orders and on refills as the pharmacist deems necessary, information concerning the prescription drug or device as required in §291.33(c) of this title (relating to Operational Standards); and [, at the request of the patient or the patient's agent, or as the pharmacist in his or her professional judgement deems necessary for the proper utilization of the drug or device prescribed.]

(vii) communicating to the patient or the patient's agent on his or her request, information concerning any prescription drugs dispensed by the pharmacy; and

(viii) making a reasonable effort to obtain, record, and maintain patient medication records.

(C) (No change.)

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

(d) Operational standards.

(1) (No change.)

(2) Environment.

(A) General requirements.

(i)-(vi) (No change.)

(vii) If prescription drug orders are delivered to the patient at the pharmacy, beginning January 1, 1995, the pharmacy shall contain an area which is suitable for confidential patient counseling.

(B)-(C) (No change.)

(3) Prescription dispensing and delivery.

(A) Patient counseling and provision [Provision] of drug information.

(i) To optimize drug therapy, a pharmacist shall communicate to the patient or the patient's agent, information concerning the dispensed prescription drug or device including, at a minimum, the following:

(I) the name and description of the drug or device;

(II) dosage form, dosage, route of administration, and duration of drug therapy;

(III) special directions and precautions for preparation, administration, and use by the patient;

(IV) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;

(V) proper storage;

(VI) refill information; and

(VII) action to be taken in the event of a missed dose.

(ii) Such communication shall be:

(I) provided with each new prescription drug order, and if the pharmacist deems appropriate, with prescription drug order refills;

(II) provided for any prescription drug order dispensed by the pharmacy on the request of the patient or patient's agent;

(III) communicated orally in person whenever practicable (beginning January 1, 1994, shall be communicated orally in person unless the patient or patient's agent is not at the pharmacy or a specific communication barrier prohibits such oral communication); and

(IV) reinforced with written information.

(iii) Nothing in this subparagraph shall be construed as requiring a pharmacist to provide consultation when a patient or patient's agent refuses such consultation.

(iv) In addition to the requirements of clauses (i)-(iii) of this subparagraph, if [If] a prescription drug order is delivered to the patient at the pharmacy, the following is applicable.

(I) [To assure the proper utilization of the drug or device prescribed, a pharmacist shall provide to the patient or his or her agent at his or her request or as the pharmacist in his or her professional judgement deems necessary:

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

(II) So that a patient will have access to information concerning his or her prescription, a prescription may not be delivered to a patient unless a pharmacist is in the pharmacy, except as provided in subclause (II) [(III)] of this Clause.

(II) [(III)] An agent of the pharmacist may deliver a prescription drug order to the patient or his or her agent during short periods of time when a pharmacist is absent from the pharmacy, provided the short periods of time do not exceed two hours, and provided a record of the delivery is maintained containing the following information:

(-a)-(-e) (No change.)

(III) [(IV)] Any prescription delivered to a patient when a pharmacist is not in the pharmacy must meet the requirements described in clause (v) (I) [(ii) (I)] of this subparagraph.

(IV) [(V)] A Class A pharmacy compounding sterile pharmaceuticals that delivers prescriptions to patients or their agents on-site shall make available for use by the public, a current or updated edition of the United States Pharmacopeia Dispensing Information, Volume II (Advice

to the Patient), or another source of such information, such as patient information leaflets.

(v) In addition to the requirements of clauses (i)-(iii) of this subparagraph, [(ii)] if a prescription drug order is delivered to the patient or his or her agent at the patient's residence or other designated location, the following is applicable.

(I) If prescriptions are delivered outside the area covered by the pharmacy's local telephone service, the pharmacy shall provide a toll free telephone line which is answered during normal business hours to enable communication between the patient and a pharmacist.

(II) The pharmacist shall place on the prescription container or on a separate sheet delivered with the prescription container in both English and Spanish the local and if applicable, toll free telephone number of the pharmacy and the statement: "A pharmacist is available during normal business hours to answer questions concerning your prescription." [This clause does not apply to patients in institutions where drugs are administered to patients by a person authorized to do so by the laws of the state (i.e., nursing homes).]

(III) [(II)] The pharmacist-in-charge shall assure that:

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

(vi) This clause does not apply to patients in facilities where drugs are administered to patients by a person authorized to do so by the laws of the State (i.e., nursing homes).

(B)-(C) (No change.)

(4)-(6) (No change.)

(7) PMR. A patient medication record shall be maintained for each patient of the pharmacy. The PMR shall contain at a minimum the following information:

(A) patient information:

(i) patient's full name, gender, and date of birth;

(ii)-(iv) (No change.)

(v) other drugs the patient is receiving; [and]

(vi) (No change.)

(viii) pharmacist's comments relevant to the individual's drug

therapy, including any other information unique to the specific patient or drug; and

(viii) a list of all prescription drug orders dispensed (new and refill) to the patient by the pharmacy during the last two years. Such list shall contain the following information:

(I) date dispensed;

(II) name, strength, and quantity of the drug dispensed;

(III) prescribing practitioner's name;

(IV) unique identification number of the prescription; and

(V) name or initials of the dispensing pharmacist.

(B) (No change.)

(8)-(10) (No change.)

(e) Records.

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

(11) Confidentiality. A pharmacist shall provide adequate security of prescription drug order and patient medication records to prevent indiscriminate or unauthorized access to confidential health information.

(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 August 19, 1992.

TRD-9211372

Fred S. Brinkley, Jr.,
R.Ph., M.B.A.
Executive
Director/Secretary
Texas State Board of
Pharmacy

Proposed date of adoption: November 30, 1992

For further information, please call: (512) 832-0661

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 52. Emergency Response Services

Definitions

The Texas Department of Human Services (DHS) proposes amendments to §§52.101, 52.201, 52.202, 52.401, 52.402, 52.501, 52.503, and 52.601, concerning definitions of program terms; general contracting requirements; methods of contracting; initiation of and referral for services; service delivery; billings and claims payment; documentation errors; and recordkeeping requirements in its emergency response services chapter. The purpose of the amendments is to implement provider enrollment, add state licensure requirements, and delete references to department-purchased equipment.

Burton F. Raiford, commissioner, has determined that for the first five-year period the amendments will be in effect there will be no fiscal implications for state or local governments 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 to offer clients a choice of providers and to assure provider compliance with state licensure requirements. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendments.

Questions about the content of the proposal may be directed to Gail Archibald at (512) 450-3140 in DHS's Community Care Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-206, 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 §52.101

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.

§52.101. Definitions of Program Terms. The following words and terms, when used in this chapter [these sections], shall have the following meanings, unless the context clearly indicates otherwise.

Institution—A nursing home, personal care facility, state school, or state hospital.

Subcontractor—An organization or individual who delivers a component of the emergency response service for the provider agency for a fee and is not an

employee or volunteer of the provider agency.

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 August 18, 1992.

TRD-9211325

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

Proposed date of adoption: November 15, 1992

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



Contracting for Emergency Response Services

• 40 TAC §52.201, §52.202

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.

§52.201. General Contracting Requirements.

(a) To contract with the Texas Department of Human Services (DHS) to provide services, a legal entity must:

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

(3) be licensed by the Texas Board of Private Investigators and Private Security Agencies, unless exempt from its regulation. The provider agency must send a copy of its license and a copy of the annual renewal of its license to DHS.

(b) (No change.)

(c) The provider agency must comply with all provisions of the contract, the emergency response services provider manual and revisions, policy clarifications, federal laws and regulations, applicable statutes, and DHS [department] rules and any subsequent additions, deletions, and amendments to those rules. Failure to comply with these requirements, including licensure, will result in termination of the contract with DHS.

(d)-(f) (No change.)

§52.202. Methods of Contracting.

[(a)] The Texas Department of Human Services [department] purchases emergency response services through provider enrollment [competitive or noncompetitive negotiation] as described in §69.203 of this title (relating to Methods of Purchase).

[(b) The department may renew contracts as specified in §69.204 of this title (relating to Duration and Renewal of Contracts). The department may renew a contract that is awarded through noncompetitive negotiation if the provider agency complies with program requirements and if the negotiated unit rate(s) does not exceed the statewide ceiling.]

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 August 18, 1992.

TRD-9211326

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

Proposed date of adoption: November 15, 1992

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



Service Delivery Requirements

• 40 TAC §52.401, §52.402

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.

§52.401. Initiation of and Referral for Services.

(a) The provider agency must begin services within 14 days from the date on the approval for Community Care for Aged and Disabled (CCAD) services-referral response form unless the referral is verbal. For verbal referrals, the provider agency must begin services on the date verbally negotiated with the caseworker.

[(b) If operating at the full capacity designated in the contract, the provider agency returns the referral packet to the caseworker.]

(b)[(c)] If the client is not in the home during the first 14 days from the date on the approval for CCAD services-referral response form, the provider agency begins services as soon as possible after the client returns home.

(c)[(d)] If services do not begin on the date verbally negotiated, the coordinator telephones the caseworker on or before the day services were scheduled to begin and explains why services were not begun.

(d)[(e)] If the caseworker and the coordinator disagree about the appropriateness of a referral or about service delivery issues involving the client, supervisory staff of the two agencies resolve the differences. The CCAD program manager [director] is

responsible for resolving differences among caseworker and provider agency staff. If they disagree about the appropriateness of a referral, the coordinator may request that the caseworker approve a delay in beginning services. The request to delay service initiation is documented on the case information form.

(e)[(f)] The provider agency must secure two responders for each client on or before the date services begin, unless the provider agency is able to document that the client has no available responders and that only one resource is available that can respond to emergencies.

(f)[(g)] to initiate services, the provider agency must conduct a home visit. During the home visit, the installer:

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

(g)[(h)] The provider agency completes the client's card file after the home visit. The client's card file must include:

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

(h) [(i)] The provider agency must notify the caseworker of the status of all referrals within 21 days from the referral date.

(i) The Texas Department of Human Services will encourage the client to choose the most economical alternative for service provision.

(j) If a provider agency is delivering services according to the requirements in this manual, a client may not change provider agencies within the first six months of authorization, unless the client and the provider agency mutually agree.

§52.402. Service Delivery.

(a)-(k) (No change.)

(l) If a contract is terminated, any department purchased equipment not in a client's home must be delivered to the location specified by department staff within five days of a written request.

(m) The department maintains disposition rights on equipment it purchased. The provider agency must tag equipment with permanent serial numbers and maintain:

[(1) an inventory of the equipment; and

[(2) a record of the serial numbers and the specific locations of the home units.]

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 August 18, 1992.

TRD-9211327

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

Proposed date of adoption: November 15, 1992

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

Claims

• 40 TAC §52.501, §52.503

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.

§52.501. Billing and Claims Payment.

(a)-(e) (No change.)

(f) The Texas Department of Human Services (DHS) [The department] may negotiate a single unit rate that combines local and long distance service delivery. The single rate must not exceed the highest [established] ceilings. The rate should be approximately proportional to [:]

[(1)] the projected number of local and long distance clients [; and]

[(2)] the number of departmentally purchased home units under five years old and other home unit equipment].

(g)-(i) (No change.)

(j) DHS [The department] may withhold a provider agency's vendor payments for reasons including, but not limited to, the following:

(1) (No change.)

(2) failure to comply with rules in the provider manual; [or]

(3) failure to comply with licensure requirements; or

(4)[(3)] termination of the contract (voluntary or involuntary).

(k) (No change.)

(l) DHS renegotiates rates annually with existing provider agencies based on the unit rate ceilings in effect.

§52.503. Documentation Errors.

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

(c) In the absence of acceptable secondary documentation, financial errors include, but are not limited to, the following.

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

[(5)] The provider agency billed the department for equipment costs, but the home unit(s) cannot be located. The department applies the error to the total number of home units that cannot be located. The department considers equipment replacement

costs in determining the total cost of the error. The total cost of this error is not extrapolated to all of the cases or claims for which the provider agency has been paid during the audit period.]

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

Issued in Austin, Texas, on August 18, 1992.

TRD-9211328

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

Proposed date of adoption: November 15, 1992

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

Reviews and Audits of Provider Agency Records

• 40 TAC §52.601

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.

§52.601. Recordkeeping Requirements.

(a) (No change.)

(b) The provider agency must give Texas Department of Human Services (DHS) [department] staff a list of DHS's clients and their corresponding responders, including the responders' telephone numbers, [the following information] within seven days of receiving a written request . [:]

[(1) a list of the department's clients and their corresponding responders, including the responders' telephone numbers; and

[(2) if applicable, a list of serial numbers and the location of departmentally purchased equipment.]

(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.

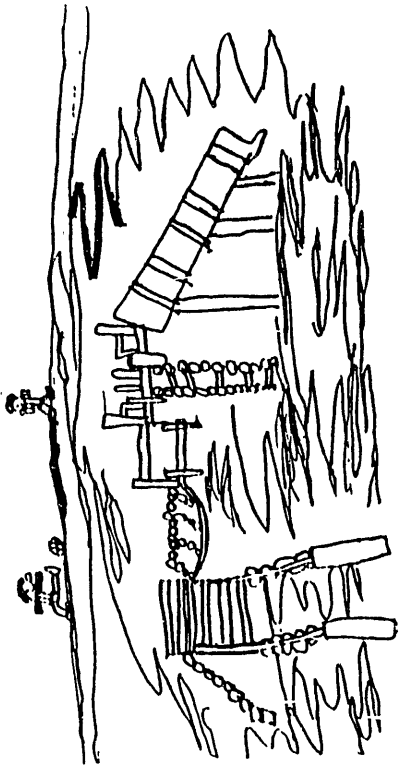
Issued in Austin, Texas, on August 18, 1992.

TRD-9211329

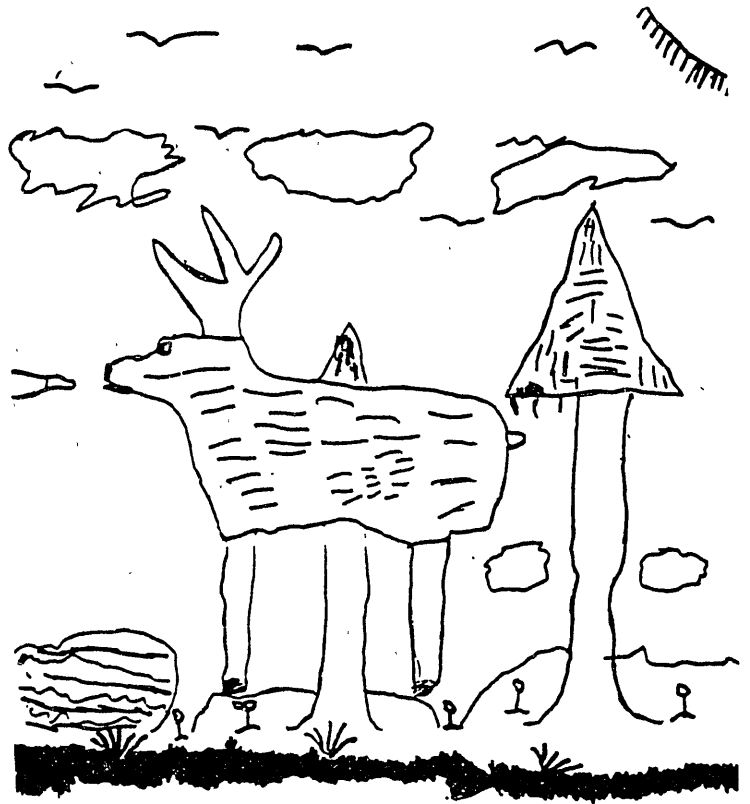
Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: November 15, 1992

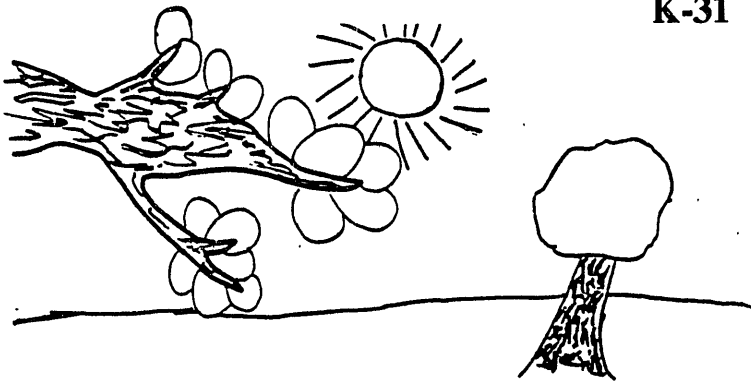
For further information, please call: (512) 450-3765



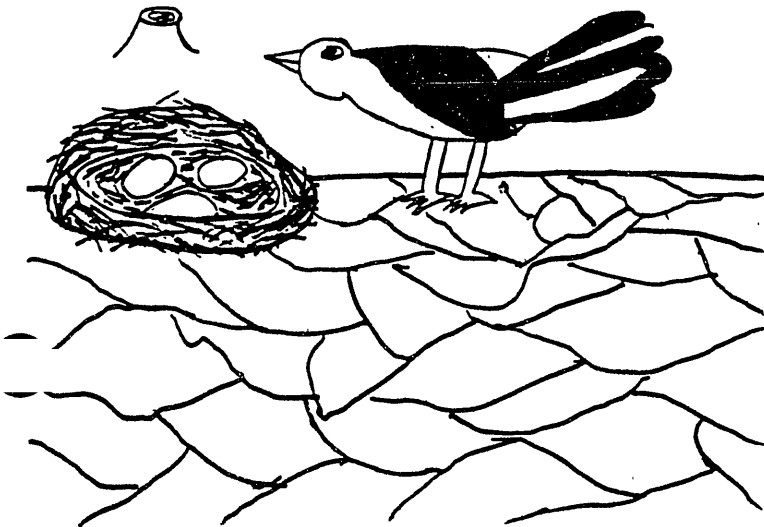
K-29



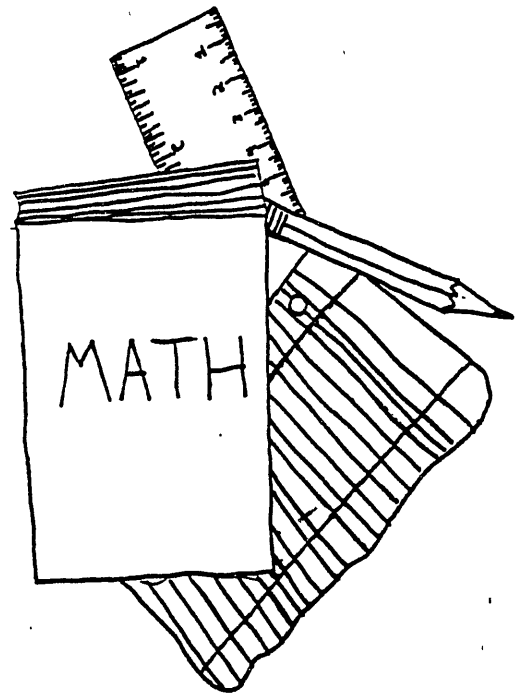
K-30



K-31



K-32



Adopted Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter I. Equipment: Identification and Reports

• 16 TAC §5.152

The Railroad Commission of Texas adopts an amendment to §5.152 concerning cab cards, without changes to the proposed text as published in the June 16, 1992, issue of the *Texas Register* (17 TexReg 4305).

The amendment, published pursuant to a petition from Parkway Transport, Inc., Parkway Distributors, Inc., and Parkway Custom Carriers, Inc., is adopted to further the legislative direction to encourage the transportation of recyclable materials. Thus an existing motor carrier may use its vehicles for existing operations and newly developed transportation of recyclable materials.

The amendment will allow motor carriers with several certificate or permits to register a vehicle under four different pieces of authority, provided that one of the pieces of authority is authority issued under the provisions of §5.43 of this title (relating to Transportation of Recyclable Materials). The amendment will allow those carriers that have registered vehicles under three pieces of authority, the maximum currently allowed, to register those vehicles under the new recyclable certificates or permits.

Several comments were received, all in support of the proposed rule. The comments supported the effort by the commission to encourage the integration of transportation of recyclable materials into exiting traffic lanes.

No groups or associations commented regarding the proposed rule.

The amendment is adopted under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, and the Health and Safety Code, §361.431, which authorize the commission to regulate the activities of motor carriers, and transporters of recyclable materials.

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 August 17, 1992.

TRD-9211383 Nolan Ward
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: September 9, 1992

Proposal publication date: June 16, 1992

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

TITLE 22. EXAMINING BOARDS

Part II. State Board of Barber Examiners

Chapter 51. Practice and Procedure

Barber Shops

• 22 TAC §51.97

The State Board of Barber Examiners adopts an amendment to §51.97, concerning booth rental permits, without changes to the proposed text as published in the May 29, 1992, issue of the *Texas Register* (17 TexReg 3888).

The amendment changes some language to make the rule easier to understand.

The individual permit holders and the shop owners will be responsible for violations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the State Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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 August 14, 1992.

TRD-9211295 Jo King McCrory
Executive Director
State Board of Barber
Examiners

Effective date: September 8, 1992

Proposal publication date: May 29, 1992

For further information, please call: (512) 835-2040

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

(Editor's Note: Chapter 285, Private Sewage Facilities, of Title 31 is being administratively transferred and renumbered to Chapter 284 of Title 31. The transfer is to reorganize existing rules to facilitate the transfer of additional rules caused by the implementation of Senate Bill 2, 72nd Legislature, First Called Session.

The table below lists the new section numbers and the old section numbers that correspond to them.)

Chapter 284, Private Sewage Facilities

(previously Chapter 285)

Subchapter A. Sam Rayburn Reservoir

Old Number	New Number
285.1	284.1
285.2	284.2
285.3	284.3
285.4	284.4
285.5	284.5
285.6	284.6
285.7	284.7
285.8	284.8
285.9	284.9
285.10	284.10
285.11	284.11
285.12	284.12
285.13	284.13
285.14	284.14
285.15	284.15

Subchapter C. Lake Tawahoni Reservoir

Old Number	New Number
285.41	284.41
285.42	284.42
285.43	284.43
285.44	284.44
285.45	284.45
285.46	284.46
285.47	285.47
285.48	284.48
285.49	284.49
285.50	284.50
285.51	284.51
285.52	284.52
285.53	284.53
285.54	284.54
285.55	284.55

Subchapter B. Toledo Bend Reservoir

Old Number	New Number
285.21	284.21
285.22	284.22
285.23	284.23
285.24	284.24
285.25	284.25
285.26	284.26
285.27	284.27
285.28	284.28
285.29	284.29
285.30	284.30
285.31	284.31
285.32	284.32
285.33	284.33
285.34	284.34
285.35	284.35

Subchapter D. Lake Fork Reservoir

Old Number	New Number
285.61	284.61
285.62	284.62
285.63	284.63
285.64	284.64
285.65	284.65
285.66	284.66
285.67	284.67
285.68	284.68
285.69	284.69
285.70	284.70
285.71	284.71
285.72	284.72
285.73	284.73
285.74	284.74
285.75	284.75

Subchapter E. Lake Brownwood

Old Number	New Number
285.81	284.81
285.82	284.82
285.83	284.83
285.84	284.84
285.85	284.85
285.86	284.86
285.87	284.87
285.88	284.88
285.89	284.89
285.90	284.90
285.91	284.91
285.92	284.92
285.93	284.93
285.94	284.94
285.95	284.95
285.96	284.96

Subchapter G. Lumberton Municipal Utility

District in Hardin County

Old Number	New Number
285.121	284.121
285.122	284.122
285.123	284.123
285.124	284.124
285.125	285.125
285.126	284.126
285.127	284.127
285.128	284.128
285.129	284.129
285.130	284.130
285.131	284.131
285.132	284.132
285.133	284.133
285.134	284.134
285.135	284.135

Subchapter F. Lake Limestone

Old Number	New Number
285.101	284.101
285.102	284.102
285.103	284.103
285.104	284.104
285.105	284.105
285.106	284.106
285.107	284.107
285.108	284.108
285.109	284.109
285.110	284.110
285.111	284.111
285.112	284.112
285.113	284.113
285.114	284.114
285.115	284.115

Subchapter I. Lake Crook Watershed

Old Number	New Number
285.161	284.161
285.162	284.162
285.163	284.163
285.164	284.164
285.165	284.165
285.166	284.166
285.167	284.167
285.168	284.168
285.169	284.169
285.170	284.170
285.171	284.171
285.172	284.172
285.173	284.173
285.174	284.174

Subchapter J. Lake Palestine

Old Number	New Number
285.181	284.181
285.182	284.182
285.183	284.183
285.184	284.184
285.185	284.185
285.186	284.186
285.187	284.187
285.188	284.188
285.189	284.189
285.190	284.190
285.191	284.191
285.192	284.192

Subchapter L. Lake Ray Hubbard

Old Number	New Number
285.221	284.221
285.222	284.222
285.223	284.223
285.224	284.224
285.225	284.225
285.226	284.226
285.227	284.227
285.228	284.228
285.229	284.229
285.230	284.230
285.231	284.231
285.232	284.232
285.233	284.233
285.234	284.234
285.235	284.235
285.236	284.236
285.237	284.237

Subchapter K. Livingston Reservoir

Old Number	New Number
285.201	284.201
285.202	284.202
285.203	284.203
285.204	284.204
285.205	284.205
285.206	284.206
285.207	284.207
285.208	284.208
285.209	284.209
285.210	284.210
285.211	284.211
285.212	284.212
285.213	284.213
285.214	284.214
285.215	284.215
285.216	284.216

Subchapter M. Greensheet Reservoir

Old Number	New Number
285.261	284.261
285.262	284.262
285.263	284.263
285.264	284.264
285.265	284.265
285.266	284.266
285.267	284.267
285.268	284.268
285.269	284.269
285.270	284.270
285.271	284.271
285.272	284.272
285.273	284.273
285.274	284.274

Subchapter N. Cedar Creek Reservoir

Old Number	New Number
285.281	284.281
285.282	284.282
285.283	284.283
285.284	284.284
285.285	284.285
285.286	284.286
285.287	284.287
285.288	284.288
285.289	284.289
285.290	284.290
285.291	284.291
285.292	284.292
285.293	284.293
285.294	294.294

Subchapter P. Somerville Reservoir

Old Number	New Number
285.341	284.341
285.342	284.342
285.343	284.343
285.344	284.344
285.345	284.345
285.346	284.346
285.347	284.347
285.348	284.348
285.349	284.349
285.350	284.350
285.351	284.351
285.352	284.352
285.353	284.353
285.354	284.354
285.355	284.355
285.356	284.356

Subchapter O. Lake Granbury

Old Number	New Number
285.311	284.311
285.312	284.312
285.313	284.313
285.314	284.314
285.315	284.315
285.316	284.316
285.317	284.317
285.318	284.318
285.319	284.319
285.320	284.320
285.321	284.321
285.322	284.322
285.323	284.323
285.324	284.324
285.325	284.325
285.326	284.326

Subchapter Q. Possum Kingdom Lake

Old Number	New Number
285.371	284.371
285.372	284.372
285.373	284.373
285.374	284.374
285.375	284.375
285.376	284.376
285.377	284.377
285.378	284.378
285.379	284.379
285.380	284.380
285.381	284.381
285.382	284.382
285.383	284.383
285.384	284.384
285.385	284.385
285.386	284.386

Subchapter S. Mackenzie Reservoir

Old Number	New Number
285.421	284.421
285.422	284.422
285.423	284.423
285.424	284.424
285.425	284.425
285.426	284.426
285.427	284.427
285.428	284.428
285.429	284.429
285.430	284.430
285.431	284.431
285.432	284.432
285.433	284.433
285.434	284.434

Subchapter U. Lake Conroe

Old Number	New Number
285.481	284.481
285.482	284.482
285.483	284.483
285.484	284.484
285.485	284.485
285.486	284.486
285.487	284.287
285.488	284.488
285.489	284.489
285.490	284.490
285.491	284.491
285.492	284.492
285.493	284.493
285.494	284.494
285.495	284.495
285.496	284.496

Subchapter T. Lake Lavon

Old Number	New Number
285.451	284.451
285.452	284.452
285.453	284.453
285.454	284.454
285.455	284.455
285.456	284.456
285.457	284.457
285.458	284.458
285.459	284.459
285.460	284.460
285.461	284.461
285.462	284.462
285.463	284.463
285.464	284.464

Subchapter V. Lake Bob Sandlin

Old Number	New Number
285.511	284.511
285.512	284.512
285.513	284.513
285.514	284.514
285.515	284.515
285.516	284.516
285.517	284.517
285.518	284.518
285.519	284.519
285.520	284.520
285.521	284.521
285.522	284.522
285.523	284.523

Subchapter W. Eagle Mountain Lake

Old Number	New Number
285.531	284.531
285.532	284.532
285.533	284.533
285.534	284.534
285.535	284.535
285.536	284.536
285.537	284.537
285.538	284.538
285.539	284.539
285.540	284.540
285.541	284.541
285.542	284.542
285.543	284.543

Subchapter X. Lake Bridgeport

Old Number	New Number
285.551	284.551
285.552	284.552
285.553	284.553
285.554	284.554
285.555	284.555
285.556	284.556
285.557	284.557
285.558	284.558
285.559	284.559
285.560	284.560
285.562	284.562
285.563	284.563
285.564	284.564

Subchapter Y. Highland Lakes

Old Number	New Number
285.581	284.581
285.582	284.582
285.583	284.583
285.584	284.584
285.585	284.585
285.586	284.586
285.587	284.587
285.588	284.588
285.589	284.589
285.590	284.590
285.591	284.591
285.592	284.592
285.593	284.593
285.594	284.594
285.595	284.595
285.596	284.596
285.597	284.597
285.598	284.598
285.599	284.599
285.600	284.600
285.601	284.601
285.602	284.602
285.603	284.603
285.604	284.604

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part XIII. Texas Commission on Fire Protection

Chapter 423. Fire Suppression Subchapter A. Minimum Standards for Structure Fire Protection Personnel Certification

• 37 TAC §§423.3, 423.5, 423.9

The Texas Commission on Fire Protection adopts amendments to §423.3 and §423.5, and new §423.9, concerning minimum standards for structure fire protection personnel certification, without changes to the proposed text as published in the June 5, 1992, issue of the *Texas Register* (17 TexReg 4072).

These amendments and new section will allow and encourage advanced training of the fire protection personnel by creating greater avenues for training options of advanced levels of certification in structure fire fighting.

The amendment to §423.3 adds a training option for intermediate structure fire protection personnel to reflect current National Fire Academy courses. The amendment to §423.5 allows additional options for college course credit requirements for advanced structural fire protection personnel certification. New §423.9 allows fire protection personnel assigned to other disciplines to seek higher levels of certification in structural fire protection.

No comments were received regarding the adoption of the amendments and new section.

The amendments and new section are adopted under the Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties, and the Government Code, §419.022(a)(5), which provides the commission with authority to establish minimum standards for advanced or specialized fire protection personnel positions.

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 August 18, 1992.

TRD-9211386 Jack Woods
General Counsel
Texas Commission on Fire Protection

Effective date: September 9, 1992

Proposal publication date: June 5, 1992

For further information, please call: (512) 873-1700

Chapter 435. Fire Fighter Safety

• 37 TAC §435.1, §435.3

The Texas Commission on Fire Protection adopts the amendments to §435.1 and §435.3, concerning protective clothing and self-contained breathing apparatus (SCBA) for use by fire protection personnel, without changes to the proposed text as published in the June 5, 1992, issue of the *Texas Register* (17 TexReg 4074).

The amendments concerning SCBA are mandated by Acts 1991, 72nd Legislature, Chapter 628 (Senate Bill 383), which granted the commission authority to approve nationally recognized standards for SCBA equipment, testing, and breathing air quality. The amendments will increase fire fighter safety because employing entities must provide a more complete ensemble of protective clothing and will have a clear delineation of standards applicable to SCBA.

The amendments concerning protective clothing outline the components of a protective clothing ensemble and the effective dates of National Fire Protection Association (NFPA) standards applicable to fire fighter boots and protective hoods. The amendments concerning SCBA adopts NFPA standards in effect at the time a department contracts for new, rebuilt, or used SCBA and identifies NFPA standards applicable to equipment testing and air quality sampling.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; the Government Code, §419.041, which provides the commission with authority to approve standards for SCBA used by fire protection personnel; and the Government Code, §419.042, which provides the commission with authority to adopt standards for protective clothing and SCBA.

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 August 18, 1992.

TRD-9211387 Jack Woods
General Counsel
Texas Commission on Fire Protection

Effective date: September 9, 1992

Proposal publication date: June 5, 1992

For further information, please call: (512) 873-1700

Chapter 437. Fees

• 37 TAC §437.3

The Texas Commission on Fire Protection adopts an amendment to §437.3, concerning certification fees, without changes to the proposed text as published in the June 5, 1992,

issue of the *Texas Register* (17 TexReg 4074).

The amendment will allow an opportunity to recognize the training and work experience of fire prevention and fire protection personnel after retirement or separation from service.

The amendment outlines the requirements and certification fee for a one-time certificate for persons no longer employed by a regulated entity stating the level of certification in each discipline held by the person on the date of separation from employment.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules to administer its powers and duties, and the Government Code, §419.033, which authorizes the commission to issue a one-time certificate to persons no longer employed by an entity regulated by the commission.

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 August 18, 1992.

TRD-9211388 Jack Woods
General Counsel
Texas Commission on Fire Protection

Effective date: September 9, 1992

Proposal publication date: June 5, 1992

For further information, please call: (512) 873-1700

Chapter 439. Examinations for Certification

• 37 TAC §439.3, §439.5

The Texas Commission on Fire Protection adopts amendments to §439.3 and §439.5, concerning examinations, without changes to the proposed text as published in the June 5, 1992, issue of the *Texas Register* (17 TexReg 4075).

The amendment to §439.3, extending the examination requirement to all disciplines, will allow for greater assurance that training course content is retained by candidates for certification in all disciplines. The amendment to §439.5 is necessary to define the scope of material covered by examinations.

The amendment to §439.3, concerning general requirements, will delete the word "structure" from the text to establish an examination requirement for new applicants in all disciplines of fire protection personnel. The amendment to §439.5 provides for examinations based on currently adopted curricula adopted in the Commission Certification Curriculum Manual.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules to administer its powers and duties, and the Government Code, §419.026(b), which authorizes the commission with authority to set and collect an examination fee for each examination given to fire protection personnel for basic certification.

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 August 18, 1992.

TRD-9211389 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 9, 1992

Proposal publication date: June 5, 1992

For further information, please call: (512) 873-1700

Chapter 441. Continuing Education

• 37 TAC §441.5, §441.7

The Texas Commission on Fire Protection adopts amendments to §441.5 and §441.7, concerning continuing education requirements for fire protection personnel, without changes to the proposed text as published in the June 5, 1992, issue of the *Texas Register* (17 TexReg 4035).

The enforcement of these amendments will provide for a higher level of compliance with continuing education requirements and a generally high level of competence for public fire protection personnel.

The amendment to §441.5 establishes a curative procedure for individuals who fail to comply with continuing education requirements during a certification period. The amendment to §441.7 provides fire department heads with the authority to determine exemptions from continuing education requirements for personnel who do not serve in structural fire protection at least six months during the certification period.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its power and duties and the Government Code, §419.032(b), which provides the commission with authority to establish qualifications relating to continuing education 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 August 18, 1992.

TRD-9211390 Jack Woods
General Counsel
agency

Effective date: September 9, 1992

Proposal publication date: June 5, 1992

For further information, please call: (512) 873-1700

Chapter 445. Administrative Inspections and Penalties

• 37 TAC §§445.1, 445.3, 445.5, 445.7, 445.9, 445.11, 445.13, 445.15, 445.17, 445.19, 445.21

The Texas Commission on Fire Protection adopts new §§445.1, 445.3, 445.5, 445.7, 445.9, 445.11, 445.13, 445.15, 445.17, 445.19, and 445.21, concerning administrative inspections and penalties, without changes to the proposed text as published in the June 5, 1992, issue of the *Texas Register* (17 TexReg 4076).

The enforcement of these new sections will allow for stricter compliance with statutes and commission rules pertaining to fire fighter training and safety and, accordingly, provide higher quality fire prevention and suppression services.

Section 445.1 provides for a biennial inspection of each entity under the jurisdiction of the commission. Section 445.3 allows the commission, through its agents and employees, access to the entities it regulates. Section 445.5 allows the commission to implement and maintain compliance with the rules and the code through inspections and when non-compliance occurs, though disciplinary action as deemed appropriate. Section 445.7 provides procedures followed during the course of an inspection. This section also provides for definitions to major and minor violations. Section 445.9 provides procedures followed when violations are found and §445.11 provides procedures followed when major violations are found. Sections 445.13, 445.15, and 445.17 address disciplinary hearings, judicial enforcement, and liability for violations respectively. Section 445.19 charges the executive director, or his designee, with the development of forms for the inspections. Lastly, §445.21 provides an effective date of January 1, 1993, for the chapter.

No comments were received regarding adoption of these new sections.

The new sections are adopted under the Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules to administer its powers and duties; the Government Code, §419.027, which provides the commission with authority to inspect each facility conducting training for fire protection personnel and recruits and fire departments for compliance with statutes and commission rules; and the Government Code, §419.906, which provides the commission with the authority to impose administrative penalties for violations of chapter 419 or commission rules.

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 August 18, 1992.

TRD-9211391 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 9, 1992

Proposal publication date: June 5, 1992

For further information, please call: (512) 873-1700

Chapter 491. Voluntary Regulation of State Agencies and State Agency Employees

• 37 TAC §§491.1, 491.3, 491.5, 491.7

The Texas Commission on Fire Protection adopts new §491.1, 491.3, 491.5, and 491.7, concerning voluntary regulation of state agencies and state employees providing fire protection, without changes to the proposed text published in the June 5, 1992, issue of the *Texas Register* (17 TexReg 4079).

These new sections will provide improved training and fire safety for state employees providing fire protection and prevention services.

The new sections define the components under which agencies and/or employees may elect regulation and certification as fire protection personnel and outline the documentation required of the applicant.

No comments were received regarding adoption of these new sections.

The new sections are adopted under the Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules to administer its powers and duties, and the Government Code, §419.083, which provides the commission with authority to provide procedures for voluntary regulation and certification of state agencies and/or state employees who would be fire protection personnel if employed by a local government.

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 August 18, 1992.

TRD-9211392 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 9, 1992

Proposal publication date: June 5, 1992

For further information, please call: (512) 873-1700

Chapter 493. Voluntary Regulation of Federal Agencies and Federal Agency Employees

- 37 TAC §§493.1, 493.3, 493.5, 493.7

The Texas Commission on Fire Protection adopts new §§493.1, 493.3, 493.5, and 493.7, concerning voluntary regulation of federal agencies and federal employees providing fire protection, without changes to the proposed text as published in the June 5, 1992, issue of the *Texas Register* (17 TexReg 4079).

The enforcement of these sections will improve the training and fire safety for federal employees providing fire protection and prevention services.

The new sections define the components under which agencies and/or employees may elect regulation and certification as fire protection personnel and outline the documentation required of the applicant.

No comments were received regarding adoption of these new sections.

The new sections are adopted under the Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules to administer its powers and duties, and the Government Code, §419.084, which provides the commission with authority to provide procedures for voluntary regulation and certification of federal agencies and/or federal employees who would be fire protection personnel if employed by a local government.

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 August 18, 1992.

TRD-9211393 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 9, 1992

Proposal publication date: June 5, 1992

For further information, please call: (512) 873-1700

Chapter 495. Voluntary Regulation of Nongovernmental Departments

- 37 TAC §§495.1, 495.3, 495.5

The Texas Commission on Fire Protection adopts new §§495.1, 495.3, and 495.5, concerning voluntary regulation of nongovernmental entities providing fire protection, without changes to the proposed text as published in the June 5, 1992, issue of the *Texas Register* (17 TexReg 4080).

The enforcement of these sections will be improved training and fire safety for fire protection employees of nongovernmental entities providing fire protection to areas meeting statutory criteria.

The new sections define the procedures under which nongovernmental entities and/or employees may seek regulation and certification as fire protection employees and outline the documentation required of the applicant.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules to administer its powers and duties and the Government Code, §419.085, which provides the commission with authority to provide procedures for voluntary regulation and certification of nongovernmental entities and/or employees who would be fire protection personnel if employed by a local government.

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 August 19, 1992.

TRD-9211385 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 9, 1992

Proposal publication date: June 5, 1992

For further information, please call: (512) 873-1700

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 54. Family Violence Program

Administration

The Texas Department of Human Services (DHS) adopts the repeal of §§54.102, 54.103, 54.201, 54.205, 54.302, 54.304, and 54.307; adopts new §§54.102, 54.103, 54.201, 54.205, 54.302, 54.304, 54.307, and 54.405; and adopts amendments to §§54.104, 54.203, 54.204, 54.301, 54.305, 54.306, 54.310, 54.311, and 54.403. New §54.102 and §54.103 and the amendment to §54.204 are adopted with changes to the proposed text as published in the July 14, 1992, issue of the *Texas Register* (17 TexReg 5006). The repeal of §§54.102, 54.103, 54.201, 54.205, 54.302, 54.304, and 54.307; new §§54.201, 54.205, 54.302, 54.304, 54.307, and 54.405; and amendments to §§54.104, 54.203, 54.301, 54.305, 54.306, 54.310, 54.311, and 54.403 are adopted without changes and will not be republished.

The justification for the repeals, new sections, and amendments is to better define services purchased by DHS and to clarify expectations of contractors in record keeping and internal policies.

The repeals, new sections, and amendments will function by ensuring consistent services for battered women and their children across the state.

No comments were received regarding adoption of the repeals, new sections, and amendments; however, DHS is adopting new §54.102(d)(3) with a change to clarify that shelter centers may provide 24-hour-a-day shelter to persons less than 18 years old if they are married or unmarried minor mothers who are the sole financial support of their natural child(ren). Sections 54.103(d)(2) and 54.204(a) are adopted with minor editorial changes.

- 40 TAC §54.102, §54.103

The repeals are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs, and Chapter 51, which provides the department with the authority to contract for family violence shelter-center services and to adopt rules to implement them.

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 August 18, 1992.

TRD-9211330 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: September 15, 1992

Proposal publication date: July 14, 1992

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

- 40 TAC §§54.102-54.104

The new sections and amendment are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs, and Chapter 51, which provides the department with the authority to contract for family violence shelter-center services and to adopt rules to implement them.

§54.102. Client Eligibility.

(a) Eligible persons are victims of family violence as defined in the Human Resources Code, Title II, 51.002(2), and adults subjected to sexual and/or emotional abuse by their batterer.

(b) Shelter centers must:

(1) determine eligibility and document in the case file that the client is or has been a victim of family violence;

(2) have written policy specifying conditions under which persons are precluded from receiving services;

(3) provide services to clients without regard to income;

(4) comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), the Rehabilitation Act of 1973, §504 (Public Law 93-112), The Americans with Disabilities Act of 1990 (Public Law 101-336), and all amendments to each, and all requirements imposed by the regulations issued pursuant to these Acts. In addition, shelter centers must agree to comply with 40 TAC, Chapter 73. These provide in part that no person in the United States shall, on the grounds of race, color, national origin, age, sex, disability, political beliefs, or religion be excluded from participation or denied any aid, care, service, or other benefits provided by federal and/or state funding, or otherwise be subject to discrimination; and

(5) comply with the Health and Safety Code, §85.113 (relating to workplace and confidentiality guidelines regarding AIDS and HIV).

(c) Shelter centers may provide information and referral services without determining eligibility.

(d) Since shelter centers are not licensed to provide residential child care, they must not provide 24-hour-a-day shelter to a person less than 18 years old unless that person is:

(1) accompanied by a parent or legal guardian;

(2) legally emancipated, as defined in the Texas Family Code, Chapter 31; or

(3) a minor mother, married or unmarried, who is the sole financial support of her natural child or children.

(e) Under the Texas Family Code, Chapter 35.03(g), shelter centers may provide counseling to minors without parental consent.

(f) Shelter centers that provide services, other than community education as defined in §54.206 of this title (relating to Community Education), for minors without serving their parent as an adult victim of family violence must document what funds are used to provide the services and must not:

(1) use Texas Department of Human Services (DHS) funding to provide this service; or

(2) include this service in statistics they report to DHS.

(g) Shelter centers must have written policies stating whether they serve unmarried minor mothers who are the sole financial support of their child or children.

(h) Shelter centers that serve unmarried minor mothers must document what funds are used to provide the services. Shelter centers must not:

(1) use DHS funding to provide this service; or

(2) include this service in statistics they report to DHS.

§54.103. Confidentiality Requirements of Shelter Centers.

(a) Shelter centers must develop policies to ensure confidentiality of persons requesting or receiving services. These policies must:

(1) be followed by all staff members and volunteers who have contact with clients or information regarding clients;

(2) be posted in the shelter center and other sites where resident and non-resident clients are served; and

(3) apply to all information provided by a client to a shelter staff member or volunteer.

(b) Shelter centers must obtain written consent from the client before releasing information orally or in writing. The consent must include the:

(1) name of the person or agency to which the information is being released;

(2) reason for releasing the information; and

(3) time period during which the release of information will occur.

(c) The consent must be signed and dated by the client and an appropriate staff member. Clients may verbally or in writing terminate their consent to release information at any time.

(d) Staff do not obtain written consent to report the following, and they must report:

(1) suspected abuse and neglect to Child Protective Services; and

(2) to appropriate mental health authorities circumstances in which the clients may be harmful to themselves or others.

(e) Shelter center board members must not use their position on the board of directors to obtain confidential client information unless the information is needed to carry out their board duties and responsibilities.

(f) Shelter residents or nonresidents must be allowed to review all information in their client file except the information exempted from disclosure under the Open Records 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 August 18, 1992.

TRD-9211331

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

Effective date: September 15, 1992

Proposal publication date: July 14, 1992

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

◆ ◆ ◆ Shelter Center Operational Requirements

◆ ◆ ◆ • 40 TAC §54.201, §54.205

The repeals are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs, and Chapter 51, which provides the department with the authority to contract for family violence shelter-center services and to adopt rules to implement them.

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 August 18, 1992.

TRD-9211332

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

Effective date: September 15, 1992

Proposal publication date: July 14, 1992

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

◆ ◆ ◆ • 40 TAC §§54.201, 54.203, 54.204, 54.205

The new sections and amendment are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs, and Chapter 51, which provides the department with the authority to contract for family violence shelter-center services and to adopt rules to implement them.

§54.204. Employee Orientation and Training.

(a) Shelter centers must provide an orientation to employees within the first two weeks of employment. The orientation must cover the policies listed in §54.201 of this title (relating to Shelter Center Policies and Procedures).

(b) Shelter centers must provide training to employees within the first six months of employment. The training must cover all of the topics listed in §54.205 of this title (relating to Volunteer Training). Staff having direct contact with clients must also be trained on how to complete Texas Department of Human Services (DHS) and shelter center forms and how to write case notes.

(c) The employees' orientation and training must be documented in their personnel file. Documentation must include the number of training hours the employee received, and the topics and dates of training.

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 August 18, 1992.

TRD-9211333 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: September 15, 1992

Proposal publication date: July 14, 1992

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

◆ ◆ ◆
• 40 TAC §§54.301, 54.302,
54.304-54.307, 54.310, 54.311

The new sections and amendments are adopted under the Human Resources Code,

Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs, and Chapter 51, which provides the department with the authority to contract for family violence shelter-center services and to adopt rules to implement them.

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 August 18, 1992.

TRD-9211335 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: September 15, 1992

Proposal publication date: July 14, 1992

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

◆ ◆ ◆
Shelter Center Services

• 40 TAC §§54.302, 54.304, 54.307

The repeals are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs, and Chapter 51, which provides the department with the authority to contract for family violence shelter-center services and to adopt rules to implement them.

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 August 18, 1992.

TRD-9211334 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: September 15, 1992

Proposal publication date: July 14, 1992

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

◆ ◆ ◆
Contracting Requirements

• 40 TAC §54.403, §54.405

The new section and amendment are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs, and Chapter 51, which provides the department with the authority to contract for family violence shelter-center services and to adopt rules to implement them.

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 August 18, 1992.

TRD-9211336 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: September 15, 1992

Proposal publication date: July 14, 1992

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

Open Meetings

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

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

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

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

Thursday, August 27, 1992, 10 a.m. The State Seed and Plant Board of the Texas Department of Agriculture will meet at the Texas Agricultural Experiment Station, 1102 East FM 1294, Lubbock. According to the complete agenda, the board will determine if an emergency condition existed at planting time for certified cotton varieties, regarding the availability of higher classes of certified sees; determine if certain cotton varieties are eligible to be re-certified from the certified class; deny or grant re-certification for varieties for which requests for re-certification have been submitted to the board.

Contact: Charles Leamons, P.O. Box 629, Giddings, Texas 78942, (409) 542-3691.

Filed: August 19, 1992, 2:49 p.m.

TRD-9211411

Texas Department of Criminal Justice

Wednesday, August 26, 1992, 10 a.m. The Executive Committee of the Board of Pardons and Paroles of the Texas Department of Criminal Justice will meet at 8610 Shoal Creek Boulevard, Austin. According to the complete agenda, the committee will review and discuss SCR 26 case processing; special conditions concerning Parole (Article 42.18); new unit workload; board workshop; and adjourn.

Contact: Juanita Llamas, P.O. Box 13401, Austin, Texas 78711, (512) 406-5408.

Filed: August 18, 1992, 11:20 a.m.

TRD-9211307

Texas Commission on Fire Protection

Wednesday-Thursday, September 9-10, 1992, 10 a.m. and 9 a.m. respectively. The Fire Alarm Advisory Council of the Texas Commission on Fire Protection will meet at 3006B Longhorn Drive, Austin. According to the complete agenda, the council will discuss and possibly act on amendments to rules relating to alarm systems under 37 TAC Chapter 531.

Contact: Jack Woods, 3006B Longhorn Boulevard, Austin, Texas 78759-6735, (512) 873-1700.

Filed: August 19, 1992, 9:54 a.m.

TRD-9211384

Funds Review Advisory Committee

Monday, August 31, 1992, 9 a.m. The Funds Review Advisory Committee will meet at the LBJ Building, Room 114, 111 East 17th Street, Austin. According to the agenda summary, the committee will call the meeting to order; discuss statutory requirements; review of Comptroller's proposal; discussion and adoption of required action; and adjourn.

Contact: Lita Gonzalez, Room 902, LBJ Building, Austin, Texas 78701, (512) 475-1125.

Filed: August 19, 1992, 2:02 p.m.

TRD-9211400

Texas Department of Human Services

Friday, August 28, 1992, 10 a.m. The EPSDT Dental Professional Advisory and Review Subcommittee of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, West Tower, Room 103, Austin. According to the complete agenda, the subcommittee will call the meeting to order; take roll call; discuss approval of February 14, 1992 meeting minutes; FY 94-95 LAR; change in dental periodicity schedule; dental utilization update; EPSDT dental reimbursement Ad Hoc committee report; Texas Dental Association meeting report; baby bottle tooth decay; prior authorization for dental services; sealants and bridges on primary teeth; pre-and post-op x-rays/crowns root canals; 1992 Medicaid Provider Procedures Manual; House Bill-7 department reorganization update; meet in executive session; and adjourn.

Contact: Richard Wilson, P.O. Box 149030, Austin, Texas 78714-9030, (512) 338-6944.

Filed: August 19, 1992, 3:54 p.m.

TRD-9211421

Texas Department of Insurance

Wednesday, August 26, 1992, 9 a.m. (Revised agenda). The State Board of Insurance of the Texas Department of Insurance

will meet at the William P. Hobby Building, Room 100, 333 Guadalupe Street, Austin. According to the agenda summary, the board will consider commercial general liability endorsement-animal rights suits defense costs for Star Insurance Company; consider ten (10) Personal Catastrophe Cover (PCC) endorsements by Fireman's Fund Insurance Company; consider approval of a rate renewal for the Veterinarians' Professional Liability Insurance Programs of General Accident Insurance Company of America, Central Mutual Insurance Company and Providence Washington Insurance Company; consider commercial general liability endorsement filed by Continental Casualty Company; consider Workers' Compensation negotiated deductible endorsement by Old Republic Insurance Company; request from Farmington Casualty Company for cessation of small premium policies; approval of a Texas Homeowners' coverage enhancement endorsement filed by various insurers as outlined; and approval of a commercial multiperil forms filing by American Protection Insurance Company.

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

Filed: August 18, 1992, 4:10 p.m.

TRD-9211368

Texas Department of Licensing and Regulation

Thursday, August 27, 1992, 9:30 a.m. The Texas Commission on Licensing and Regulation of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 920 Colorado Street, Room 1012, Austin. According to the agenda summary, the commission will call the meeting to order; take roll call and certification of quorum; fiscal year 1993 operating budget; staff report on legislative appropriation request; meet in executive session; discuss date, time and location of next commission meeting; and adjourn.

Contact: Elvis Schulze, 920 Colorado, Austin, Texas 78711, (512) 463-3127.

Filed: August 19, 1992, 3:53 p.m.

TRD-9211420

Tuesday, September 1, 1992, 10 a.m. The Board of Boiler Rules of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 920 Colorado Street, 10th Floor Conference Room, Austin. According to the complete agenda, the department will call the meeting to order; introduce visitors; adopt agenda; discuss approval of minutes of April 21, 1992; administrative report; task force reports-controls and safety devices for automati-

cally fired boilers, gas fired jacketed kettles, electronically transmitted data, boiler installer; discuss old business-changes to boiler rules, EC-92; plan next meeting; and adjourn.

Contact: George Bynog, P.O. Box 12157, Austin, Texas 78711, (512) 463-2904.

Filed: August 18, 1992, 1:04 p.m.

TRD-9211309

Texas State Board of Medical Examiners

Thursday-Saturday, August 20-22, 1992, 1:30 p.m., 9 a.m., and 8:30 respectively. The Texas State Board of Medical Examiners met at 1812 Centre Creek Drive, Suite 300, Austin. According to the emergency revised agenda summary, the board may have approved additional orders; noted times on certain agenda items had changed; and discussed a proposal for a decision regarding Dr. Vernon Vanbolden had been postponed. The emergency status was necessary as information had come to the attention of the agency and required prompt consideration. (Executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of the Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-4502.

Filed: August 20, 1992, 9:27 a.m.

TRD-9211430

Texas Parks and Wildlife Department

Wednesday, August 26, 1992, 9 a.m. The Land Acquisition Development Committee of the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building C, 4200 Smith School Road, Austin. According to the agenda summary, the committee will discuss approval of the minutes; capital program update; and staff update.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: August 18, 1992, 3:41 p.m.

TRD-9211365

Wednesday, August 26, 1992, 9 a.m. The Land Acquisition Development Committee of the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building C, 4200 Smith School Road, Austin. According to

the agenda summary, the committee will discuss approval of the minutes; fiscal year 1992 land acquisition program update; and land acquisition-Hays County.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: August 18, 1992, 3:41 p.m.

TRD-9211364

Wednesday, August 26, 1992, 10 a.m. The Regulations of the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the committee will discuss approval of the minutes; briefing on Pilot Program options concerning a white-tailed deer management/control permit; briefing on proposed youth license exemptions-a mitigated revenue loss; discuss reciprocal agreements between Texas and Oklahoma relative to the Lake Texoma Fishing license and striped bass fishing regulations; proposed amendments to late season migratory game bird proclamation; discuss other issues that may come before the Regulations Committee; proposed amendments to Wildlife Management Areas Proclamation to add on public hunting area; proposed new rule relating to a memorandum of understanding between Texas Department of Transportation and Texas Parks and Wildlife Department; activities to solicit input from the public in developing hunting and fishing regulations.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: August 18, 1992, 3:41 p.m.

TRD-9211363

Wednesday, August 26, 1992, 2 p.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the complete agenda, the commission will conduct annual public hearing concerning any issue relating to Parks and Wildlife matters.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: August 18, 1992, 3:41 p.m.

TRD-9211362

Wednesday, August 26, 1992, 6 p.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at El Rancho Matt's Inc., 2613 South Lamar Boulevard, Austin. According

to the agenda summary, the members of the commission plan to have dinner, and although this function is primarily a social event and no formal action is planned, the commission may discuss items on the Public Hearing Agenda scheduled for 9 a.m., August 27, 1992.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: August 18, 1992, 3:40 p.m.

TRD-9211359

Thursday, August 27, 1992, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will discuss approval of the minutes; presentation of retirement certificates and service awards; birdhouse day resolution; fiscal year 1993 operating budget; local park funding; boat ramp funding; late season migratory game bird proclamation, 1992-93; amendments to Type I wildlife management areas-hunting and fishing proclamation; Balcones Canyonlands Habitat Conservation Plan; easement-Las Palomas Wildlife Management Area-Hidalgo County; pipeline easement-Texas State Railroad; briefing on dredging in San Jacinto River; and land acquisition-Hays County.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: August 18, 1992, 3:40 p.m.

TRD-9211361

Thursday, August 27, 1992, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will discuss approval of the minutes; land acquisition-Hays County; and personnel matters-annual performance evaluation of executive director.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: August 18, 1992, 3:40 p.m.

TRD-9211360

◆ ◆ ◆
Public Utility Commission of Texas

Wednesday, August 26, 1992, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, CHR, Austin. According to the agenda summary,

the commissioners will consider the following dockets: 9695, 11055, 10996, 10982, 6106, 7205, 10726, 11137, and 11272.

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

Filed: August 18, 1992, 3:18 p.m.

TRD-9211353

Wednesday, August 26, 1992, 9:05 a.m. The Administrative Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the division will discuss: reports; discussion and action on budget and fiscal matters; presentation of monthly financial statements; discussion of total quality management; approval of fiscal year 1993 operating budget; approval of fy 94-95 legislative appropriations request; approval of amendment to the Strategic Plan to conform to the approved budget format; comments on Sunset Advisory Commission's new issues on the PUC; adjournment for executive session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and adjourn.

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

Filed: August 18, 1992, 3:18 p.m.

TRD-9211352

Monday, August 31, 1992, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 11400-complaint of Jim Deitch against Southwestern Bell Telephone Company.

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

Filed: August 19, 1992, 3:31 p.m.

TRD-9211416

Tuesday, September 1, 1992, 10:30 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 11351-petition of the general counsel to inquire into the reasonableness of the service practices and rates of Cherokee County Electric Cooperative Association, Inc. regarding switchover fees.

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

Filed: August 18, 1992, 3:20 p.m.

TRD-9211355

Tuesday, September 1, 1992, 1:30 p.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 11216-application of Fort Bend Telephone Company for an exemption from the requirements of PUC Substantive Rule 23.45(f), (1), (B), and (iv).

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

Filed: August 18, 1992, 3:20 p.m.

TRD-9211354

Thursday, September 10, 1992, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 11337-application of GTE Southwest, Inc. to establish rates for a service called Pseudo Number.

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

Filed: August 19, 1992, 3:31 p.m.

TRD-9211417

Friday, March 5, 1993, 9 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: August 18, 1992, 3:20 p.m.

TRD-9211356

Monday, March 8, 1993, 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 hearing on the merits 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: August 18, 1992, 3:20 p.m.

TRD-9211357

The Texas A&M University System, Board of Regents

Saturday, August 22, 1992, 4 p.m. (Rescheduled from Saturday, August 22, 1992, 3 p.m. The Executive Committee of the Board of Regents of The Texas A&M University System met at the Board of Regents Meeting Room, College Station. According to the complete agenda, the committee discussed the guidelines for The Texas A&M University System's requests for legislative appropriations and other staff reports.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: August 18, 1992, 2:03 p.m.

TRD-9211320

Texas Appraiser Licensing and Certification Board

Wednesday, August 26, 1992, 7 p.m. The Budget Committee of the Texas Appraiser Licensing and Certification Board will meet at TREC Headquarters, Room 234 (Second Floor), 1101 Camino La Costa, Austin. According to the complete agenda, the committee will call the meeting to order; discuss and make possible recommendations to the Texas Appraiser Licensing and Certification Board concerning the Requests for Legislative Appropriations (LAR) for Fiscal Years 1994 and 1995; other budgetary and fiscal matters; and adjourn.

Contact: Renil C. Liner, 1101 Camino La Costa, Austin, Texas 78752, (512) 465-3950.

Filed: August 18, 1992, 3:46 p.m.

TRD-9211366

Thursday, August 27, 1992, 7 p.m. The Budget Committee of the Texas Appraiser Licensing and Certification Board will meet at TREC Headquarters, Room 234 (Second Floor), 1101 Camino La Costa, Austin. According to the complete agenda, the committee will call the meeting to order; discuss and make possible recommendations to the Texas Appraiser Licensing and Certification Board concerning the Requests for Legislative Appropriations (LAR) for Fiscal Years 1994 and 1995; other budgetary and fiscal matters; and adjourn.

Contact: Renil C. Liner, 1101 Camino La Costa, Austin, Texas 78752, (512) 465-3950.

Filed: August 19, 1992, 11:52 a.m.

TRD-9211399

Texas Department of Transportation

Wednesday, August 26, 1992, 8:15 a.m. The Environmental Advisory Committee of the Texas Department of Transportation will meet at the Dewitt C. Greer Building, 125 East 11th Street, First Floor-Red Room), Austin. According to the agenda summary, the committee will elect acting chairperson; make opening remarks and introduction of members; briefing on: structure of department, roles and missions of division of environmental affairs, role of advisory committee, procedures governing the operation of the advisory committee, and proposed comprehensive environmental policy; discuss legislative mandates which include memoranda of understanding with natural resource agencies, and revisions to environmental and public involvement rules; and briefing on Open Meeting Act requirements.

Contact: Roland Gamble, 125 East 11th Street, Austin, Texas 78701, (512) 475-0701.

Filed: August 18, 1992, 2:31 p.m.

TRD-9211322

Wednesday, August 26, 1992, 9:30 a.m. The Texas Transportation Commission of the Texas Department of Transportation will meet at the Joe C. Thompson Center, 26th and Red River Streets, Room 3.102, Austin. According to the agenda summary, the commission and representatives of certain Metropolitan Planning Organizations will discuss impact of Intermodal Surface Transportation Efficiency Act of 1991, Title 23, United States Code.

Contact: Don Dial, 35-40th and Jackson Streets, Austin, Texas 78731, (512) 465-7466.

Filed: August 18, 1992, 2:54 p.m.

TRD-9211324

Texas State Treasury Department

Wednesday, August 26, 1992, 2 p.m. The Cash Management Committee of the Texas State Treasury Department will meet at 102 One Capitol Square, Room 102, 300 West 15th Street, Austin. According to the complete agenda, the committee will approve a resolution authorizing an increase in the maximum aggregate outstanding principal amount of tax and revenue anticipation notes that may be issued and outstanding at any one time in Fiscal Year 1993.

Contact: Alicia M. Fechtel, 210 East 10th Street, Austin, Texas 78701, (512) 463-5971.

Filed: August 18, 1992, 4:01 p.m.

TRD-9211367

University of Texas System, M. D. Anderson Cancer Center

Tuesday, August 25, 1992, 9 a.m. The Institutional Animal Care and Use Committee of the University of Texas System, M. D. Anderson Cancer Center will meet at the M. D. Anderson Cancer Center, Conference Room AW7.707, Seventh Floor, 1515 Holcombe Boulevard, Houston. According to the agenda summary, the committee will review protocols for animal care and use and modifications thereof.

Contact: Anthony Mastromarino, Ph.D., V.P. for Research U.T., M. D. Anderson Cancer Center, 1515 Holcombe Boulevard, Houston, Texas 77030, (713) 792-3991.

Filed: August 20, 1992, 8:43 a.m.

TRD-9211424

Texas Water Commission

Wednesday, August 26, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider approval of the order appointing a temporary manager and operator of Oak Valley Water Company.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905

Filed: August 18, 1992, 1:11 p.m.

TRD-9211311

Monday, September 28, 1992, 9:30 a.m. The Subcommittee on Pollution Prevention to Task Force 21 of the Texas Water Commission will meet at the Reagan Building, Room 102, 15th Street and North Congress Avenue, Austin. According to the complete agenda, the task force will make opening remarks; hear public comment; briefing on Houston Ship Channel Metals Study-TWC; Texas Railroad Commission Pollution Prevention program-RRC; Pollution Prevention Research in the Gulf Coast Hazardous Substance Research Center-Dr. Jack Hopper, Lamar University; discuss encouraging research in pollution prevention; comments on revised annual report form; update on the Office of Pollution Prevention Programs; discuss next meeting agenda; and adjourn.

Contact: Nancy Worst, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-7869.

Filed: August 18, 1992, 2:03 p.m.

TRD-9211319

Texas Water Development Board

Thursday, August 20, 1992, 9 a.m. The Texas Water Development Board met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the emergency revised agenda summary, the board considered a \$455,000 loan/grant to the City of Brownsville (Cameron County) for the construction of a wastewater collection system in the Hacienda Gardens subdivision (Economically Distressed Areas Program Account and State Water Pollution Control Revolving Fund). The emergency status was necessary as the need to use SRF funds was unforeseen and immediate action was needed to alleviate conditions threatening the public health.

Contact: Craig Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: August 19, 1992, 3:30 p.m.

TRD-9211415

Texas Public Workers' Compensation Program

Saturday, August 22, 1992, 1 p.m. The Texas Public Workers' Compensation Program met at 8008 Cedar Springs, Dallas. According to the agenda summary, the program elected officers; discussed operational issues; approved and appointed contractors; and adopted budget and funding.

Contact: Russ Edwards, 1205 Lakeshore Drive, Marble Falls, Texas 78654, (512) 693-2508.

Filed: August 18, 1992, 1:11 p.m.

TRD-92113310

Texas Workers' Compensation Insurance Fund

Wednesday, August 26, 1992, 8:30 a.m. The Board of Directors will meet at the Crest Hotel, First Street and Congress Avenue, Austin. According to the agenda summary, the board will call the meeting to order; take roll call; review and discuss approval of the July 22, 1992 minutes; public participation call; hear president's report; TWCC audit, State Auditors report, USAA and Valero visits, environmental scan; staff reports: financial and investments report, claims and loss prevention report, marketing and underwriting update, public information, and training report; meet in execu-

tive session to consider report from attorney; review of operating budget; consider space lease contract; consider finance committee report (investment manager selection, pension plan); consider underwriting criteria; make announcements; and adjourn.

Contact: Jodie Bowen, 100 Congress Avenue, Suite 300, Austin, Texas 78701-4042.

Filed: August 18, 1992, 1:01 p.m.

TRD-9211308

Regional Meetings

Meetings Filed August 18, 1992

The Austin-Travis County Mental Health and Mental Retardation Center Finance and Control Committee held an emergency meeting at 1430 Collier Street, Austin. The emergency status was necessary as this was the only time a quorum of committee members could be together before the full board meeting for August. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9211323.

The Central Counties Center for Mental Health and Mental Retardation Services Board of Trustees will meet at Lisa's Schnitzel House, 311 East Third Street, Lampasas, August 25, 1992, at 7:45 p.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, extension 301. TRD-9211315.

The Central Texas Mental Health and Mental Retardation Center Board of Trustees met at 408 Mulberry Drive, Brownwood, August 24, 1992, at 5 p.m. Information may be obtained from Saul Pullman, P.O. Box 250, Brownwood, Texas 76801, (915) 646-9574, extension 102. TRD-9211369.

The Colorado River Municipal Water District Board of Directors met at 400 East 24th Street, Big Spring, August 20, 1992, at 10 a.m. The emergency status was necessary due to unexpected timing of required property purchase through litigation. Information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79721, (915) 267-6341. TRD-9211321.

The Johnson County Rural Water Supply Corporation Board met at the Corporate Office, Highway 171 South, Cleburne, August 21, 1992, at 6 p.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9211358.

The San Jacinto River Authority Board of Directors will meet at the Lake Conroe Office Building, Conference Room, High-

way 105 West, Conroe, August 26, 1992, at 12:30 p.m. Information may be obtained from James R. Adams, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111. TRD-9211317.

The Texas Panhandle Mental Health Authority Board of Trustees will meet at 7120 I-40 West, Suite 150, Amarillo, August 25, 1992, at 10:30 a.m. Information may be obtained from Mellisa Talley, P.O. Box 3250, Amarillo, Texas 79116, (806) 353-3699. TRD-9211306.

Meetings Filed August 19, 1992

The Comal Appraisal District Board of Directors will meet at 430 West Mill Street, New Braunfels, August 31, 1992, at 5:30 p.m. Information may be obtained from Lynn Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9211376.

The Deep East Texas Council of Governments Grants Application Review Committee will meet at the Trinity Community Center, 806 Robb Street, Trinity County, Trinity, August 27, 1992, at 11 a.m. Information may be obtained from Rusty Phillips, 274 East Jasper, Texas 75951, (409) 384-5704. TRD-9211373.

The Golden Crescent Service Delivery Area (Revised agenda). Private Industry Council, Inc. met at 2401 Houston Highway, Victoria, August 19, 1992, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9211395.

The Greater Austin-San Antonio Corridor Council, Inc. Board of Directors will meet at Southwest Texas State University, J. C. Kellam Building, 11th Floor, San Marcos, August 28, 1992, at 1:30 p.m. Information may be obtained from Dolores Sullivan, P.O. Box 1618, San Marcos, Texas 78667-1618, (512) 245-2535. TRD-9211397.

The Heart of Texas Region Mental Health and Mental Retardation Center Board of Trustees will meet at 110 South 12th Street, Waco, August 25, 1992, at 11:45 a.m. Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (817) 752-3451. TRD-9211414.

The Kendall County Education District Board of Trustees will meet at 121 South Main Street, Boerne, August 26, 1992, at 7 p.m. Information may be obtained from J. P. Davis, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9211375.

The Middle Rio Grande Development Council Board of Directors will meet at the

Holiday Inn, Sage and Rose Room, 920 East Main Street, Uvalde, August 26, 1992, at 1 p.m. Information may be obtained from Mike Patterson, P. O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9211370.

The Region VIII Education Service Center Board of Directors will meet at Region VIII ESC, FM 1734, Mt. Pleasant, August 27, 1992, at 7 p.m. Information may be obtained from Scott Ferguson, P.O. Box 1894, Mt. Pleasant, Texas 75456, (903) 572-8551. TRD-9211419.

The San Antonio-Bexar County Metropolitan Planning Organization Steering Committee met at the Centro Room of San Antonio Convention Center, San Antonio, August 24, 1992, at 1:30 p.m. Information may be obtained from Charlotte Roszelle, 434 South Main Street, Suite 205, San Antonio, Texas 78204, (512) 227-8651. TRD-9211394.

The Trinity River Authority of Texas Board of Directors will meet at 5300 South Collins, Tarrant County, Arlington, August

26, 1992, at 10 a.m. Information may be obtained from J. Sam Scott, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9211396.

◆ ◆ ◆
**Meetings Filed August 20,
1992**

The Ark-Tex Council of Governments Executive Committee will meet at Two Senoritas Restaurant, Mt. Pleasant, August 27, 1992, at 5:30 p.m. Information may be obtained from Laurie Dean, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9211427.

The Brazos Valley Development Council Board of Directors will meet at The Brazos Center, 3232 Briarcrest, Room 102, Bryan, August 26, 1992, at 1:30 p.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9211426.

The Central Texas Economic Development District Executive Committee will meet at Hilton Hotel, East Room, Waco,

September 10, 1992, at 11 a.m. Information may be obtained from Bruce Gaines, P.O. Box 154118, Waco, Texas 76715, (817) 799-0258. TRD-9211428.

The Central Texas Economic Development District Board of Director will meet at Hilton Hotel, Town Square Room, Waco, September 10, 1992, at 1 p.m. Information may be obtained from Bruce Gaines, P.O. Box 154118, Waco, Texas 76715, (817) 799-0258. TRD-9211429.

The Deep East Texas Council of Governments Board of Directors will meet at Trinity Community Center, 806 South Robb Street, Trinity County, Trinity, August 27, 1992, at 1 p.m. Information may be obtained from Joan Draper, 274 East Lamar, Jasper, Texas 75951, (409) 384-5704. TRD-9211431.

The Gillespie Central Appraisal District Board of Directors will meet at City Hall Assembly Room, Fredericksburg, September 3, 1992, at 9 a.m. Information may be obtained from Mary Lou Smith, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-9807. TRD-9211425.

◆ ◆ ◆

In Addition

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

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

Office of the Attorney General Texas Clean Air Act

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 inappropriate, 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. Thomas E. Draper, Et Al., Cause Number 90-052035 in the 269th District Court of Harris County.

Nature of Defendant's Operations. Thomas E. Draper is the owner of a building from which asbestos was allegedly removed.

Proposed Agreed Judgment. The proposed Agreed Final Judgment contains provisions for civil penalties.

Civil Penalties and Attorney's Fees. The judgment requires the Defendant to pay \$10,500 in civil penalties plus court costs. The civil penalties will 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 September 15, 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 August 18, 1992.

TRD-9211339 Jerry Benedict
Assistant Attorney General
Office of the Attorney General

Filed: August 18, 1992



Office of Consumer Credit Commissioner

Notice of Rate Ceilings

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

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u>	<u>Commercial(2) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	08/24/92-08/30/92	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	09/01/92-09/30/92	10.00%	10.00%

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

Issued in Austin, Texas, on August 17, 1992.
TRD-9211377 Al Endsley
Consumer Credit Commissioner
Filed: August 19, 1992



Court Reporters Certification Board Certification of Court Reporters

Following the examination of applicants on July 10, 1992, the Court Reporters Certification Board certified to the

Supreme Court that the following individuals are qualified in the method indicated to practice shorthand reporting pursuant to Chapter 52 of the Government Code. Oral Stenography: Carol Matthews-Texarkana.

Machine Shorthand: Julie Lynette Bruno-Weatherford; Lynda Kay Carson-Jacksonville; Sheila A. Detwiler-San Bernardino, CA; Dana Norris Holt-Houston; Kori N. Luckenbach-Corpus Christi; Karen M. Owens-Albuquerque, NM; Cristy Lynn Stromer-San Antonio; Terri Lynn Trbula-Texas City; Melissa Marie Voigt-Bastrop.

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

TRD-9211318 Peg Liedtke
Executive Secretary
Court Reporters Certification Board

Filed: August 18, 1992

◆ ◆ ◆
Texas Education Agency
Notice of Contract Amendment

The Texas Education Agency must expand the Texas assessment of academic skills (TAAS) programs to comply with the student assessment transition plan adopted by the State Board of Education. This expansion provides for oral language proficiency, end-of-course tests, and the development and expansion of performance assessment strategies. National Computer Systems, P.O. Box 30, Iowa City, Iowa holds the current contract for test development for this assessment instrument. Materials produced as a result of this contract are secure as specified in the Texas Education Code, §21.556. As no other company has access to this information and to maintain continuity with previously developed items, the Texas Education Agency has amended the contract with National Computer Systems for \$5,078,214 for the additional services. (See October 9, 1990, issue of *Texas Register* (15 TexReg 5966) and September 27, 1991, issue of *Texas Register* (16 TexReg 5345), and July 7, 1992, issue of the *Texas Register* (17 TexReg 4904).

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

TRD-9211314 Lionel R. Meno
Commissioner of Education

Filed: August 18, 1992

◆ ◆ ◆
Notice of Public Hearing

A public hearing is scheduled during the meeting of the State Board of Education Committee of the Whole on Thursday, September 10, 1992, in Room 1-104 of the William B. Travis Building located at 1701 North Congress Avenue in Austin. The Committee of the Whole meeting begins at 12:30 p.m. and the public hearing is the last item on the committee schedule. The purpose of the public hearing is to accept testimony regarding the sunset review of 19 TAC Chapters 137 through 173, 177, and 181. A public hearing is scheduled before the board considers specific proposed language for the rules in the areas of administration issues, professional education, professional development, and certification. The intent of this process is to allow public and professional comment to be considered as the proposed rules are under development.

This is the third year of a three-year process of sunsetting all the Texas Education Agency rules under Senate Bill 1, §2.25, 71st Texas Legislature, Sixth Called Session (1990).

Individuals interested in giving testimony are encouraged to pre-register by contacting the Policy Planning and Evaluation Division at (512) 463-9701 by 5 p.m. on Friday, September 4, 1992. Information requested includes: name, organizational affiliation (if any), address, telephone number, and item or topic that will be addressed. Presenters are asked to supply 25 copies of their testimony. Since only one hour has been allotted to receive public testimony, presenters will be limited to a three-minute presentation.

Individuals who do not pre-register will be able to register on site the day of the public hearing. If time permits, these individuals will be allowed to give testimony on a first-come, first-served basis following those who have pre-registered.

Questions regarding the Texas Administrative Code (TAC) sunset review process may be directed to the Policy Planning and Evaluation Division at (512) 463-9701.

Issued in Austin, Texas, on August 14, 1992.

TRD-9211312 Lionel R. Meno
Commissioner of Education

Filed: August 18, 1992

◆ ◆ ◆
Request for Applications

RFA# 701-92-051. This request for applications is filed in accordance with the Carl D. Perkins Vocational and Applied Technology Education Act, Public Law 101-392, Title II.

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications from independent school districts, education service centers, and institutions of higher education and consortia of the foregoing for the development of vocational and applied technology education state programs and curriculum development activities projects.

Description. The Texas Education Agency will fund approximately 11 curriculum development projects in the areas of career investigation, trade and industrial education, marketing education, home economics education, vocational special needs information center, industrial technology education, office education, agricultural science and technology education, and health occupations education (total available-\$1,224,700).

Date of the Projects. Pre-agreement costs will be negotiated as necessary. Actual beginning date of the projects will be negotiated.

Selection Criteria. Applications will be approved through a formal review process based upon the score each applicant receives. Applications must address all requirements and specifications contained in the request for application.

Requesting and Application. A copy of the request for application (RFA #701-92-051) may be obtained by writing the Document Control Center, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304.

Deadline for Receipt of Applications. The deadline for submitting an application is 5 p.m., Friday, September 11, 1992. Applications should be sent to the following address: Document Control Center, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701.

Issued in Austin, Texas, on August 14, 1992.

TRD-9211313 Lionel R. Meno
Commissioner of Education

Filed: August 18, 1992

General Services Commission Cancellation of Request for Proposals

Notice is hereby given to all interested parties that the General Services Commission is cancelling the request for proposals for an option on a tract of land for construction of a residential community facility to house programs administered by the Texas Youth Commission. The notice of request for proposals was published in the July 24, 1992, issue of the *Texas Register* (17 TexReg 5242).

Questions regarding this cancellation are directed to: General Services Commission, Central Services Building, Room 204-E, 1711 San Jacinto, P.O. Box 13047, Austin, Texas 78711-3047, Attention: Wayne Wilson, (512) 463-3325.

Issued in Austin, Texas, on August 18, 1992.

TRD-9211305 Judith M. Porras
Director, Legal Information and Human
Resources
General Services Commission

Filed: August 18, 1992

Governor's Budget and Planning Office Request for Proposals

Pursuant to Texas Civil Statutes, Article 6252-11C, the Governor's Office of Budget and Planning invites professionals with documented expertise in the field of indirect cost recovery and cost allocation plans for governmental units to submit proposals to prepare and negotiate with the federal government, under the provisions of OMB Circular A-87, the state of Texas' consolidated statewide cost allocation plan for the fiscal year ending August 31, 1994.

Proposers will be expected to develop a cost allocation plan that enables eligible state agencies to recover the maximum indirect costs possible from federal programs. The contractor selected will be responsible for all aspects of the plan, including obtaining raw cost and statistical data, identifying allocable costs, preparing and submitting the plan, and negotiating the final plan with the federal government for state agency use during the state fiscal year beginning September 1, 1993. Proposals must include a description of the system to be used to extract allowable costs from central government agencies and for allocating such costs.

As a component of the cost allocation plan, the contractor selected must also identify the costs of providing statewide support services to each state agency. This component must identify state agencies that use services from other state agencies (for example, auditing, accounting, centralized purchasing, and legal services) in carrying out their programs and the type and dollar amount of services used. The contractor selected will be responsible for all aspects of this component, including obtaining raw cost and statistical data identifying allocable costs. Proposals must include a description of the system to be used to extract allowable costs from central government agencies and for allocating such costs.

A complete set of the work papers used to prepare the plan must be provided to the Governor's Office. The contractor is required to provide 25 copies of the summary of fixed costs related to federal cost allocations from the completed

plan and 25 copies of the summary of costs related to state cost allocations to other state agencies from the completed plan.

The Governor's Office of Budget and Planning will evaluate each proposal and reserves the right to reject any and all proposals. If selected, the contractor will be chosen on the basis of proposal content, the proposer's demonstrated experience, competence, knowledge and qualifications, and ability to meet the federal filing deadline of February 28, 1993.

A copy of the FY 1993 plan may be obtained by contacting Tom Adams, Governor's Budget and Planning Office, 700 Sam Houston State Office Building, Austin, Texas 78711, (512) 463-1778.

All proposals must be received at the above address no later than 5 p.m., September 25, 1992.

Issued in Austin, Texas, on August 7, 1992.

TRD-9211371 David A. Talbot, Jr.
General Counsel
Governor's Budget and Planning Office

Filed: August 18, 1992

Texas Department of Health HIV Reporting Procedures Public Hearing

The Texas Department of Health will conduct a public hearing regarding the need for changes to the HIV infection reporting system contained in department rules on the control of communicable diseases in Title 25, Texas Administrative Code, §§97.1-97.18.

The hearing is scheduled to be conducted from 8:30 a.m. until 12 Noon, Friday, September 4, 1992, at the Texas Department of Health, Auditorium, 1100 West 49th Street, Austin, Texas 78756. Contact Eugene G. Thompson, Seroprevalence Manager, Texas Department of Health (Telephone: (512) 458-7463). For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458- 7708 at least two days prior to the meeting.

Issued in Austin, Texas, on August 18, 1992.

TRD-9211316 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: August 18, 1992

Texas Department of Human Services Notice of Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (DHS) announces this notice of consultant contract award. The invitation for consultant proposals was published in the July 7, 1992, issue of the *Texas Register* (17 TexReg 4906).

Description of Services. The contractor will provide consultant services to develop recommendations for restructuring the current Texas Medicaid reimbursement methodologies for the nursing facility (NF) and intermediate care facility for the mentally retarded (ICF-MR) programs, discuss and analyze the strengths and weaknesses of alter-

natives, and describe a findings process adequate to demonstrate compliance with the Boren Amendment.

Name of Consultant. The contract was awarded to Lewin-ICF, 9300 Lee Highway Suite 400, Fairfax, VA 22031-1207.

Term and Amount of Contract. The contract period is from August 13, 1992, and will end August 31, 1993. Total value of the contract is not to exceed \$200,000. An interim status report is due by October 30, 1992, and the final report is due by December 11, 1992.

Issued in Austin, Texas, on August 18, 1992.

TRD-9211337 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: August 18, 1992

Invitation to Bid

The Texas Department of Human Services (DHS) announces an invitation to bid (ITB) for purchased food stamp issuance services. DHS uses a competitive procurement process to ensure and document that services are of the highest quality, lowest price, and best meet the needs of the clients served.

Description of Services. Over-the-counter food stamp issuance is the exchange of food coupon booklets for authorization to participate (ATP) forms.

ATP forms will specify client name, case number, ID and issuance numbers, total benefit amount, number of each denomination booklets to be issued, and month valid. Food stamp clients will present issuance agent with ATPs and ID cards. Issuance agent will check to see that the ID card serial number matches the corresponding number on the ATP form. If they match and the ATP is valid for the current month, the client will sign the ATP form in the presence of the issuance agent, who will then exchange the indicated number of each denomination of booklets for the signed ATP form. The issuance agent will write the issuance verification code (from the ID card) on the ATP form, date stamp the ATP form, and later batch it for daily delivery to DHS.

To contract with DHS, the contractor must comply with all insurance requirements specified in the ITB, including providing an all-risk insurance policy naming DHS as the guaranteed loss payee.

Geographical Area. DHS will procure over-the-counter food stamp issuance service in Lamar County Paris.

Terms of Contract. The contract will be for one 12 month period. DHS has the option to renew the contract on a non-competitive basis for a limited number of additional periods. The contractor will be paid a fee per transaction basis for each eligible ATP form processed.

Procedures for Awarding Contract. Only bids meeting the requirements of the procurement will be considered for contract award. A contract will be awarded to the lowest bidder whose bid meets the specified requirements.

Contact Person. To request an ITB package or additional information, please contact Margarette Kaylor at (512) 450-3467. Sealed Bids must be received by Margarette Kaylor no later than 3 p.m., October 13, 1992, at Issuance Services Unit (W-320), Client Self-support Services Divi-

sion, Texas Department of Human Services, 701 West 51st Street, P.O. Box 149030, Austin, Texas 78714-9030.

Issued in Austin, Texas, on August 18, 1992.

TRD-9211338 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: August 18, 1992

Commission on Jail Standards Consultant Proposal Request

The Texas Commission on Jail Standards (TCJS) requests, pursuant to the provisions of Texas Civil Statutes, Article 6252-11c, the submission of proposals from qualified individuals to advise and assist TCJS in a survey of jails across the state under the terms of the Juvenile Justice and Delinquency Prevention Act, Public Law 93-415, as amended.

The individual selected will conduct on-site analyses of records and facilities at approximately 60 county and municipal jails and prepare required documentation and reports to verify compliance information regarding the removal of juveniles from the facilities.

All work performed under this contract shall be reimbursed on an hourly basis and is expected to be completed within 100 calendar days of contract approval. Travel expenses shall be reimbursed based upon state per diem rates with direct operating expenses provided by TCJS.

Interested persons should submit written proposals to include qualifications, experience, and references to the TCJS, 611 South Congress Avenue, Suite 200, Austin, Texas 78704, by September 20, 1992.

Final selection of the consultant shall be based upon availability, experience, qualifications, and demonstrated ability to work independently.

Issued in Austin, Texas, on August 14, 1989.

TRD-9211374 Jack E. Crump
Executive Director
Texas Commission on Jail Standards

Filed: August 19, 1992

North Central Texas Council of Governments Request for Proposals

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

NCTCOG and the Fort Worth Transportation Authority (FWTA) are requesting proposals to conduct a comprehensive Classification, Compensation, and Pay for Performance Study to update the personnel system of FWTA.

Contract Award Procedures. The firm selected to perform this study will be recommended by the Project Review Committee (PRC). The PRC will use evaluation criteria and methodology consistent with the scope of services contained in the Request for Proposals. The NCTCOG Executive Board will review the PRC's recommendation, and if it is found acceptable, will issue an award of contract.

Regulations. NCTCOG, in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 41 United States Code 2000d-4; and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 1, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such act, hereby notifies all bidders that it will affirmatively assure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, or national origin in consideration of an award.

Due Date. Proposals must be submitted no later than 12 noon, September 25, 1992, to Shirley Henry, North Central Texas Council of Governments, 616 Six Flags Drive, Second Floor, or P.O. Box 5888, Arlington, Texas 76005-5888. For more information and copies of the Request for Proposals, contact Shirley Henry, (817) 640-3300.

Issued in Arlington, Texas, on August 13, 1992.

TRD-9211256 William J. Pitelck
Executive Director
North Central Texas Council of
Governments

Filed: August 17, 1992

◆ ◆ ◆
Railroad Commission of Texas
Invitation for Bids

The Railroad Commission of Texas, Surface Mining and Reclamation Division (hereinafter referred to as the commission), is soliciting bids for the revegetation and erosion control of Alcoa AML Areas 4, 5, 6, 9, 11, and 12. The site is located in Milam County, 9.5 miles southwest of Rockdale. This project is being re-bid (first bid opening was conducting on July 24, 1992, and all bids were rejected).

As the designated state agency for implementation of the "Surface Mining Control and Reclamation Act of 1977" (30 United States Code, §1201 et seq), the commission will award a unit price contract to the lowest qualified bidder for completion of this work. Sealed bids will be received until 2 p.m., September 28, 1992, at which time the bids will be publicly opened and read at the address given below. A mandatory pre-bid conference will be held at the Alcoa Lake Training Center at 10 a.m., on September 15, 1992. Construction work items will include: seed-bed preparation and fertilization; seeding-temporary and permanent vegetation; mulch, insecticide, herbicide, and limestone application; and erosion control and repair.

Copies of the specifications, drawings and other contract documents are on file in Austin at the address shown below. The complete bid package may be obtained for \$15 from the following mailing address: Alcoa AML Revegetation and Erosion Control Project; Surface Mining and Reclamation Division; Railroad Commission of Texas; 1701 North Congress Avenue; Austin, Texas 78701; Attention: Melvin B. Hodgkiss, P.E., Director. All questions concerning the work or bid document must be received by 5 p.m., September 21, 1992.

Issued in Austin, Texas, on August 19, 1992.

TRD-9211382 Nolan Ward
Hearings Examiner, Legal Division-General
Law
Railroad Commission of Texas

Filed: August 19, 1992

◆ ◆ ◆
Texas Water Commission
**Notice of Application for Waste Disposal
Permit**

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of August 10, 1992-August 14, 1992.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application--new permit, amendment, or renewal.

City of Angleton; the Oyster Creek Wastewater Treatment Facilities; are adjacent to and south of County Road 609 (Old Highway 35), approximately 1 1/2 miles southwest of the intersection of State Highway 35 and State Highway 227 in Brazoria County; amendment; 105748-01.

The Atchison, Topeka & Santa Fe Railway Company; Brownwood Mechanical Facility; a railroad service and equipment repair facility; the plant site is north of the intersection of Jeff Davis Street and Avenue C in the City of Brownwood, Brown County; renewal; 00739.

City of Austin; Albert R. Davis Water Treatment Plant; is located near the junction of West 35th Street and Hucks Slough on Lake Austin in the City of Austin, Travis County; renewal; 10543-01.

Austin Municipal Utility District Number 1; the wastewater treatment facilities; are located approximately 1 3/4 miles north of U.S. Highway 290 east and 1/4 mile west of the intersection of Giles Road and Boyce Lane in Travis County; renewal; 13318-01.

City of Big Spring; a water treatment plant; the plant site is at 16th Street and Virginia Avenue in the City of Big Spring, Howard County; renewal; 10069-02.

City of Bryan; Atkins Street Electric Power Station; is located on a tract of land bounded on the north by

Finfeather Lake, on the east by the Missouri Pacific Railroad, on the south by Union Street, and on the west by Fountain Street in the City of Bryan, Brazos County; renewal; 01906.

City of College Station; The Carters Creek WWTP-1 Wastewater Treatment Facilities; are adjacent to the west side of Carters Creek approximately 0.75 mile east of the State Highway 6 Bypass, and approximately 4,000 feet north and 1,800 feet east of the intersection of State Highway Number 6 East Bypass and Texas Avenue in Brazos County; renewal; 10024-01.

Cooper's Marine Service, Inc.; a barge cleaning facility; the plant site is in the City of Channelview at 18302 Market Road east of the intersection of IH-10 and Crosby-Lynchburg Road in Harris County; new; 03424.

City of Edmonson; the wastewater treatment facility and irrigation site; are located approximately 2,000 feet south and 3,700 feet west of the intersection of State Highway 194 and FM Road 1424 in Hale County; new; 13611-01.

Explorer Pipeline Company; the Houston pump and meter station for a petroleum products pipeline; is located two miles south of U.S. Highway 90, 1/2 mile north of Wallisville Road and 1/2 mile west of Miller Road Number 2, Harris County; renewal; 02396.

Town of Flower Mound; the wastewater treatment facilities; are located approximately two miles east and one mile south of the intersection of FM Road 2499 and FM Road 3040 in Denton County; renewal; 11321-01.

City of Granbury; Water Treatment Plant; is located at East Pearl Street and State Highway 377 in the City of Granbury, Hood County; renewal; 02625.

City of Hearne; the Wastewater Treatment Plant Number 2; is approximately one mile east of the intersection of U.S. Highways 190 and 79 and FM Road 50 in Robertson County; amendment; 10046-02.

Hoechst Celanese Corporation; a research and chemical process development facility; site is at 1901 Clarkwood Road in the City of Corpus Christi, Nueces County; new; 03450.

City of Houston; The Gulf Meadows Wastewater Treatment Plant; is approximately 12.3 miles southeast of the downtown Houston central business district at 11030 Gulfdale, 0.5 of a mile east of State Highway 35 and approximately 0.5 of a mile north of Clear Creek in Harris County; renewal; 10495-20.

Intercontinental Energy Corporation; the Pawnee Uranium Mine Site; The mine site is approximately 2.4 miles east northeast (via State Highway 798) of the Community of Pawnee in Bee County; amendment; 02788.

City of Lakeport; the wastewater treatment facilities; are located approximately 1,550 feet northeast of the intersection of State Highway 149 and State Highway 322 and adjacent to the east bank of the Sabine River in the northern part of the City of Lakeport in Gregg County; renewal; 10939-01.

City of La Marque; the wastewater treatment plant; is adjacent to Mahan Park approximately 1,300 feet south of the intersection of Woodlawn and Lake Streets on North Bank of Highland Bayou in Galveston County; new; 10410-03.

City of Lovelady; the wastewater treatment facilities; the plant site is approximately 0.5 mile southwest of the intersection of State Highway 19 and FM Road 1280 in Houston County; amendment; 10734-01.

City of Maud; the wastewater treatment facilities; are adjacent to and south of U.S. Highway 67 and the St. Louis and Southwestern Railroad, approximately one-fourth mile southeast of the City of Maud in Bowie County; amendment; 10767-01.

NJB & Son's, Inc.; The Greenbrier Wastewater Treatment Facilities; are located approximately 2.25 miles north of the intersection of State Highway 317 and FM Road 107 and 0.75 mile west of State Highway 317 in McLennan County; renewal; 10888-01.

New Braunfels Utilities; the wastewater treatment facilities; are approximately 3,700 feet east and 2,000 feet south of the intersection of Interstate Highway 35 and FM Road 725 in the City of New Braunfels in Comal County; amendment; 10232-01.

City of Redwater; the wastewater treatment facilities; is approximately 800 feet east of FM Road 991 from a point located approximately 3,100 feet south of the intersection of FM Road 991 with the St. Louis Southwestern Railway, south of the City of Redwater in Bowie County; amendment; 10926-01.

City of San Angelo; the wastewater treatment facility and irrigation site; are approximately 3.5 miles east-northeast of the intersection of FM Road 380 and State Highway 306 in Tom Green County; amendment; 10641-03.

Texas Utilities Electric Company; the steam electric station; is located at 2233-A Mountain Creek Parkway in the City of Dallas, Dallas County; renewal; 01250.

Varco Shaffer, Inc.; the wastewater treatment facilities; is approximately one-fourth mile northeast of the intersection of Addicks Fairbanks Road and West Little York at 12950 West Little York in Harris County; renewal; 11758-01.

West Travis County Municipal Utility District Number 3 and Henry J. Spillman; the wastewater treatment facility; is located approximately 1,000 feet north of FM Road 2244; approximately 3,000 feet east of the intersection of FM Road 2244 and State Highway 71. The storage pond and irrigation site are located approximately 8,000 feet northwest of the intersection of FM Road 620 and State Highway 71 in Travis County; new; 13594-01.

Murray Corporation; for a post closure care permit and compliance plan; for a closed landfill; no operating storage, processing or disposal functions are authorized by the permit. The facility is located on a 5.7 acre tract of land near the City of Palestine, Anderson County; new; HW50328-000 and CP50328.

Issued in Austin, Texas, on August 14, 1992.

TRD-9211258

Gloria A. Vasquez
Chief Clerk
Texas Water Commission

Filed: August 17, 1992

◆ ◆ ◆
**Notice of Receipt of Applications for
Municipal Solid Waste Permits**

Attached are Notices of Receipt of Applications and Declaration of Administrative Completeness for municipal

solid waste permits issued during the period of August 10-14, 1992.

These applications have been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Water Commission. Persons should be advised that these applications are subject to change based on such evaluation.

These notices are issued pursuant to the Texas Health and Safety Code, §361.0665. Any person who may be affected by the facility is entitled to request a hearing from the commission. The commission will issue further notice of the application and the terms of any proposed draft permit once the technical evaluation is completed.

Information concerning these application may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

City of Hallettsville; Type V-TS (transfer station); approximately two miles northeast of Hallettsville, 0.4 mile north of U.S. Highway 90A and on the north side of Lavaca County Road in Lavaca County; new; MSW2220.

City of Irving; Type I landfill; West Tract is located at 220 West Hunter Ferrell Road in Irving and the East Tract is located at 700 East Hunter Ferrell Road in Irving, Dallas County; amendment; MSW1394-A.

Issued in Austin, Texas, on August 14, 1992.

TRD-9211250 Gloria A. Vasquez
 Chief Clerk
 Texas Water Commission

Filed: August 17, 1992

◆ ◆ ◆
Request for Proposal

The Texas Water Commission (TWC) announces that it wishes to retain the services of a consultant to perform remedial investigation/feasibility studies (RI/FS) at two State Superfund sites. These sites are known as the Butler Ranch State Superfund site located in Karnes County and the Hagerson Road State Superfund site located in Fort Bend County. Contingent upon approval by the TWC, the consultant's services may be extended to include follow-on architectural/engineering activities at one or both of the sites if and when funds become available. This project will be conducted by the TWC pursuant to the Texas Solid Waste Disposal Act, §361.185, Texas Health and Safety Code, §361.001 et seq (Vernons Supplement 1990); as well as any rules promulgated pursuant to this section by the TWC in Chapter 335 of the Texas Administrative Code, concerning the hazardous waste facility assessment and remediation program, commonly referred to as State Superfund.

The TWC may negotiate with potentially responsible parties (PRPs) to execute activities in this solicitation. Accordingly, all future TWC activities are subject to the outcome of those negotiations with the PRPs.

Objective. The objectives of the investigation and feasibility studies are to: characterize and identify the site in terms of wastes present; lateral and vertical extent of contamina-

tion in surface waters, ground waters, sediments, and soils; rate and direction of waste migration; target receptors (population at risk, threatened resources, sensitive ecosystems); site geology and hydrology; and develop and evaluate alternative remedial measures considering economic feasibility, technological feasibility, environmental impacts, and timeliness of completion, and offer recommendations regarding the most feasible remedial alternatives.

Budget and Schedule. The maximum budget allowable will be consistent with the specific scope of work as determined by the TWC. Budgeted funds to perform each RI/FS is \$355,000 for the Butler Ranch site and \$265,000 for the Hagerson Road site for a combined total of \$620,000.

Submittal Information. Microfiche copies of relevant files are available through Beth Wigham, Records and Library Services Section, (512) 908-2920. A copy of the request for proposal (RFP) may be obtained in three ways: by sending a regular or certified letter requesting a copy of the RFP to: Byron J. Ellington, Superfund Investigation Section, Pollution Cleanup Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. Upon receipt, the TWC will transmit the RFP to the potential offeror by certified mail; by sending an overnight or expedited delivery letter requesting a copy of the RFP to Byron J. Ellington, Superfund Investigation Section, Pollution Cleanup Division, Texas Water Commission, 12118 North IH-35, Messenger Building B, Austin, Texas 78753, with a prepaid self-addressed overnight or expedited delivery return envelope to accommodate approximately five pounds of 8-1/2" by 11" material; or in person with a signed letter of receipt at Technical Park Center, Messenger Building B, 12118 IH-35 North, Suite 101, Austin.

Mr. Ellington is the designated person to whom proposals may be made. Additional information may be obtained by calling (512) 908-2486. Six copies of each proposal must be received at the address listed in the above items before 5 p.m., October 9, 1992, which is the closing date for offers. All statements submitted in response to this request must address the items as described in the RFP. Any and all information submitted by an offeror in variance with the RFP instructions will not be reviewed or evaluated. All contracting procedures shall be conducted in accordance with all applicable state laws.

Upon submittal, the proposals shall become the property of the State of Texas. The contents of the proposal shall be considered as part of the public record unless otherwise identified by the consultant. The submittal of confidential or proprietary information should be made under separate cover on or before the due date. Confidential submittals should be limited and must include an explanation of the basis for confidentiality. TWC reserves the right to reject to return confidential information.

Issued in Austin, Texas, on August 18, 1992.

TRD-9211381 Mary Ruth Holder
 Director, Legal Division
 Texas Water Commission

Filed: August 19, 1992

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

Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues requested. Each copy of a back issue is \$5 including postage. You may use your Mastercard or Visa to purchase back issues or subscription services. To order by credit card, please call the *Texas Register* at (512) 463-5561. All purchases made by credit card will be subject to an additional 1.9% service charge. For more information, please write to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824 or call (512) 463-5561.

Change of Address

(Please print)

Back Issues Requested

(Please specify dates)



YES, I want to learn about the latest changes in Texas regulations that may affect the daily operation of my business. Please begin my subscription to the *Texas Register* today.

Name
Organization
Address
City, ST Zip

I would like my subscription to be the printed electronic version.
I'm enclosing payment for 1 year 6 months 7 week trial
7 week trial subscription not available for electronic subscriptions.
Bill me for 1 year 6 months

Cost of a subscription is \$90 yearly or \$70 for six months for the electronic version. Cost for the printed version is \$95 yearly or \$75 for six months. Trial subscriptions cost \$14. Please make checks payable to the Secretary of State. Subscription fees will not be refunded. Do not use this form to renew subscriptions. Return to *Texas Register*, P.O. Box 13824 Austin, TX 78711-3824. For more information, please call (512) 463-5561.

75365368 INTER-AGENCY
TEXAS STATE LIBRARY RM307
PUBLICATIONS CLEARINGHOUSE
LIBRARY AND ARCHIVES BLDG
AUSTIN TX 78711

Second Class Postage

PAID

Austin, Texas
and additional entry offices