

Texas Register

Volume 17, Number 69, September 11, 1992

Page 6223-6335

In This Issue...

Office of the Attorney General

Letter Opinions

LO-92-36 (ID-17053)	6243
LO-92-37 (ID-15534)	6243
LO-92-38 (ID-16593)	6243
LO-92-39 (RQ-349)	6243
LO-92-40 (RQ-308)	6243
LO-92-41 (RQ-327)	6243
LO-92-42 (RQ-314)	6243
LO-92-43 (ID-15752)	6243
LO-92-44 (RQ-13)	6243

Opinions

DM-156 (RQ-290)	6244
DM-157 (RQ-306)	6244
DM-158 (RQ-121)	6244
DM-159 (RQ-385)	6244
DM-160 (RQ-310)	6244
DM-161 (RQ-186)	6244

Proposed Sections

Railroad Commission of Texas

Transportation Division

16 TAC §5.230, §5.233	6245
-----------------------------	------

Texas Higher Education Coordinating Board

Program Development

19 TAC §§5.211-5.223	6246
19 TAC §§5.211-5.222	6246

Campus Planning

19 TAC §17.24	6252
19 TAC §17.63	6253

Student Services

19 TAC §21.26	6253
19 TAC §21.55, §21.56	6254
19 TAC §§21.304, 21.306, 21.308, 21.310, 21.314, 21.316, 21.319, 21.321	6254

Texas State Board of Medical Examiners

Licensure

22 TAC §163.2	6256
---------------------	------

Schedule of Fees and Penalties

22 TAC §175.1	6257
---------------------	------

Physician Assistants

22 TAC §§185.1-185.14	6257
22 TAC §§185.1-185.16	6257

Texas Air Control Board

General Rules

31 TAC §101.1, §101.29	6259
------------------------------	------

CONTENTS CONTINUED INSIDE

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- Secretary of State** - opinions based on the election laws
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- Proposed Sections** - sections proposed for adoption
- Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Sections** - sections adopted following a 30-day public comment period
- Open Meetings** - notices of open meetings
- In Addition** - miscellaneous information required to be published by statute or provided as a public service

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

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How to 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.

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

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

Texas Register Art Project

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

Texas Register Publications



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Deferred Compensation

34 TAC §§87.1, 87.5, 87.7, 87.9, 87.11, 87.13, 87.15, 87.17, 87.19, 87.21, 87.29 6262

Texas Commission on Fire Protection

Standards for Certification

37 TAC §421.5 6267

Fire Supression

37 TAC §423.1 6267

Fire Protection Instructor

37 TAC §§425.1, 425.5, 425.7, 425.9 6268

Training & Facilities

37 TAC §§427.1, 427.3, 427.5, 427.7, 427.13 6269

37 TAC §427.215 6270

Minimum Standards for Fire and Arson Investigator

37 TAC §431.9, 431.11 6271

Fees

37 TAC §§437.3, 437.5, 437.7, 437.9, 437.11 6271

Examinations for Certification

37 TAC §439.7, §439.15 6273

Continuing Education

37 TAC §441.5, §441.9 6273

Adoption by Reference

37 TAC §443.1 6274

Texas Department of Insurance

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L 6274

Adopted Sections

Texas Department of Insurance

Property and Casualty Insurance

28 TAC §5.401 6275

Comptroller of Public Accounts

Tax Administration

34 TAC §3.555 6277

Texas Commission on Fire Protection

Administration Practice and Procedure

37 TAC §420.93, §420.95 6279

Texas Department of Mental Health and Mental Retardation

Protection of Clients and Staff

40 TAC §§404.1-404.20 6287

Texas Department of Human Services

Child Protective Service

40 TAC §§49.101-49.107 6280

40 TAC §§49.308-49.325 6280

40 TAC §§49.327-49.346 6280

40 TAC §§49.501-49.519 6281

40 TAC §§49.601-49.604 6282

40 TAC §§49.701-49.703 6282

40 TAC §§49.901-49.904 6282

40 TAC §§49.1101-49.1110 6282

40 TAC §§49.1301-19.1306 6283

40 TAC §§49.1310-49.1313 6283

40 TAC §§49.1401-49.1406 6283

40 TAC §§49.1501-49.1505 6283

40 TAC §§49.1601-49.1603 6283

40 TAC §§49.1701-49.1749 6284

40 TAC §§49.1753-49.1765 6285

40 TAC §§49.1801-49.1806 6285

40 TAC §§49.1901-49.1903 6285

40 TAC §§49.2101-49.2110 6286

Community Care for Aged and Disabled

40 TAC §48.2915, §48.2916 6286

40 TAC §48.2940 6286

40 TAC §48.4101 6286

Day Care Licensing

40 TAC §§81.101-81.107 6287

40 TAC §§81.201-81.229 6287

40 TAC §81.231 6288

40 TAC §§81.301-81.330 6288

40 TAC §§81.401-81.433 6289

40 TAC §§81.501-81.507 6290

40 TAC §§81.601-81.632 6290

40 TAC §§81.701-81.730 6291

40 TAC §81.9801 6292

Twenty-four Hour Care Licensing

40 TAC §§83.25-83.59	6292	40 TAC §85.9801	6306
40 TAC §83.69.....	6293	Legal Services	
40 TAC §§83.117-83.126	6293	40 TAC §§79.101-79.105	6307
40 TAC §§83.131-83.137	6293	40 TAC §§79.201-79.210	6307
40 TAC §§83.201-83.207	6294	40 TAC §§79.301-79.305	6307
40 TAC §§83.231-83.248	6294	40 TAC §§79.401-79.406	6307
40 TAC §§83.301-83.336	6294	40 TAC §§79.1101-79.1105	6308
40 TAC §§83.363-83.374	6296	40 TAC §§79.1201-79.1207	6308
40 TAC §§83.401-83.432	6296	40 TAC §§79.1301-79.1317	6308
40 TAC §§83.440-83.560	6298	40 TAC §79.1401, §79.1402	6309
40 TAC §§83.570-83.574	6299	40 TAC §§79.1601-79.1614	6309
40 TAC §83.620.....	6299	40 TAC §§79.1701-79.1716	6309
40 TAC §83.701, §83.702.....	6299	40 TAC §§79.1801-79.1807	6310
40 TAC §§83.901-83.923	6300	40 TAC §§79.2001, 79.2003, 79.2005, 79.2007, 79.2009, 79.2011	6310
40 TAC §83.1101.....	6300	40 TAC §79.2201, §79.2202	6310
40 TAC §§83.1201-83.1228	6300	Contracted Services	
40 TAC §§83.1301-83.1325	6301	40 TAC §§69.201-69.277	6310
40 TAC §§83.1401-83.1425	6301	40 TAC §§69.280, 69.282, 69.284, 69.286, 69.288, 69.290 6312	
40 TAC §§83.1501-83.1507	6302	40 TAC §§69.301-69.305	6312
40 TAC §83.9801.....	6302	Public Information	
General Licensing Procedures		40 TAC §§71.1-71.3.....	6313
40 TAC §§85.1403-85.1407	6302	40 TAC §§71.11-71.19.....	6313
40 TAC §§85.1801-85.1803	6303	40 TAC §71.31, §71.40	6313
40 TAC §§85.2001-85.2015	6303	Memoranda of Understanding with Other State Agencies	
40 TAC §§85.2017-85.2046	6303	40 TAC §§72.501-72.507	6313
40 TAC §§85.3043-85.3050	6304	40 TAC §72.701	6314
40 TAC §§85.3053-85.3059	6304	40 TAC §72.901, §72.902	6314
40 TAC §§85.3061-85.3076	6304	Civil Rights	
40 TAC §§85.4001-85.4021	6305	40 TAC §§73.1-73.12.....	6314
40 TAC §§85.4050-85.4057	6305	40 TAC §73.2107	6314
40 TAC §§85.5010-85.5018	6306	40 TAC §§73.3001-73.3004	6315
40 TAC §§85.5020-85.5022	6306	40 TAC §73.3101	6315
40 TAC §§85.6050-85.6052	6306	40 TAC §§73.3201-73.3204	6315
40 TAC §§85.7001-85.7007	6306	40 TAC §§73.3301-73.3311	6315

40 TAC §§73.4001, 73.4005, 73.4006, 73.4010-73.4012
6315

40 TAC §§73.4101-73.4115..... 6316

Investigations

40 TAC §§75.1-75.3..... 6316

40 TAC §§75.1001, 75.1002..... 6316

Continuing Education

40 TAC §§77.1-77.5..... 6317

40 TAC §§77.9-77.12..... 6317

**Texas Department of Protective
and Regulatory Services**

Child Protective Service

40 TAC §§700.101-700.107..... 6280

40 TAC §§700.308-700.325..... 6280

40 TAC §§700.327-700.346..... 6281

40 TAC §§700.501-700.519..... 6281

40 TAC §§700.601-700.604..... 6282

40 TAC §§700.701-700.703..... 6282

40 TAC §§700.901-700.904..... 6282

40 TAC §§700.1101-700.1110..... 6282

40 TAC §§700.1301-700.1306..... 6283

40 TAC §§700.1310-700.1313..... 6283

40 TAC §§700.1401-700.1406..... 6283

40 TAC §§700.1501-700.1505..... 6283

40 TAC §§700.1601-700.1603..... 6283

40 TAC §§700.1701-700.1749..... 6283

40 TAC §§700.1753-700.1765..... 6285

40 TAC §§700.1801-700.1806..... 6285

40 TAC §§700.1901-700.1903..... 6285

40 TAC §§700.2101-700.2110..... 6286

Community Care for Aged and Disabled

40 TAC §§705.2915, 705.2916..... 6286

40 TAC §§705.2940..... 6286

40 TAC §§705.4101..... 6286

Protection of Clients and Staff

40 TAC §§710.1-710.20..... 6286

Day Care Licensing

40 TAC §§715.101-715.107.....6287

40 TAC §§715.201-715.229.....6287

40 TAC §§715.231.....6288

40 TAC §§715.301-715.330.....6288

40 TAC §§715.401-715.433.....6289

40 TAC §§715.501-715.507.....6290

40 TAC §§715.601-715.632.....6290

40 TAC §§715.701-715.730.....6291

40 TAC §§715.9801.....6292

Twenty-four Hour Care Licensing

40 TAC §§720.25-720.59..... 6292

40 TAC §§720.69..... 6293

40 TAC §§720.117-720.126..... 6293

40 TAC §§720.131-720.137..... 6293

40 TAC §§720.201-720.207..... 6294

40 TAC §§720.231-720.248..... 6294

40 TAC §§720.301-720.304..... 6294

40 TAC §§720.363-720.374..... 6296

40 TAC §§720.401-720.432..... 6296

40 TAC §§720.440-720.560..... 6297

40 TAC §§720.570-720.574..... 6298

40 TAC §§720.620..... 6299

40 TAC §§720.701, 720.702..... 6299

40 TAC §§720.901-720.923..... 6299

40 TAC §§720.1101..... 6300

40 TAC §§720.1201-720.1228..... 6300

40 TAC §§720.1301-720.1325..... 6301

40 TAC §§720.1401-720.1425..... 6301

40 TAC §§720.1501-720.1507..... 6302

40 TAC §§720.9801..... 6302

General Licensing Procedures

40 TAC §§725.1403-725.1407..... 6302

40 TAC §§725.1801-725.1803..... 6303

40 TAC §§725.2001-725.2015..... 6303

40 TAC §§725.2017-725.2046..... 6303

40 TAC §§725.3043-725.3050	6304	40 TAC §736.701	6314
40 TAC §§725.3053-725.3059	6304	40 TAC §736.901, §736.902	6314
40 TAC §§725.3061-725.3076	6304	Civil Rights	
40 TAC §§725.4001-725.4021	6305	40 TAC §§738.1-738.12	6314
40 TAC §§725.4050-725.4057	6305	40 TAC §738.2107	6314
40 TAC §§725.5010-725.5018	6306	40 TAC §§738.3001-738.3004	6315
40 TAC §§725.5020-725.5022	6306	40 TAC §738.3101	6315
40 TAC §§725.6050-725.6052	6306	40 TAC §§738.3201-738.3204	6315
40 TAC §§725.7001-725.7007	6306	40 TAC §§738.3301-738.3311	6315
40 TAC §725.9801	6306	40 TAC §§738.4001, 738.4005, 738.4006, 738.4010-738.4012	6315
Legal Services		40 TAC §§738.4101-738.4115	6316
40 TAC §§730.101-730.105	6307	Investigations 40 TAC §§740.1-740.36316 40 TAC §740.1001, §740.1002	6316
40 TAC §§730.201-730.210	6307	Continuing Education	
40 TAC §§730.301-730.305	6307	40 TAC §§742.1-742.5	6317
40 TAC §§730.401-730.406	6307		
40 TAC §§730.1101-730.1105	6308	40 TAC §§742.9-742.12	6317
40 TAC §§730.1201-730.1207	6308	Open Meetings	
40 TAC §§730.1301-730.1317	6308	Texas Department of Agriculture	6319
40 TAC §730.1401, §730.1402	6309	Texas Air Control Board	6319
40 TAC §§730.1601-730.1614	6309	Texas Commission on Alcohol and Drug Abuse.....	6320
40 TAC §§730.1701-730.1716	6309	Texas Bond Review Board	6320
40 TAC §§730.1801-730.1807	6310	Texas Board of Criminal Justice.....	6320
40 TAC §§730.2001, 730.2003, 730.2005, 730.2007, 730.2009, 730.2011	6310	Texas Education Agency (TEA).....	6320
40 TAC §730.2201, §730.2202	6310	Advisory Commission on State Emergency Communica- tions.....	6321
Contracted Services 40		Texas Employment Commission	6321
TAC §§732.201-732.277	6310	Texas Ethics Commission.....	6321
40 TAC §§732.280, 732.282, 732.284, 732.286, 732.288, 732.290	6312	Texas General Land Office.....	6322
40 TAC §§732.301-732.305	6312	Texas Department of Health.....	6322
Public Information		Texas Department of Insurance.....	6323
40 TAC §§734.1-734.3	6313	Lamar University System, Board of Regents	6323
40 TAC §§734.11-734.19	6313	Texas Commission on Law Enforcement Officer Standards and Education	6323
40 TAC §734.31, §734.40	6313	Texas Department of Licensing and Regulation....	6323
Memoranda of Understanding with Other State Agencies		Texas State Board of Medical Examiners	6324
40 TAC §§736.501-736.507	6313	Board of Nurse Examiners.....	6324

Texas State Board of Pharmacy.....	6324
Board of Plumbing Examiners	6324
Texas Department of Protective and Regulatory Services.....	6324
Texas State Board of Examiners of Psychologists.....	6324
Public Utility Commission of Texas	6324
Railroad Commission of Texas	6325
Texas Municipal Retirement System.....	6326
School Land Board	6326
Texas State Soil and Water Conservation Board.....	6326
Teacher Retirement System of Texas.....	6326
The Texas A&M University System, Board of Regents.....	6327
Texas Southern University	6327
Texas Woman's University, Board of Regents.....	6327
Toxic Substances Coordinating Committee	6327
Texas Turnpike Authority	6328
University of North Texas/Texas College of Osteopathic Medicine.....	6328
Texas Water Commission.....	6328
Texas Water Development Board.....	6328
Regional Meetings.....	6328

In Addition Sections

Texas Antiquities Committee	
Correction of Error	6331

Comptroller of Public Accounts

Lottery Drawing Broadcast Services.....	6331
---	------

Texas Department of Health

Correction of Errors.....	6331
---------------------------	------

Emergency Impoundment Order	6331
-----------------------------------	------

Notice of Availability of Funds for Fiscal Year 1993 Grants to Support HIV Education, Prevention and Risk Reduction Projects Among Minority Women.....	6332
--	------

Notice of Emergency Cease and Desist Order.....	6333
---	------

Notice of Intent to Revoke Certificates of Registration.....	6333
--	------

Notice of Intent to Revoke Radioactive Material Licenses.....	6333
---	------

Notice of Revocation of Certificates of Registration.....	6333
---	------

Notice of Revocation of Radioactive Material Licenses.....	6334
--	------

Houston-Galveston Area Council

Consultant Proposal Request.....	6334
----------------------------------	------

Texas Parks and Wildlife Department

Notice of Public Comment Hearings.....	6334
--	------

Texas State Board of Pharmacy

Correction of Errors.....	6335
---------------------------	------

Public Utility Commission of Texas

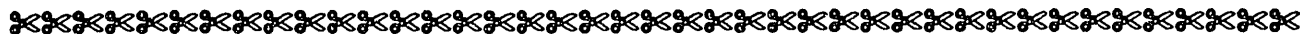
Notice of Intent to File Pursuant to PUC Substantive Rule 23.28.....	6335
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*The Texas Register Readers Choice Award
continues with this issue!*

You will be able to continue to VOTE throughout the summer on what you think is the best of the 1991-1992 school art project submissions. In this issue, we continue republishing the artwork from the students in the second category fourth through sixth 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 "4-1" will indicate that the picture is the first submission in the fourth through sixth grade group. You will be able to vote as often as you would like. Simply fill out the attached form, and mail it to the Texas Register, Roberta Knight, P.O. Box 13824, Austin, Texas 78711-3824.

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

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1991 - 1992 Texas Register Readers Choice Award.

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

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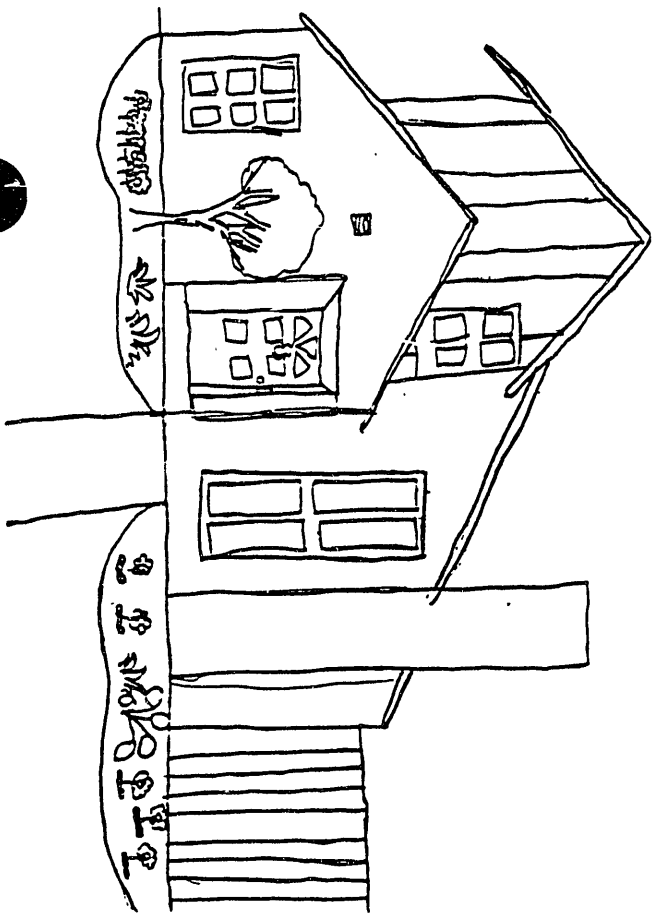
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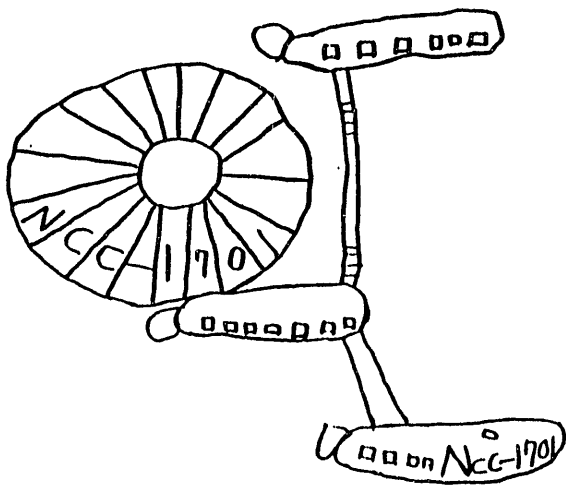
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4-15

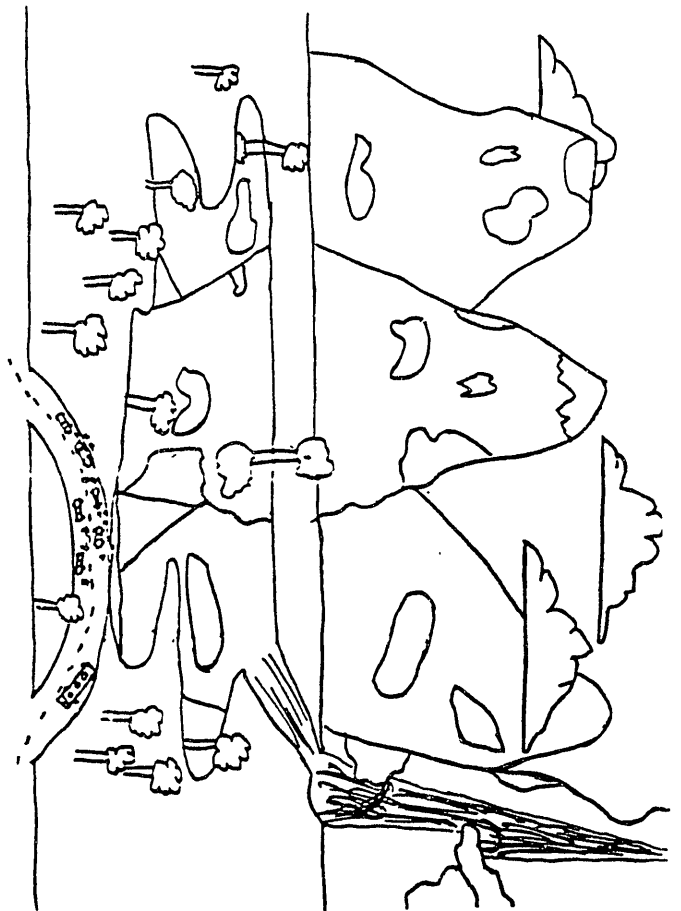


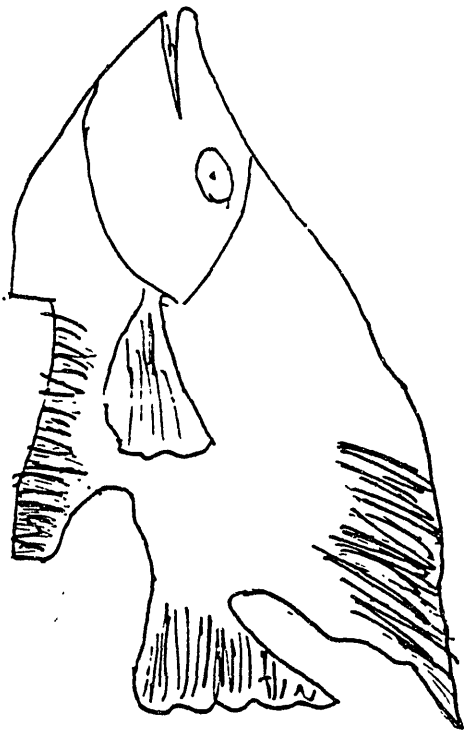
4-16



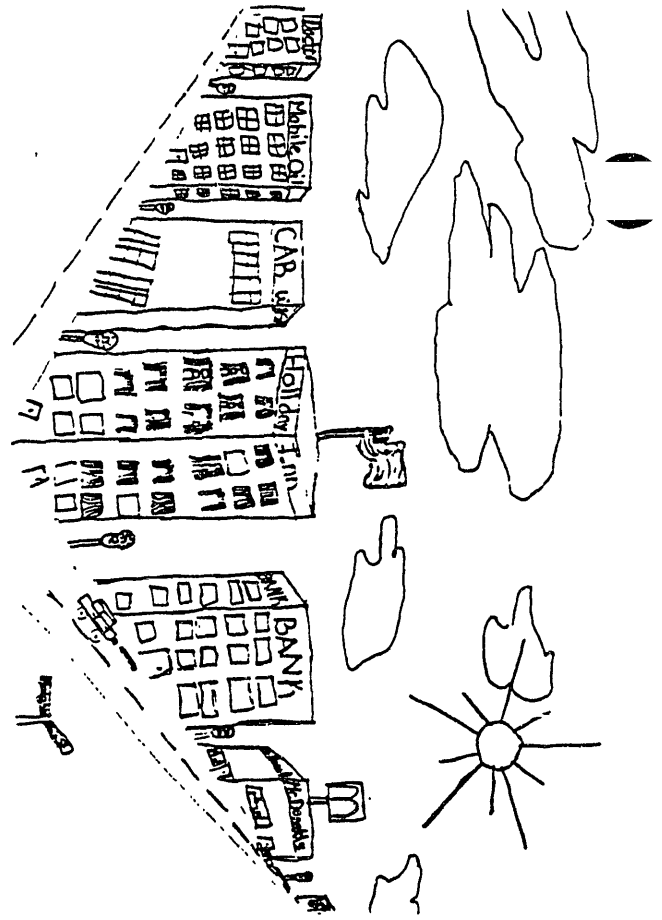
4-17

4-18

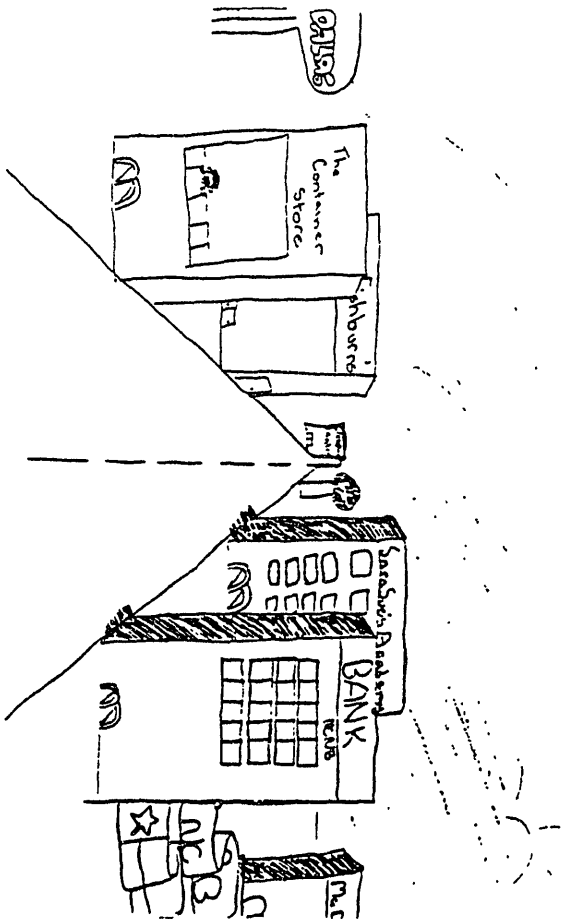




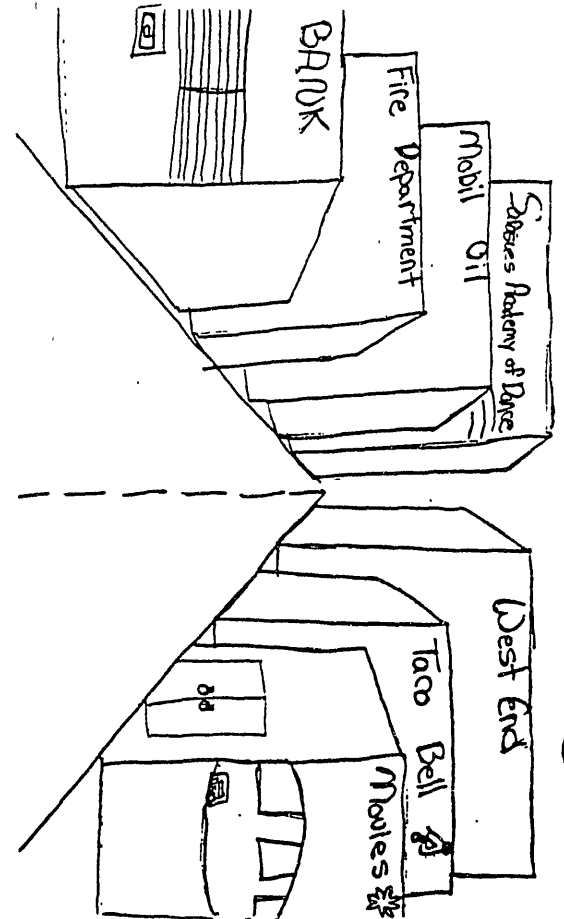
4-19



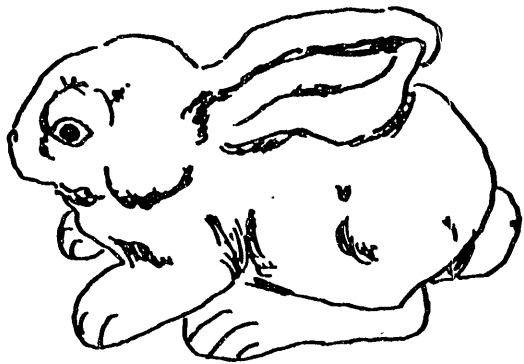
4-20



4-21



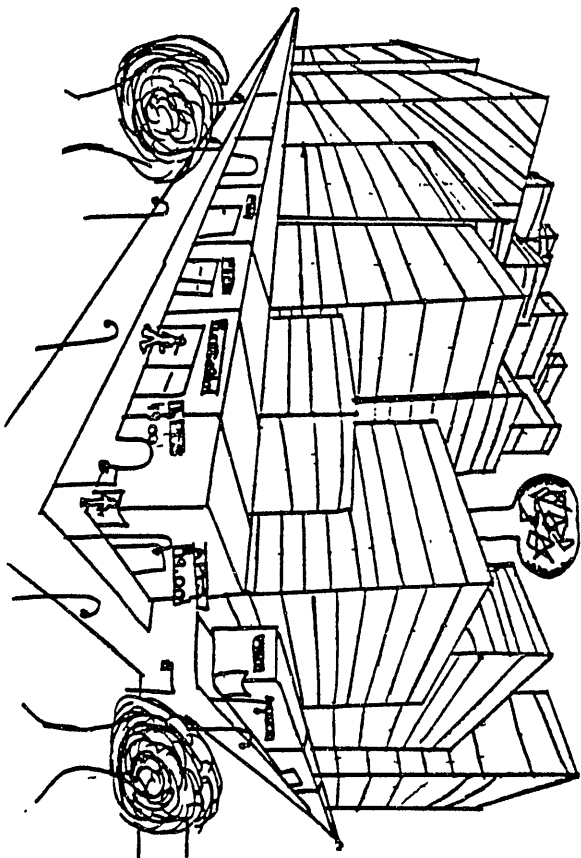
4-22



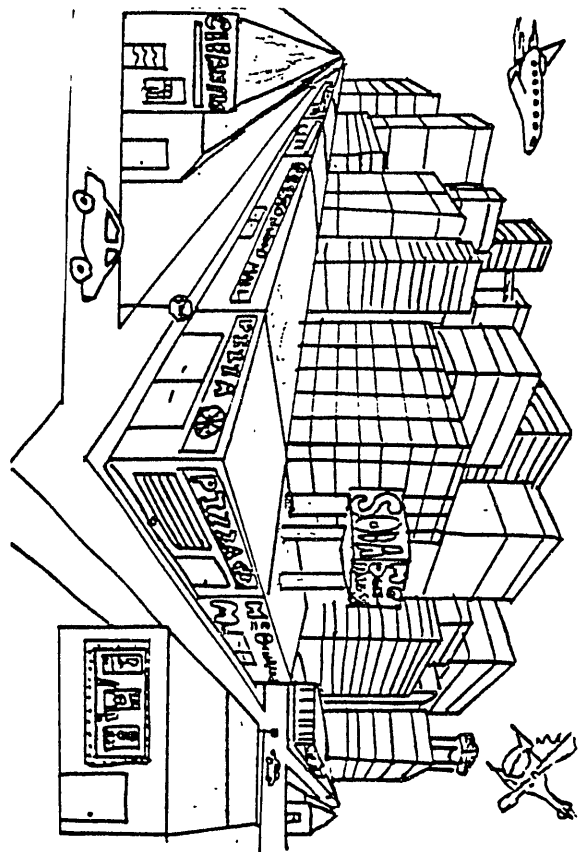
4-23



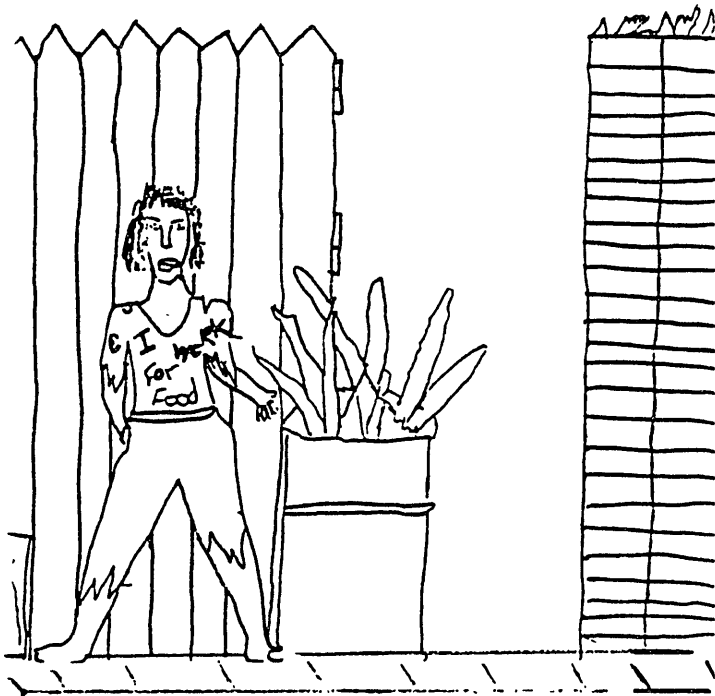
4-24



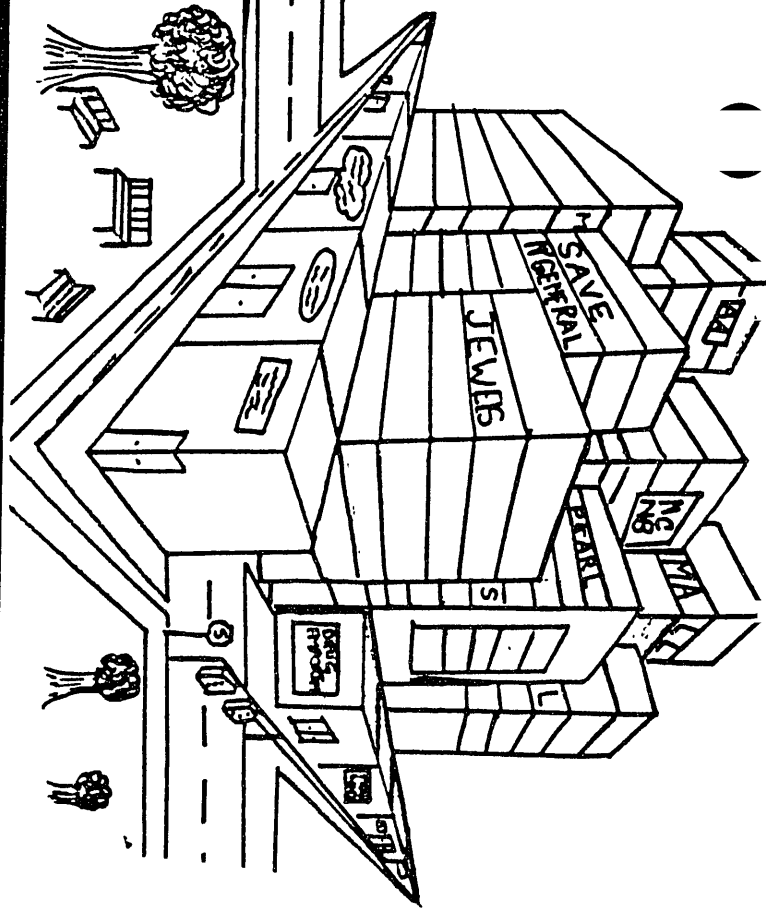
4-25



4-26



4-27



4-28

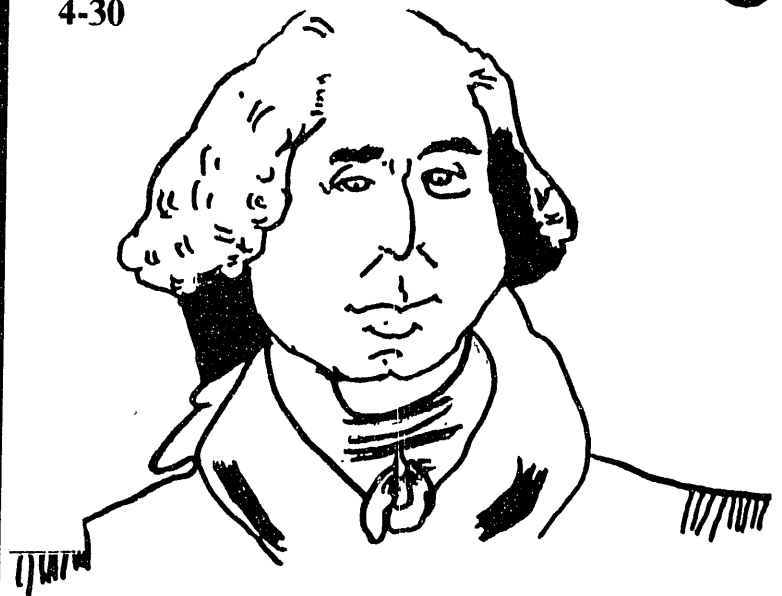
4-29



Franklin Pierce

1853-1857

4-30



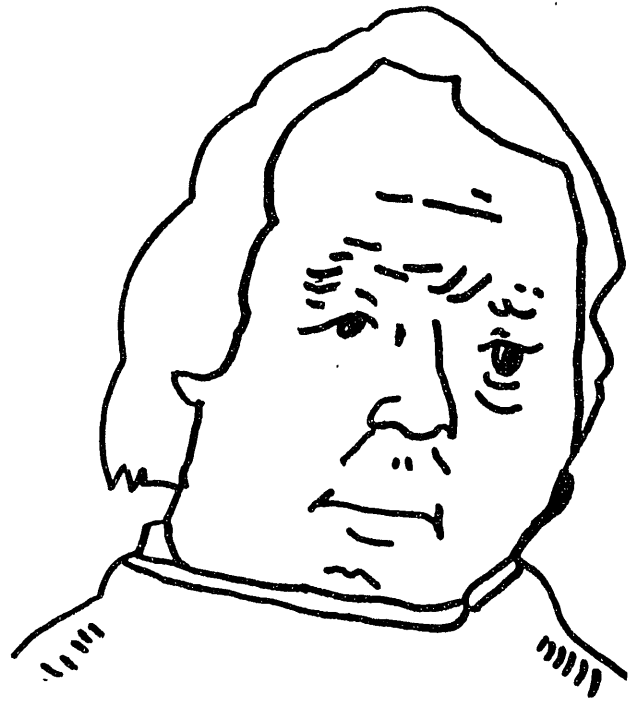
James Madison

1809-1817



George Bush
1989-

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Andrew Johnson
1865-1869

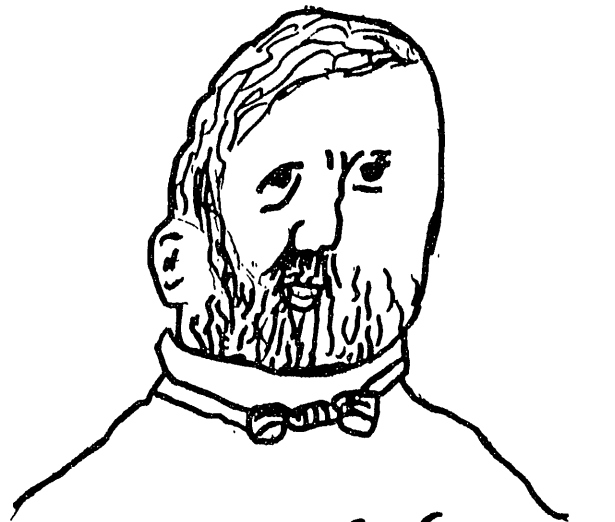
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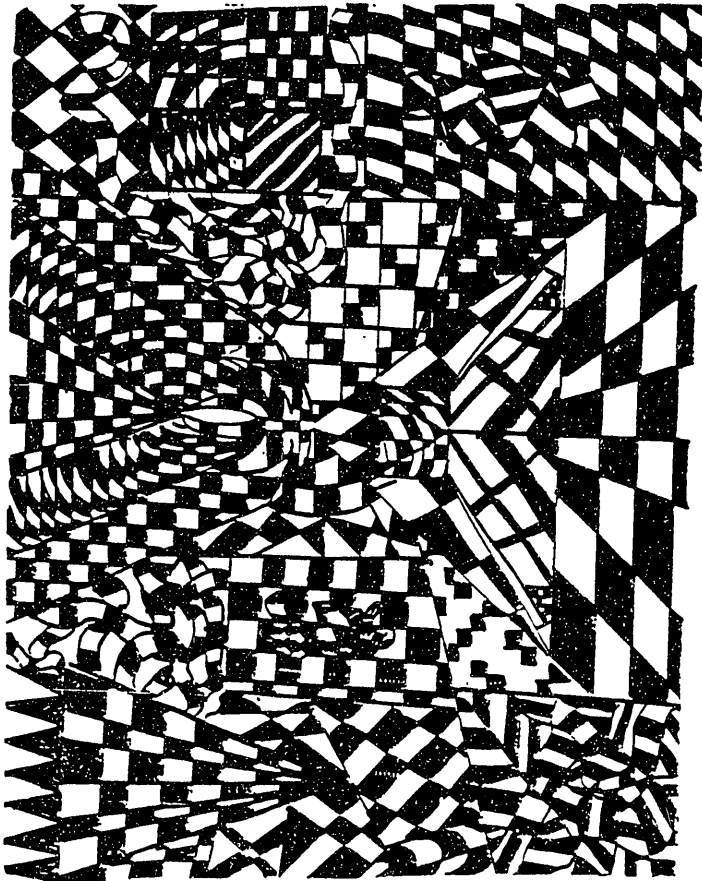


Rufus B. Hayes
1877-1881

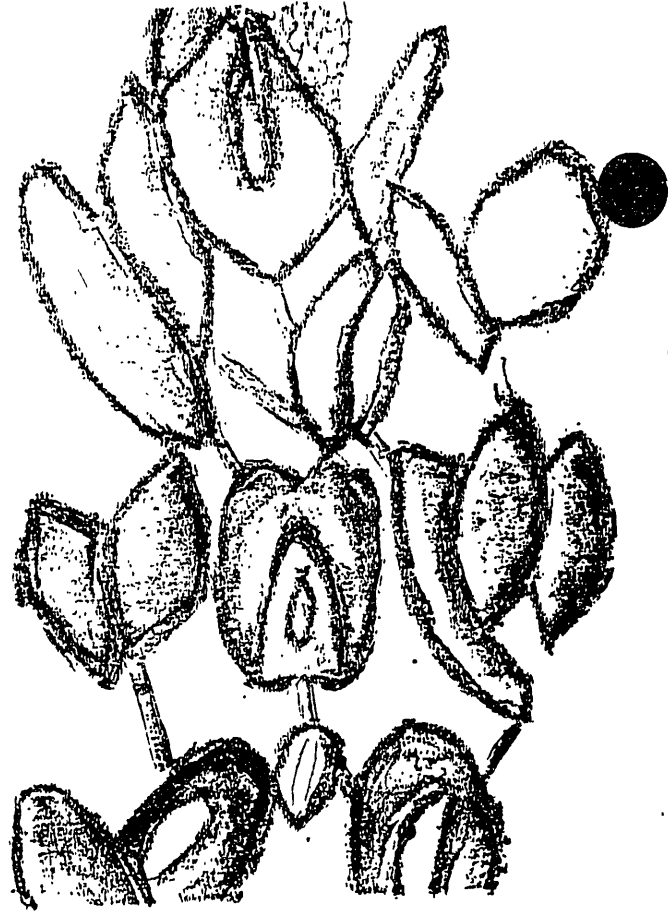
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Ulysses S. Grant
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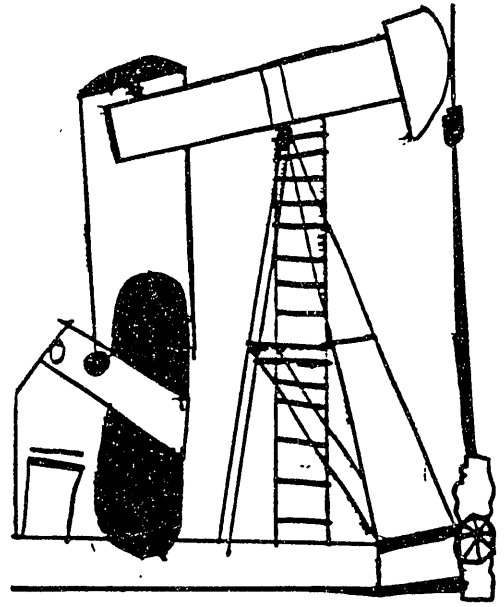
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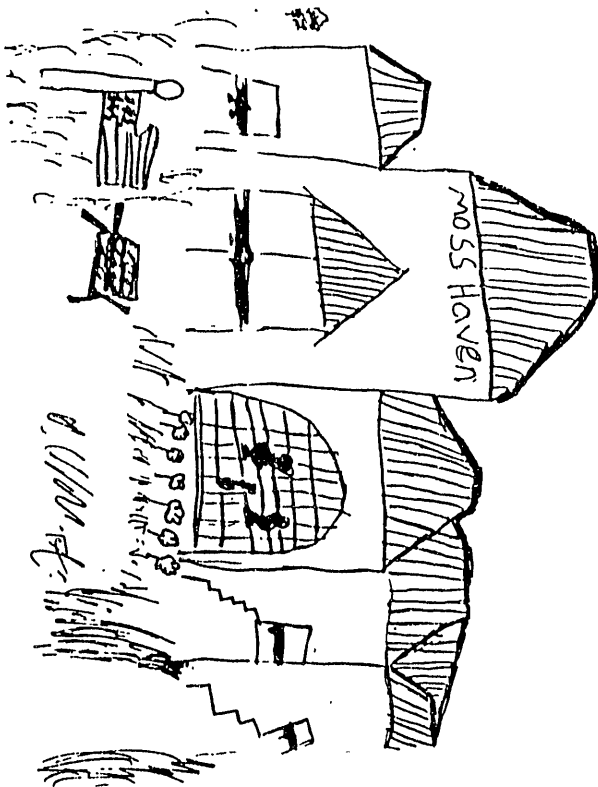
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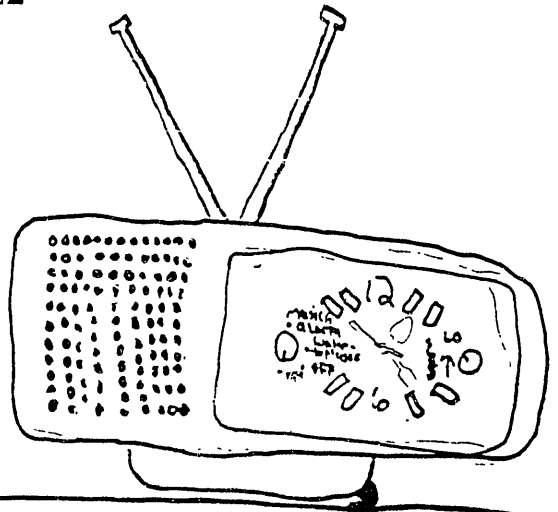
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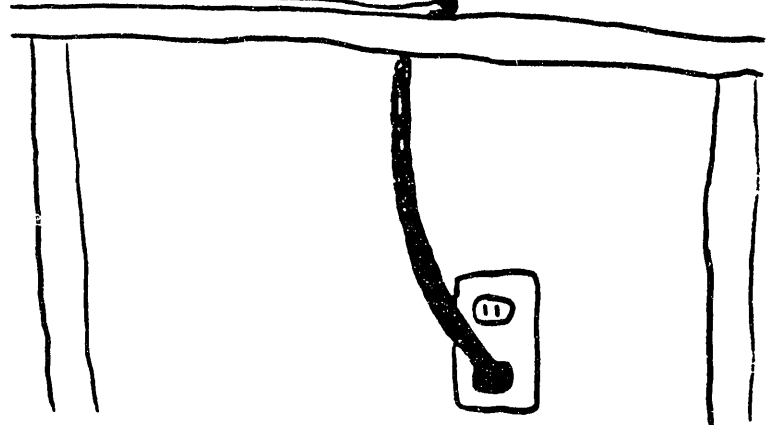
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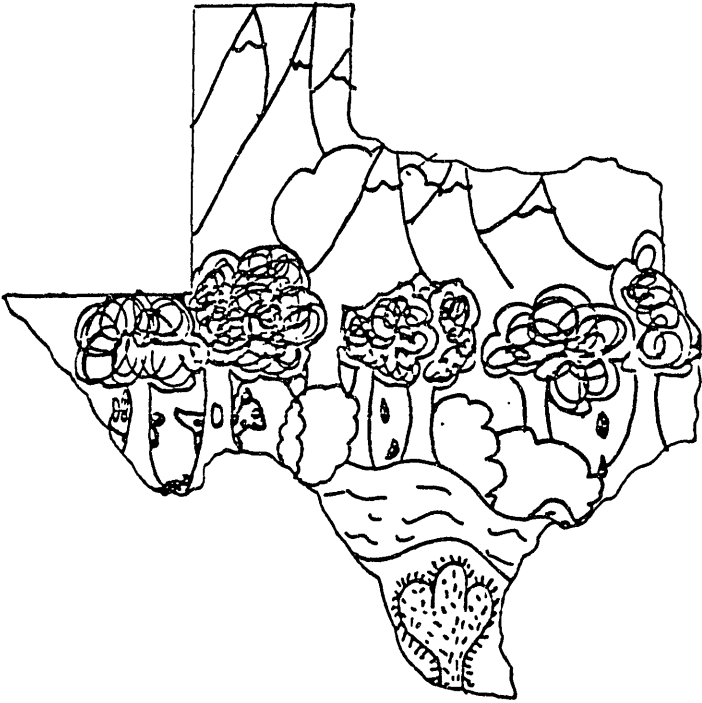
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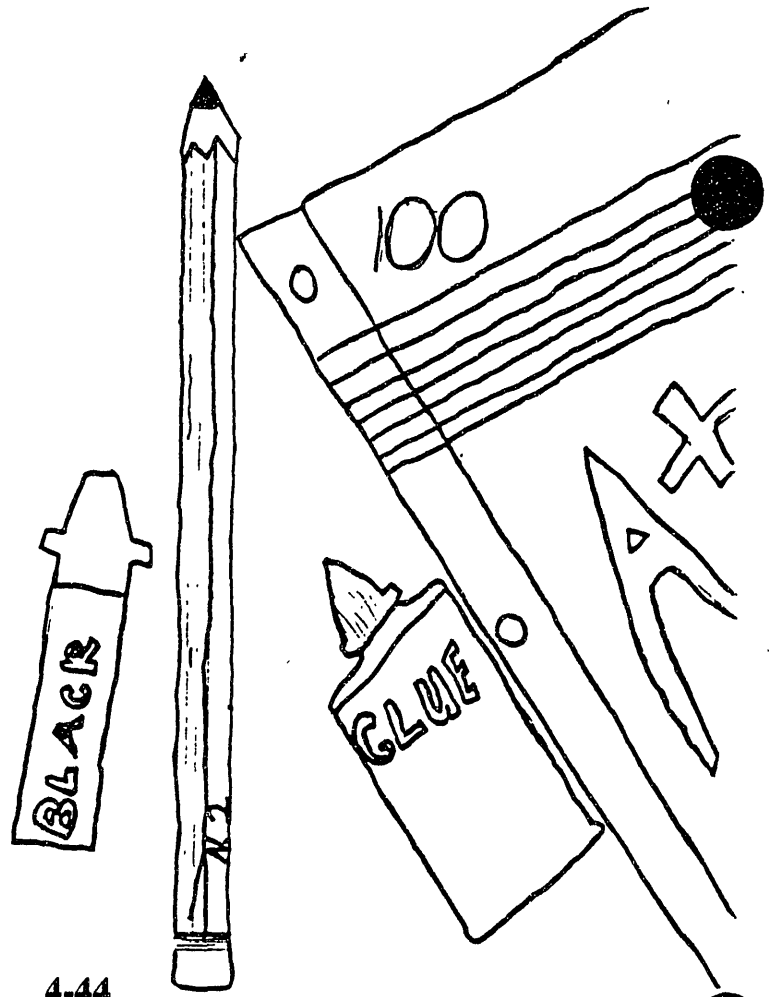
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Don't Mess With Texas

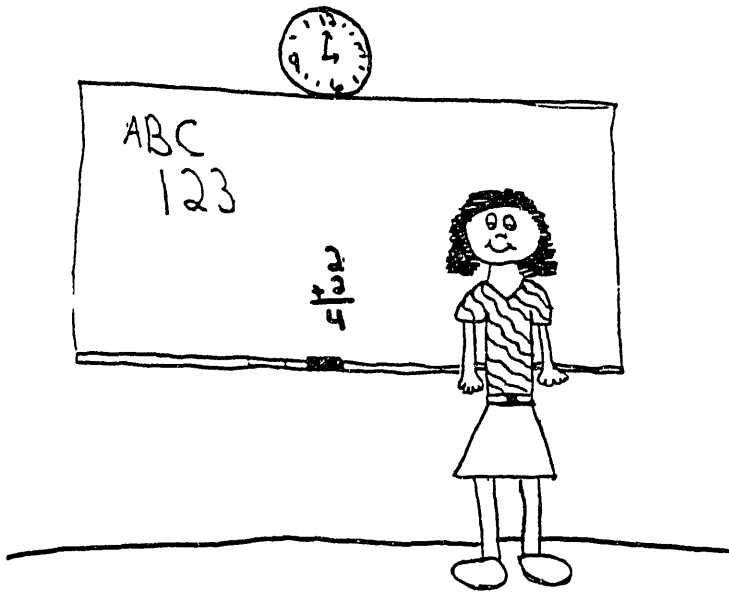


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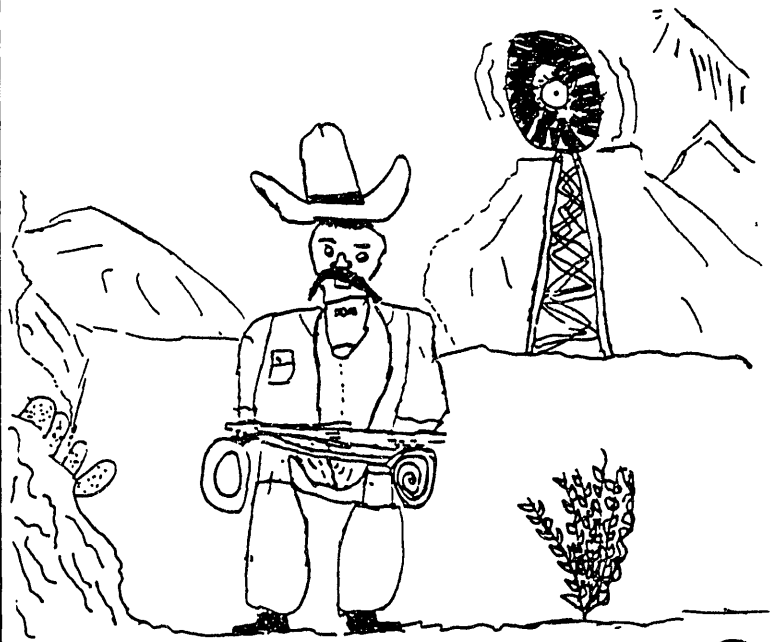


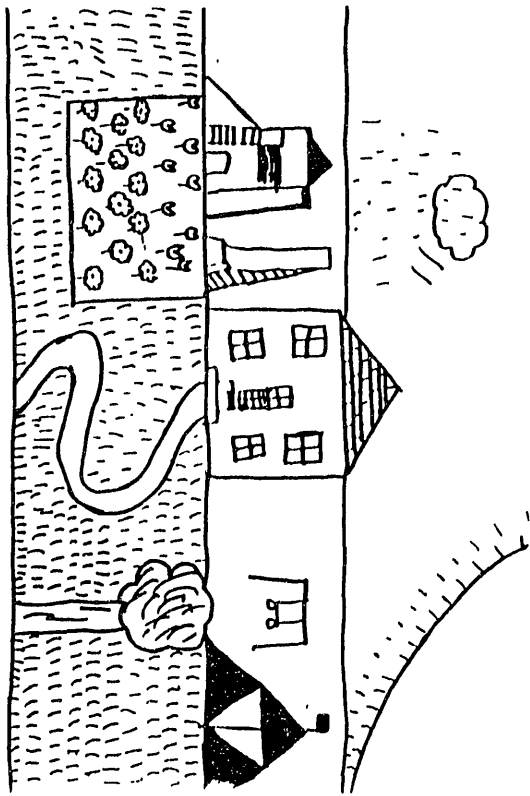
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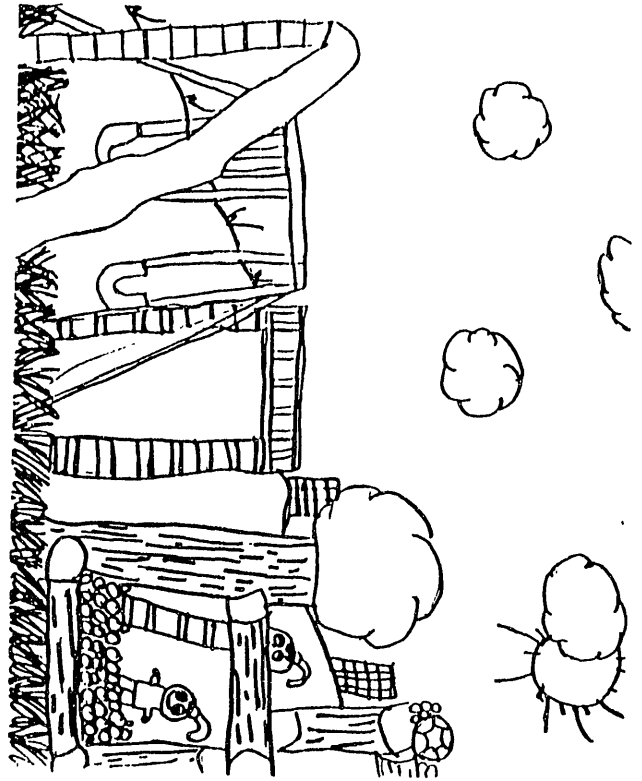


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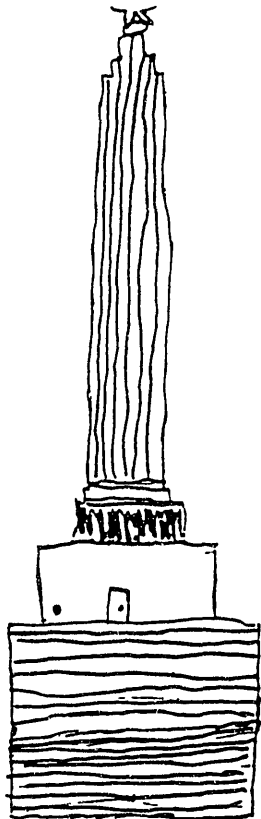




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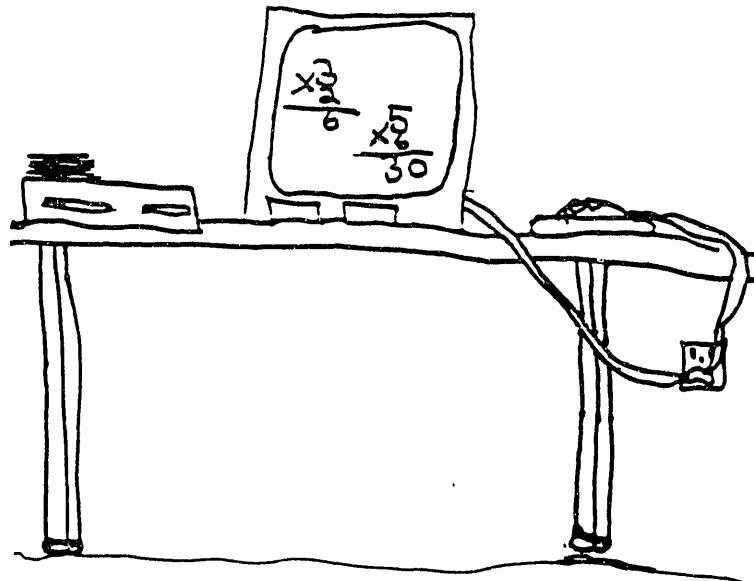
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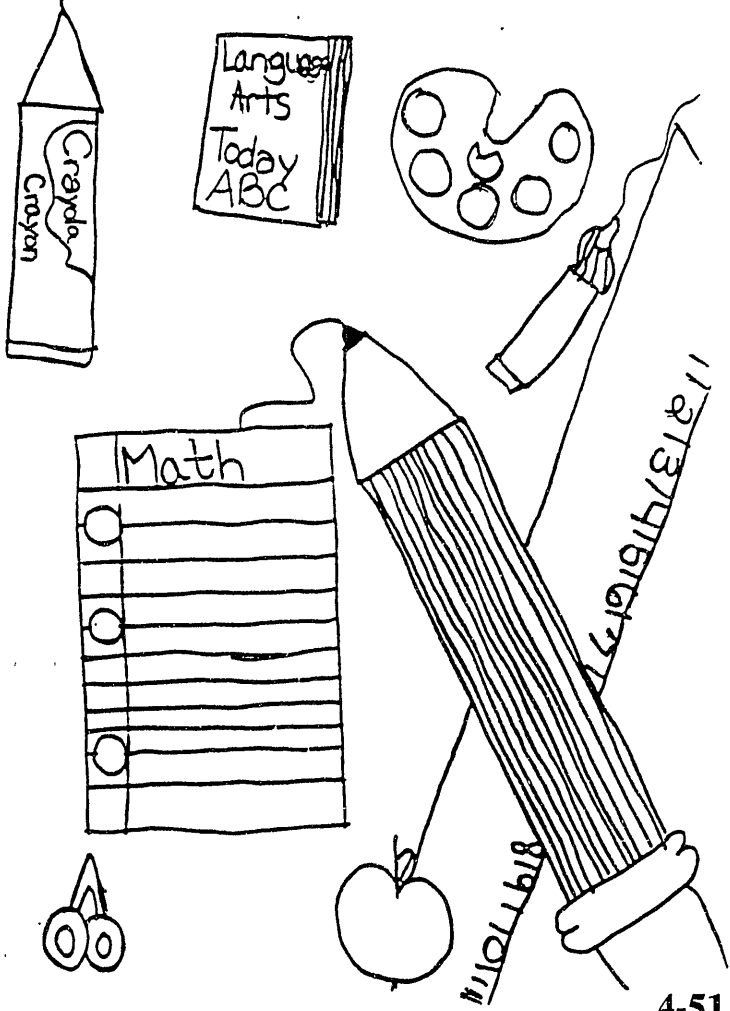


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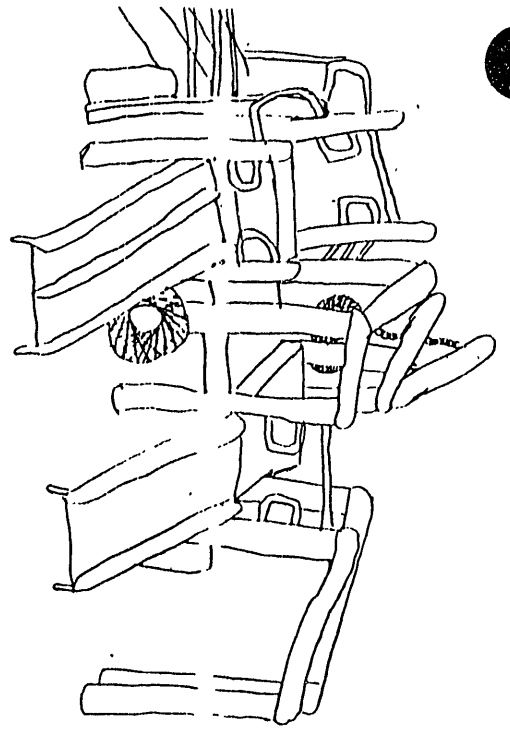
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Computer Lab



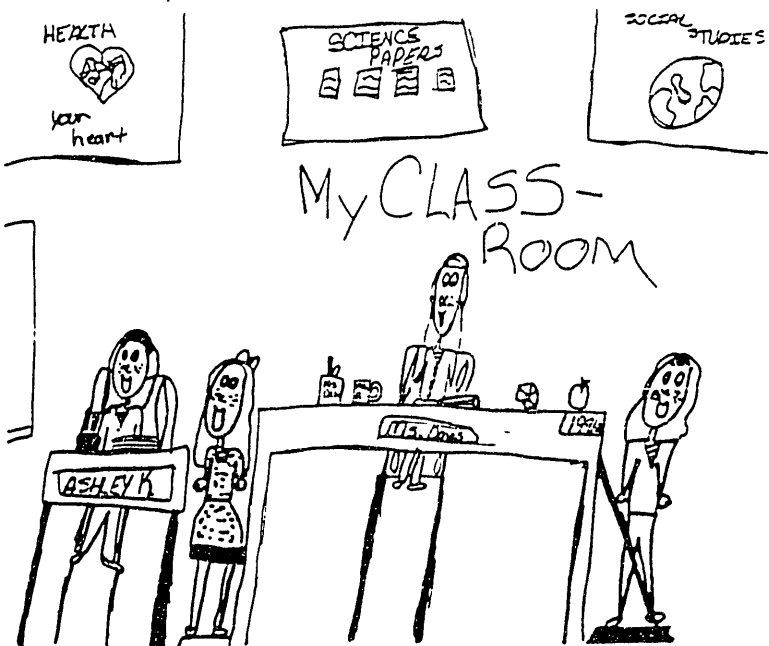


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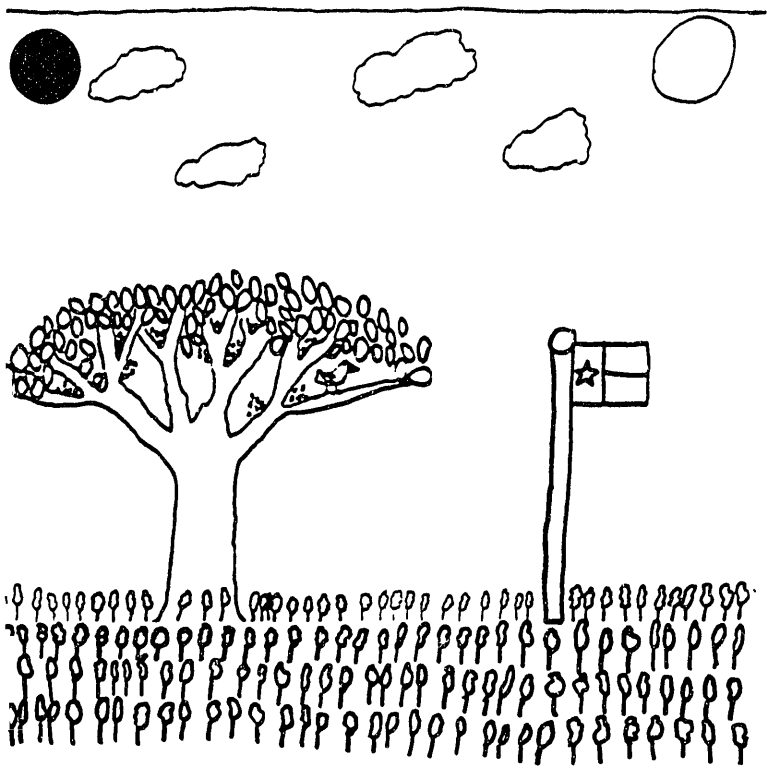
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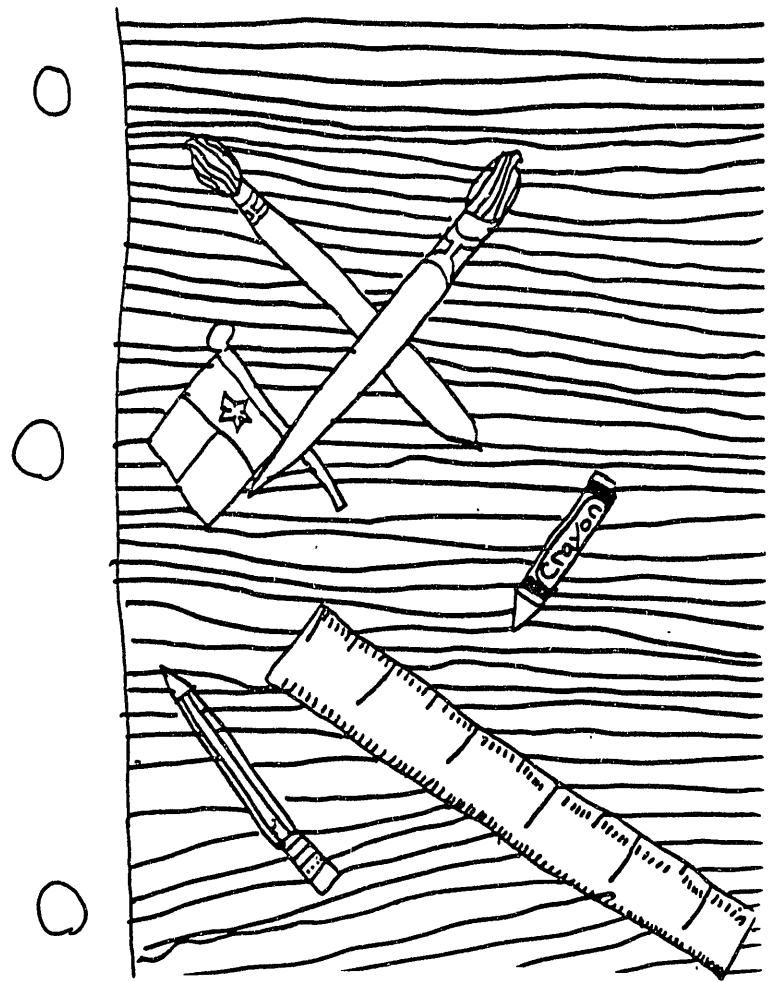


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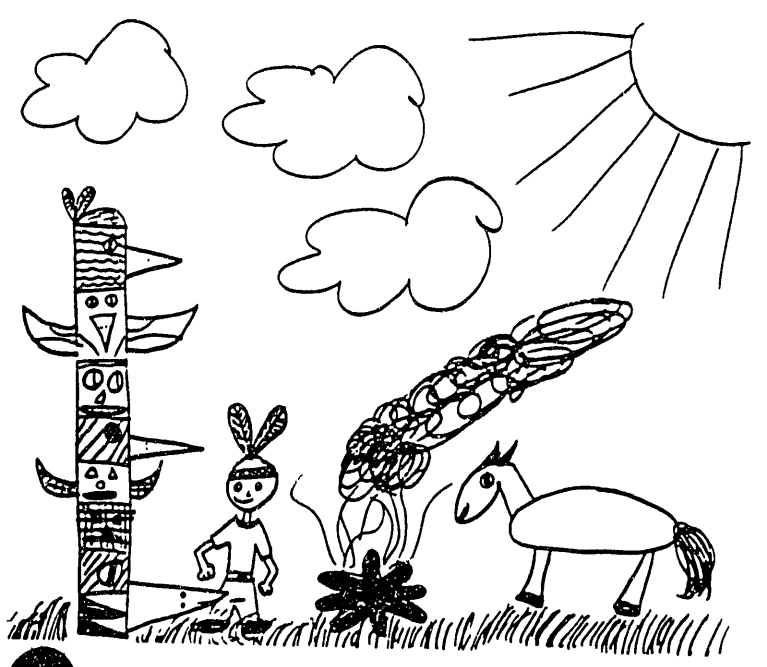




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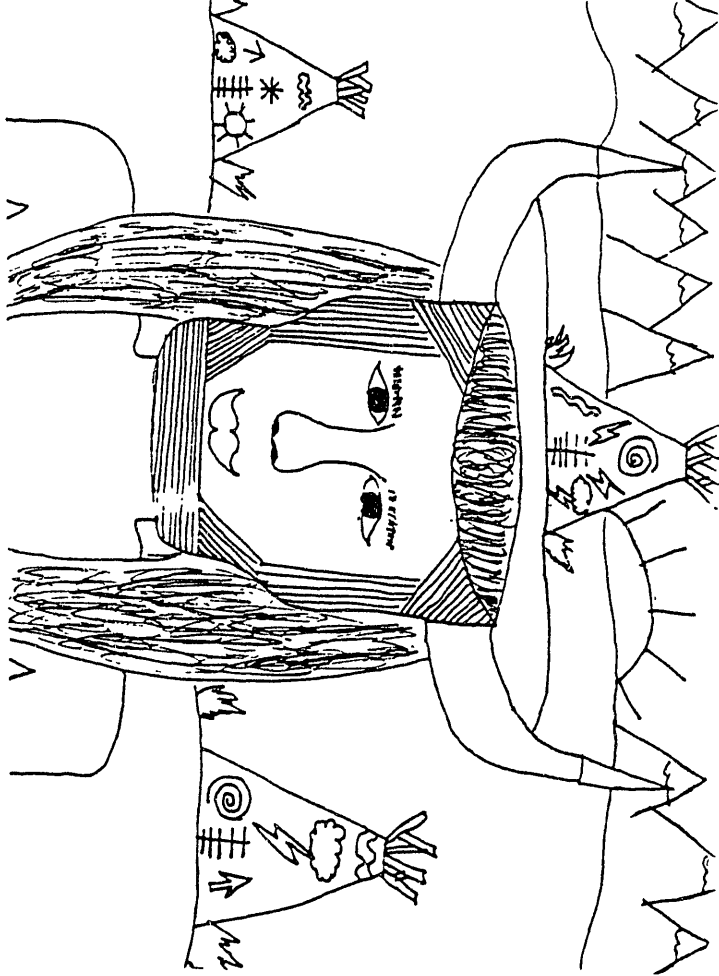
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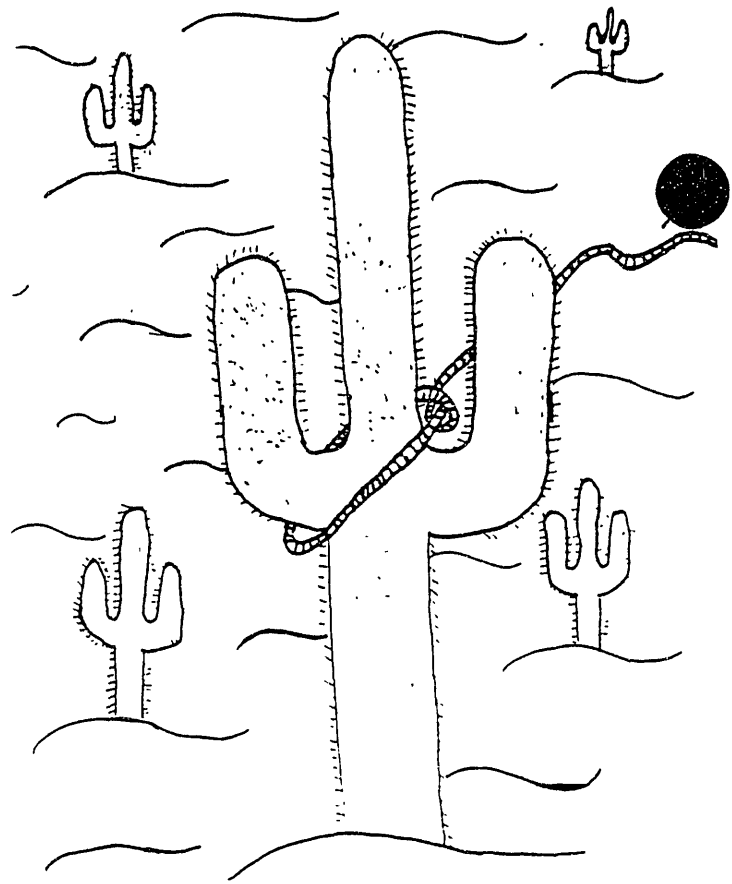
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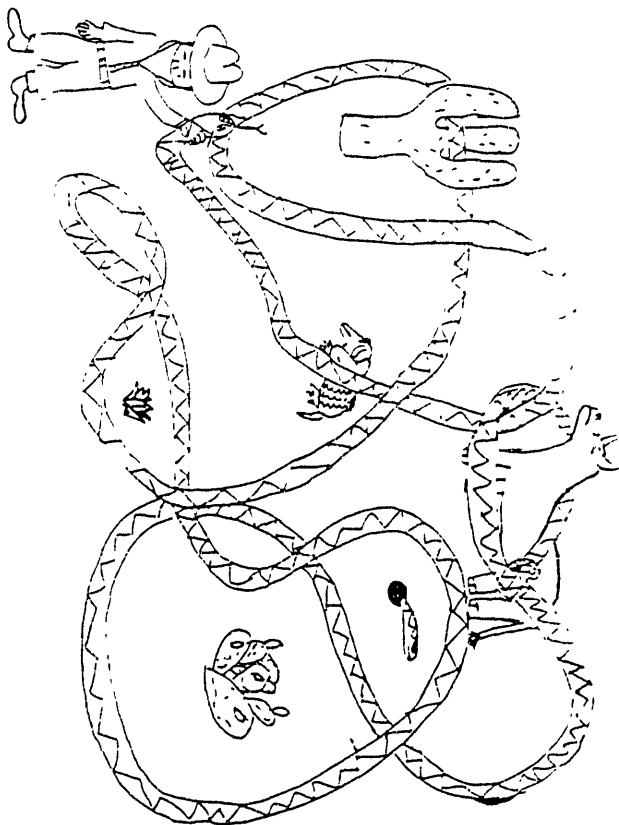
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Attorney General

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-92-36 (ID-17053). Request from Gonzalo Barrientos, Chairman, Nominations Committee, Texas State Senate, Austin, concerning whether the Texas Constitution Article XVI, §40 precludes a person from simultaneously holding the position of police officer for two different cities and related questions.

Summary of Opinion. The Constitution, Article XVI, §40 prevents one person from simultaneously holding the position of assistant police chief for the City of Houston and police chief for the City of Austin. An individual may, however, under the facts presented, act as a "consultant" for the City of Austin without thereby vacating the Houston position, so long as the individual is not a "peace officer" in the City of Austin. A person may prospectively accept a second office without thereby vacating the first, so long as the terms of the offer and acceptance specify a future "effective date."

LO-92-37 (ID-15534). Request from Helen L. Campbell, Commissioner, Office of Fire Fighters' Pension Commissioner, Austin concerning whether the board of trustees of a fire fighters' relief and retirement fund organized under Texas Civil Statutes, Article 6243e, may delegate all of its authority over investments to investment managers.

Summary of Opinion. The board of trustees of a fire fighters' relief and retirement fund organized under Texas Civil Statutes, Article 6243e, is not empowered to delegate its entire discretionary authority over investment decisions to an investment manager.

LO-92-38 (ID-16593). Request from Joe Darnell, General Counsel, Texas Alcoholic Beverage Commission, Austin, concerning whether the proposed reorganization of the Alcoholic Beverage Commission comports with provisions of the Bingo Enabling Act.

Summary of Opinion. Based on the information provided, the proposed reorganization of the operating structure of the Texas Alcoholic Beverage Commission is at least in substantial compliance with the provisions of the Bingo Enabling Act.

LO-92-39 (RQ-349). Request from Patricia S. Tweedy, M.P.A., Executive Director, Texas State Board of Examiners of Psychologists, Austin, concerning whether privileged information relevant to the parent-child relationship that a psychologist gained under a voluntary psychological evaluation of a person involved in, or associated with, court proceedings involving the parent-child relationship are excepted from disclosure under Texas Rule of Civil Evidence 510(d)(6).

Summary of Opinion. Pursuant to Texas Rule of Civil Evidence 510(d) (6), a licensed psychologist may disclose privileged information if the information is relevant in any suit affecting the parent-child relationship. The Opinion Committee will not issue an opinion that effectively overrules a judicial decision.

LO-92-40 (RQ-308). Request from David R. Smith, M.D. Commissioner, Texas Department of Health, Austin, concerning whether the Department of Health or a county clerk has the authority to rescind a marriage license.

Summary of Opinion. Neither the Department of Health nor a county clerk has the power to rescind or cancel an application for a marriage license, or a license itself, at the request of an affiant who asserts, inter alia, that he is not subject to the Family Code. Any persons residing in any county of Texas is subject to the laws of Texas, including the Family Code.

LO-92-41 (RQ-327). Request from Ray Farabee, Vice Chancellor and General Counsel, The University of Texas System, Austin, concerning whether the board of regents of the University of Texas System has the legal authority to provide prepaid legal services coverage to its employees as part of the university's cafeteria plan.

Summary of Opinion. Under the Insurance Code, Article 3.50-3, the University of Texas System may include in its cafeteria plan prepaid legal services coverage so long as federal law permits the inclusion of the prepaid legal services coverage in a cafeteria plan. Whether federal law permits the inclusion of prepaid legal services cov-

erage in a cafeteria plan is a question involving the resolution of issues of federal law, a task that is beyond the purview of this committee. The university's inclusion of prepaid legal services coverage in the employee benefit package does not violate the Texas Constitution, Article III, §51, if the university decides in the first instance that such an expenditure serves a "public purpose."

LO-92-42 (RQ-314). Request from Ernestine V. Glossbrenner, Chair, Committee on Public Education, Texas House of Representatives, Austin, concerning whether the Education Code, §4.03(d) supersedes the rules the Structural Pest Control Board promulgated (22 TAC Chapters 593, 595) pursuant to House Bill 853, Acts 1991, 72nd Legislature, Chapter 771, §6, which amended the Texas Structural Pest Control Act, Texas Civil Statutes, Article 135b-6.

Summary of Opinion. The Education Code, §4.03 does not supersede House Bill 853, which added §4A-J to the Structural Pest Control Act, Texas Civil Statutes, Article 135b-6. Accordingly, school boards must comply with both statutes by utilizing properly licensed commercial or noncommercial applicators for pest control, and by either staying within, amending, or supplementing the school board's budget.

LO-92-43 (ID-15752). Request from Riley J. Simpson, President, Board of Trustees, Central Texas College, Killeen, concerning whether the hiring of an employee by Central Texas College while the employee's uncle serves on the college board of trustees violates Texas Civil Statutes, Article 5996a; whether reelection of board member cures original nepotism violation.

Summary of Opinion. The hiring of an employee by Central Texas College while the employee's uncle serves on the college's board of trustees violates Texas Civil Statutes, Article 5996a, the Texas nepotism statute. The reelection of the uncle to the board of trustees does not cure the original violation.

LO-92-44 (RQ-13). Request from Frank Madden, County Auditor, Cherokee County

Courthouse, Rusk, concerning responsibility of the commissioners court with respect to district court order decreeing pay increases for district court personnel.

Summary of Opinion. District judges, acting without commissioners court approval, establish the salaries of the county auditor, the auditor's assistants, and court reporters. The commissioners court must approve salaries for court coordinators and secretaries, and therefore has no duty to order the salary increases for those positions in accordance with a district court administrative order.

TRD-9212010

◆ ◆ ◆
Opinions

DM-156 (RQ-290). Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether the Texas Constitution, Article XVI, §40 or the commonlaw doctrine of incompatibility precludes a deputy constable from simultaneously holding a position as an assistant fire chief with the City of Houston Fire Department.

Summary of Opinion. The position of deputy constable of a county is a civil office of emolument. However, the position of assistant fire chief in the City of Houston Fire Department is not a civil office of emolument. Thus, neither the Texas Constitution, Article XVI, §40 nor the common-law doctrine of incompatibility precludes one person from simultaneously serving as deputy constable for a county and assistant fire chief for the City of Houston Fire Department.

DM-157 (RQ-306). Request from John Hannah, Office of the Secretary State, Executive Division, State of Texas, Austin, concerning whether a health spa exempted from the security deposit requirement by the 1985 version of the Health Spa Act is exempt under the 1989 revision of the Act and related questions.

Summary of Opinion. The Health Spa Act, Texas Civil Statutes, Article 52211, as amended in 1989, effective September 1, 1989, requires every health spa in the state to file a surety bond with the secretary of state. The security requirements imposed by the present version of the law applies to a health spa that opens an initial location on or after September 1, 1989, and to each additional location opened after that date by such spas. A health spa in operation before September 1, 1989, and any additional location opened by that health spa on or after September 1, 1989, is subject to the security requirements in effect on August 31, 1989.

An exemption for some health spas from all security requirements included in the prior version of the Health Spa Act has been repealed and is not continued in effect by the savings clause in the 1989 amendments. Health spas that were formerly exempted from the security requirements no longer have the benefit of that exemption.

Health spas that were exempt from all security deposits under the repealed provision are now required to maintain security in the amount of \$5,000 without first filing a security deposit of \$20,000. If a spa in operation on August 31, 1989, opens a new location after September 1, 1989, the new spa location must file an initial security deposit of 20% of the total value of the prepayments it has received, but not less than \$20,000 nor more than \$50,000. It must maintain this amount of security for two years after the date the security deposit is filed, and thereafter, it must continuously maintain security in the amount of \$5,000.

DM-158 (RQ-121). Request from Jim F. Davis, County-District Attorney, Dimmitt, concerning whether a county commissioners court may "transfer" county road and bridge employees discharged by an ex officio road commissioner to another ex officio road commissioner's precinct and continue to pay the employees with funds budgeted for the former precinct, and related questions.

Summary of Opinion. A county commissioners court in a county adopting the ex officio road commissioner option for road construction and maintenance responsibilities, Texas Civil Statutes, Article 6702-1, Chapter 3, Subchapter A, lacks authority to overturn an ex officio road commissioner's discharge of an employee working in that commissioner's precinct and paid from county road and bridge funds. However, the law would: allow another ex officio road commissioner to hire such a discharge employee, with authorization by the full commissioners court; and allow the commissioners court to transfer funds originally budgeted for the former precinct to the new precinct of employ to cover the employee's remuneration. Local Government Code, §111.010(d).

DM-159 (RQ-385). Request from Tim Curry, Criminal District Attorney, Tarrant County, Fort Worth, concerning the constitutionality of the Health and Safety Code, §756.042, which requires outdoor shooting ranges to be constructed according to standards set by the National Rifle Association.

Summary of Opinion. The Health and Safety Code, §756.042, which requires outdoor shooting ranges to be constructed ac-

cording to standards promulgated by the National Rifle Association, is an invalid attempt to confer legislative authority on a private entity in contravention of the Texas Constitution, Article III, §1.

DM-160 (RQ-310). Request from Gerard Swine, Acting Executive Director, Texas Board of Licensure for Nursing Home Administrators, Austin, concerning whether, under the presence of ex officio members of the Texas Board of Licensure for Nursing Home Administrators is considered in determining whether a quorum of the board is present, and related questions.

Summary of Opinion. Under Texas Civil Statutes, Article §4442d, of the Nursing Home Administrators Licensure Act, for purposes of determining the number of members of the Texas Board of Licensure for Nursing Home Administrators sufficient to constitute a quorum, the board must base its calculation only on the total number of appointed, voting board members. Ex officio, nonvoting members are not counted for purposes of determining the presence of a quorum. Under the same Act, §8(a), which requires the board to promulgate, alter, or abolish a rule by a two-thirds majority vote, the board calculates the number of votes needed for a majority by multiplying by two-thirds the number of members qualified to vote (provided that a sufficient number of members are present at the meeting to constitute a quorum). For purposes of determining the number of votes necessary to constitute a two-thirds majority, the number of members present at the meeting is irrelevant.

DM-161 (RQ-186). Request from Robert H. Norris, Executive Director, Texas Board of Architectural Examiners, Austin, concerning construction of Texas Civil Statutes, Article 249a, §16, the act regulating the practice of architecture.

Summary of Opinion. Texas Civil Statutes, Article 249a, §16, the statute regulating the practice of architecture, does not bar a professional engineer licensed under Texas Civil Statutes, Article 3271a, from preparing plans and specifications, the preparation of which requires the application of engineering principles and the interpretation of engineering data, for "a new building that is to be constructed and owned by a state agency, a political subdivision of this state, or any other public entity in this state if the building will be used for education, assembly, or office occupancy and the construction costs exceed \$100,000."

TRD-9212011
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Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

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

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter M. Motor Bus Companies

• 16 TAC §5.230, §5.233

The Railroad Commission of Texas, pursuant to petitions filed by Kerrville Bus Company, Inc. and Bayou City Coaches, Inc., proposes amendments to §5.230 and §5.233, relating to establishment, change, or discontinuance of bus schedules, and charter operations. The proposed amendments would define and specify what a schedule of service is for motor bus companies operating in intrastate commerce, and set forth the conditions under which motor bus companies will be allowed to provide charter bus service.

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

Gary W. Elkins, hearings examiner, has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to improve upon the availability of both scheduled route bus services and charter bus services. The amendments establish a minimum number of round trips per week that motor bus carriers seeking authority will be required to provide, and allow motor bus companies possessing charter authority to originate intrastate charters at any points that are not served by another motor bus company in scheduled passenger service. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Gary W. Elkins, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 911a, §4, which authorizes the Railroad Commission of Texas to

supervise and regulate the public service rendered by every motor bus company operating over the highways of this state.

§5.230. Establishment, Change, or Discontinuance of Bus Schedules.

(a) Initial schedules of motor bus service on wholly intrastate routes. In this section, schedule of service(s) means a round trip motor bus schedule for the transportation of passengers performed a minimum of five days per week and setting forth the times of departure and arrival at the terminal and intermediate points on a route or routes over which the motor bus company holds certificated authority. Operations of motor bus companies wholly within a city and its suburbs, whether specifically defined by the commission or not, in the "park and ride" and college/university service as herein defined in subsection (f)(1)(A) and (B) of this section, and in local sightseeing service, whether regulated by the commission or not, are not considered to be a scheduled motor bus service(s). Except as provided in subsection (c) of this section, the schedule(s) of service filed with the application for the certificate under which the service is authorized shall be the motor bus company's authorized schedule(s) upon issuance of the certificate unless the commission's order granting the certificate provides otherwise. Likewise, the schedule(s) of service filed with an application to sell and transfer a certificate shall be the transferee's authorized schedules upon reissuance of the certificate to the transferee, unless the commission's order authorizing the sell and transfer provides otherwise. If no schedules of service were filed with the application pursuant to which the motor bus company acquired the certificate, the company must file an application to establish authorized schedules.

(b)-(g) (No change.)

§5.233. Charter Operation.

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

(e) Motor bus companies will be authorized to originate charter or special party transportation only at points along the route or routes which they are authorized to

serve and are serving in scheduled passenger service(s) as defined in §5.230(a) of these regulations or within the territory adjacent thereto which is not served by any other motor bus company. The destination of charter and special parties may be any point within the State of Texas.

(f) If a motor bus company is the only motor bus company authorized to provide scheduled passenger service at a point or points and is providing less than five-day per week scheduled passenger service at such point or points, the motor bus company may, provided it is authorized to provide intrastate charter operations, originate charters at such point or points being served less than five days per week.

(g) Any motor bus company operating pursuant to a valid certificate authorizing the transportation of intrastate charters may originate an intrastate charter at any point or points that are not served by a motor bus company in scheduled passenger service.

(h) All restrictions and limitations applicable to the motor bus carrier's regular route scheduled passenger service will also apply to the charter and special party service that may be performed at points where the charter or special party will originate, and no motor bus company will be permitted to establish rates and charges for any service that is not authorized by the certificate pursuant to which it operates.

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 31, 1992.

TRD-9211943

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

Earliest possible date of adoption: October 12, 1992

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

TITLE 19. EDUCATION
Part I. Texas Higher
Education Coordinating
Board

Chapter 5. Program
Development

Subchapter K. Private Degree-
Granting Institutions Operat-
ing in Texas

• 19 TAC §§5.211-5.223

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

The Texas Higher Education Coordinating Board proposes the repeal of §§5.211-5.223, concerning private degree-granting institutions operating in Texas. The rules are being repealed and rewritten. It is necessary to clarify and strengthen the requirements of the board for certification to award degrees by private institutions of higher education. Increasingly, institutions are mounting legal challenges to the decisions of the board and these clarifications will help in the defense of their actions. The changes also more precisely conform to certain provisions in the statute. Institutions which are subject to these rules will be able to see more precisely what is required of them to be certified to offer degrees in Texas.

Bill Sanford, assistant commissioner for universities and health affairs, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Sanford also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be more efficient implementation of the rules which protect them from fraudulent and substandard institutions of higher education. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711.

The repeals are proposed under the Texas Education Code, §61.311, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding private degree-granting institutions operating in Texas.

§5.211. Definitions.

§5.212. Exemptions.

§5.213. Coordinating Board.

§5.214. Minimum Standards for Nonexempt Institutions.

§5.215. Prohibition Applicable to Nonexempt Institutions.

§5.216. Procedures for Nonexempt Institutions Applying for Authority to Grant Degrees and Offer Courses.

§5.217. Certificate of Registration for Agents of Nonexempt Institutions.

§5.218. Denial of Certificates to Institutions and Agents.

§5.219. Revocation of Certificates to Nonexempt Institutions and Agents.

§5.220. Penalties for Nonexempt Institutions.

§5.221. Administrative Procedures for Nonexempt Institutions.

§5.222. Off-Campus Operations.

§5.223. Judicial Procedures for Nonexempt Institutions.

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 September 1, 1992.

TRD-9211996

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: October 30, 1992

For further information, please call: (512) 483-6160

◆ ◆ ◆
• 19 TAC §§5.211-5.222

The Texas Higher Education Coordinating Board proposes new §§5.211-5.222, concerning private degree-granting institutions operating in Texas. The new rules are necessary to clarify and strengthen the requirements of the board for certification to award degrees by private institutions of higher education. Increasingly, institutions are mounting legal challenges to the decisions of the board and these clarifications will help in the defense of their actions. The changes also more precisely conform to certain provisions in the statute. Institutions which are subject to these rules will be able to see more precisely what is required of them to be certified to offer

degrees in Texas.

Bill Sanford, assistant commissioner for universities and health affairs, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Sanford, 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 more efficient implementation of the rules which protect them from fraudulent and substandard institutions of higher education. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, §61.311, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding private degree-granting institutions operating in Texas.

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

Academic degree program—Any baccalaureate or higher level degree program generally comparable to one offered by a Texas senior college accredited by a recognized accrediting agency, as well as any associate degree program which fulfills the lower-division requirements of a conventional baccalaureate degree program, offered by a Texas public or private four-year university or college accredited by a recognized accrediting agency.

Accreditation standards acceptable to the board—The standards of the recognized accrediting agencies, or, for those institutions exempt under §5.212(a)(2) of this title (relating to Exemptions), the accrediting agency generally recognized by the appropriate professions.

Agent—A person employed by or representing an institution within or without Texas who solicits any Texas students for enrollment in the institution, or who solicits or accepts payment from the Texas resident for any good or service offered by the institution at any place other than the office or legal place of business of the institution, and who receives valuable consideration for such efforts.

Board—The Texas Higher Education Coordinating Board.

Branch campus, extension center, or other off-campus unit—Any institution or part of an institution offering or proposing to offer away from the home campus more than one-half of the courses accepted for a

degree to be awarded by that institution or another institution.

Commissioner—The commissioner of Higher Education.

Degree—Any title or designation, mark, abbreviation, appellation, or series of letters or words, including "associate," "bachelor's," "master's," "doctor's," and their equivalents and foreign cognates, which signify, purport to signify, or are generally taken to signify satisfactory completion of the requirements of all or part of a program of study which is generally regarded and accepted as an academic degree-level program among Texas institutions of higher education accredited by accrediting agencies recognized by the Coordinating Board.

Educational or training establishment—An enterprise that meets the definition of a private institution of higher education, as set forth subsequently in this section, except the enterprise does not provide courses or credits alleged to be applicable to an academic degree program.

Home campus—The headquarters of an institution, such location to be determined as a matter of fact by the commissioner based upon consideration of information such as, but not limited to, the following:

(A) where the institution is chartered;

(B) the site, campus, or city where the principal or chief executives; officer are located;

(C) where the institutions conducts the preponderance of its instructional activities; and

(D) any other pertinent and material facts.

Person—An individual, firm, partnership, association, corporation, enterprise, or other private entity or combination thereof.

Private institution of a higher education or institution—An educational institution which:

(A) is not a public junior college, public senior college or university, medical or dental unit, or other agency as defined in the Texas Education Code, §61.003(7);

(B) is incorporated under the laws of this state, or maintains a place of business in this state, or has a representative present in this state, or solicits business in this state; and

(C) furnishes or offers to furnish courses of instruction in person, by electronic media, or by correspondence leading to a degree or providing credits alleged to be applicable to a degree.

Program of study—Any course or grouping of courses which are alleged to entitle a student to a degree or to credits alleged to be applicable to a degree.

Recognized accrediting agency—The Commission on Colleges, Southern Association of Colleges and Schools.

Representative—Includes a recruiter, agent, tutor, counselor, business agent, instructor, or any other instructional or support personnel.

The subchapter—The Texas Education Code, Title 3, Chapter 61, Subchapter G, as amended, having an effective date of June 21, 1975.

§5.212. Exemptions.

(a) The provisions of this subchapter do not apply to:

(1) an institution which is fully accredited by a recognized accrediting agency, except that no institution may establish or operate a branch campus, extension center, or other off-campus unit without board approval. However, any branch campus which was fully and separately accredited as a free-standing institution or was a candidate for separate accreditation as a free-standing institution prior to January 1, 1981, is exempt;

(2) an institution or degree program that has received approval by an agency of the State of Texas authorizing the graduates of the institution to take a professional or vocational state licensing examination administered by that agency. (The granting of permission by a state agency to a graduate of an institution to take a licensing examination does not by itself constitute approval of the institution or degree program required for an exemption under this subsection.)

(b) The exemptions provided by subsection (a)(1) and (2) of this section apply only to the extent that the programs or the institution is accredited or approved, as applicable, and if an institution offers to award a degree for which it is not accredited or approved by the appropriate agency of the State of Texas, the exemption does not apply.

(c) The board may issue an exempt institution a certificate of authority to grant degrees on request of said institution upon determination by the board that said institution meets the requirements of this subchapter.

(d) An exempt institution continues in that status only so long as it maintains accreditation standards acceptable to the

board.

(e) A new institution may not presume exempt status and offer to award degrees or courses leading to degrees until it has applied for and been granted exempt status by the commissioner.

(f) If the commissioner has reason to revoke the exempt status granted to an institution, he shall notify the institution. The institution will be given 10 days from receipt of that notice to contest the revocation. If, after considering the institutions' reply the commissioner continues to hold that the institution no longer merits exempt status, the institution may appeal the commissioner's decision to the board. If the board upholds the commissioner's decision, the institution then must apply for and earn a certificate of authority to offer degrees or degree credit courses in Texas.

§5.213. Administrative Procedures Related to Certification of Nonexempt Institutions.

(a) Designation. The board shall administer the provisions of the Texas Education Code, Title 3, Chapter 61, Subchapter G (the subchapter), in addition to its other duties provided by law. To achieve the purposes of the subchapter, the commissioner may request from any department, division, board, bureau, commission, or other agency of the state, and the same shall provide, such information as will enable the board to exercise properly its powers and perform its duties hereunder.

(b) Authority. The board shall exercise, in addition to the express powers and duties now vested therein by the subchapter and the rules of which this section is a part, authority to administer the rules by appropriate action consistent with Texas law and the board's own policies and procedures.

(c) Jurisdiction. The board will accept applications only from those institutions proposing to offer an academic degree program.

(d) Certification advisory council. The board shall appoint a certification advisory council to advise the board on standards and procedures related to certification of private, nonaccredited institutions of higher education; assist the commissioner in the study of individual applications for certificates of authority; and help on any other matters related to certification that the board finds appropriate. The council shall consist of six members with experience in higher education and drawn from exempt private institutions of higher education in Texas. The members shall be appointed for two-year fixed and staggered terms.

(e) Application fee for certificates of authority. Each biennium the board shall set an application fee for certificates of authority equal to the average cost of evalu-

ating the applications. The fee shall include the costs of travel, meals, and lodging of the visiting team and the commissioner, or his designated representatives, and consulting fees for the visiting team members.

(f) Application forms.

(1) The application form for a certificate of authority to offer degrees shall contain, at minimum, the name, address, and telephone number of the institution; purpose of the institution; names of the sponsors or owners of the institution; regulations, rules, constitutions, bylaws, or other regulations established for the governance and operation of the institution; the names and addresses of the chief administrative officer, the principal administrators, and each member of the board of trustees or other governing board; the names of members of the faculty who will, in fact, teach in the program of study, with the highest degree held by each; a full description of the admission requirements, degree requirements, degree or degrees to be awarded and the course or courses of study prerequisite thereto; and a description of the facilities and equipment utilized by the institution.

(2) The application form for an amendment to an existing certificate of authority to award a new or different degree shall include, at minimum, an outline of the curriculum to be offered, the identification of the degree to be awarded, the qualifications of the faculty involved, anticipated enrollment, financial support expected and its source, and the relation of the new program to the purpose of the institution.

(3) The application form for a certificate of registration for an agent shall include, at minimum, the name, address, and certification status of institution represented; the applicant's full legal name, address, residence, educational background, experience, and evidence of institutional affiliation; and an affidavit from the applicant pledging to fairly represent the institution consistent with the laws of the State of Texas and the certification rules of the board.

(g) Application review.

(1) The commissioner, or his designated representatives, and an ad hoc team of independent consultants, if considered appropriate, will visit the institution and conduct an on-site survey to evaluate the application for a certificate of authority. The visiting team will be composed of people with experience on the faculties or staffs of accredited institutions and who possess knowledge of accreditation standards.

(2) The certification advisory council will review the findings of the visiting team and the response of the institution and submit to the commissioner a recommendation concerning the application.

(3) The commissioner will forward to the board the recommendation of the advisory council with his endorsement or with an alternate recommendation.

(4) Upon approval of the board to award a certificate of authority to an institution, the commissioner will act immediately to prepare and forward the certificate. It shall state, as a minimum, that the institution is authorized to grant certain degrees, the issue date, and the period for which the certificate is valid.

(5) If the board denies an institution's application for a certificate of authority, the institution will not be eligible to reapply for a period of one year. The subsequent application should show correction of the deficiencies which led to the previous denial. Approval of the new application by the board will return the institution to its status within the eight-year time period for achieving accreditation.

(h) Records.

(1) Institutions authorized to operate in this state will be required to furnish a list of their agents to the board, and to maintain records of students enrolled, credits awarded, and degrees awarded in a manner specified by the board.

(2) In the event any institution now or hereafter operating in this state proposes to discontinue its operation, the chief administrative officer, by whatever title designated, of said institution shall cause to be filed with the board the original or legible true copies of all such academic records of said institution as may be specified by the board. Such records shall include, at a minimum, such academic information as is customarily required by colleges when considering students for transfer or advanced study and, as a separate document, the academic record of each former student. In the event it appears to the board that any such records of an institution discontinuing its operations are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the board, the board may seek court authority to take possession of such records. The board shall maintain or cause to be maintained a permanent file of such records coming into its possession.

(i) Recognition of accrediting agencies. In seeking to assure standards that are sufficient to protect citizens from fraudulent and substandard operations; to treat all institutions of higher education with equity, both exempt and nonexempt; and to avoid entanglements with agencies with sectarian purposes, the board has recognized the Commission of Colleges, Southern Association of Colleges and Schools (SACS) as the accrediting agency for certification. However, the board will consider the recognition of other accrediting agencies provided they can demonstrate they meet all of the criteria

listed following.

(1) The accrediting agency must be a member of the Council on Postsecondary Accreditation and must be recognized by the United States Department of Education.

(2) The accrediting agency's standards must be equal to SACS and must be applied as rigorously.

(3) The accrediting agency must not require member institutions to subscribe to sectarian statements of belief.

(4) The accrediting agency must show why SACS is not an acceptable accreditor for the particular institution it intends to accredit.

§5.214. Standards for Nonexempt Institutions.

(a) The decision to grant a certificate of authority to an institution will be based on its compliance with the following 24 standards, priority given to education, responsiveness to recommendations and suggestions for improvement, and, in the case of a renewal of a certificate of authority, record of improvement and progress following initial approval which would ensure accreditation within the allotted time. The 24 standards represent generally accepted administrative and academic practices and principles of accredited institutions of higher education in Texas. Such practices and principles are generally set forth by SACS and by specialized accrediting bodies and the several academic and professional societies which have established standards for their members' programs, such as the National Association of College and University Business Officers and the American Association of Collegiate Registrars and Admissions Officers.

(1) Qualifications of institutional officers. The character, education, and experience in higher education of governing board members, administrators, supervisors, counselors, agents, and other institutional officers shall be such as may reasonably ensure that the students will receive education consistent with the objectives of the course or program of study. In particular, the academic administrator shall be qualified by level and area of academic preparation, as well as through appropriate experience, to direct the academic affairs of the institution.

(2) Governing board. Membership of the governing board of the institution shall be comprised of individuals who represent the institution's constituency, including faculty, students, and supporters, and who derive no financial gain from the operations of the institution.

(3) Distinction of roles. There shall be sufficient distinction among the roles and personnel of the governing board of the institution, the administration, and faculty to ensure their appropriate separation and independence.

(4) Faculty qualifications. The character, education, and experience in higher education of the faculty shall be such as may reasonably ensure that the students will receive an education consistent with the objectives of the course or program of study. Each faculty member teaching in an associate or baccalaureate level degree program shall have at least a master's degree from an institution accredited by a recognized agency or a regional accrediting agency with at least 18 graduate semester credit hours in the discipline being taught. Furthermore, at least 25% of course work in a baccalaureate level major shall be taught by faculty members holding doctorates, or other terminal degrees, in the discipline being taught from institutions accredited by a recognized agency or a regional accrediting agency. Graduate level degree programs shall be taught by faculty holding doctorates, or other terminal degrees, in the discipline being taught from institutions accredited by a recognized agency or a regional accrediting agency.

(5) Faculty size. There shall be a sufficient number of full-time teaching faculty resident and accessible to ensure continuity and stability of the education program, adequate educational association between students and faculty and among the faculty members, and adequate opportunity for proper preparation for instruction and professional growth by faculty members. At the associate and baccalaureate levels, there shall be at least one full-time faculty member in each program. At the graduate level, there shall be at least four full-time faculty members in each program.

(6) Curriculum. The quality, content, and sequence of each course, curriculum, or program of instruction, training, or study shall be appropriate to the purpose of the institution and shall be such that the institution may reasonably and adequately achieve the stated objectives of the course or program. Substantially all of the courses in the areas of specialization required for each degree program shall be offered in organized classes by the institution, provided such courses are appropriate to the level of the institution.

(7) General education. Each associate or baccalaureate degree program shall contain a general education component consisting of at least 25% of the total hours offered for the program. This component shall be drawn from each of the following areas: Humanities and Fine Arts, Social and Behavioral Sciences, and Natural Sciences and Mathematics. It shall include courses to

develop skills in written and oral communication and in basic computer instruction. Courses designed to correct deficiencies, remedial courses for associate and baccalaureate programs, and leveling courses for graduate programs, may not count toward course requirements for the degree. The applicant institution may arrange for all or part of the general education component to be taught by another institution with the following provisions: the applicant institution's faculty shall design the general education requirement, there shall be a written agreement between the institutions to provide the general education component, at least one-half of the courses shall be offered in organized classes, and the providing institution shall be accredited by a recognized accrediting agency.

(8) Credit for prior learning. An institution awarding collegiate credit for prior learning obtained outside a formal degree-granting institution shall establish and adhere to a systematic method for evaluating that prior learning, equating it with course content appropriate to the institution's authorized degree programs, and subject to ongoing review and evaluation by the institution's teaching faculty. Recognized evaluative examinations such as the advanced placement program or the college level examination program may be used. No more than 15 semester credit hours or 23 quarter credit hours in a student's associate or baccalaureate degree program may be based on validated prior learning. No graduate credit for prior learning may be awarded. In no instance may credit be awarded for life experience per se or merely for years of service in a position or job.

(9) Library. The institution shall have in its possession or direct control and readily available to its students and faculty a sufficient quality and variety of library holdings to support adequately its own curriculum. The holdings shall be catalogued and be readily accessible to students and faculty. The institution shall have adequate library facilities for the library holdings, space for study, and work space for the librarian and library staff. The librarian shall hold a graduate degree in library science from an institution accredited by a recognized accrediting agency or a regional accrediting agency. Arrangements for the use of library materials made with other libraries shall be formalized in writing, the collection shall be validated by the institution to be appropriate for the programs being offered, records of usage by the students shall be kept, and the library shall be reasonably accessible to the students and faculty.

(10) Facilities. The institution shall have adequate space, equipment, instructional materials, and financial resources to provide education of good

quality.

(11) Instructional assessment. Provisions shall be made for the continual assessment of the educational program, including the evaluation and improvement of instruction.

(12) Financial stability. The institution shall be financially stable and able to fulfill its commitments to students. The institution shall have sufficient reserves so that, together with tuition and fees, it would be able to complete its educational obligations to currently enrolled students if it were unable to admit any new students.

(13) Financial records. Financial records and reports of the institution shall be kept and made separate and distinct from those of any affiliated or sponsoring person or entity. Financial records and reports shall be in accordance with the guidelines of the National Association of College and University Business Officers as set forth in *College and University Business Administration*, Fifth Edition, or such later editions as may be published. An annual independent audit of all fiscal accounts of the educational institution shall be authorized by the governing board and shall be performed by a properly authorized certified public accountant.

(14) Academic freedom and faculty security. The institution shall adopt and distribute to all members of the faculty a statement of academic freedom assuring freedom in teaching, research, and publication. All policies and procedures concerning promotion; tenure; and nonrenewal or termination of appointments, including for cause, shall be clearly published in a faculty handbook and supplied to all faculty. The specific terms and conditions of employment of each faculty member shall be clearly described in a written document given to that faculty member and a copy retained by the institution.

(15) Academic records. Adequate records shall be securely maintained by the institution to show attendance, progress, or grades, and to assure that satisfactory guidelines are followed relating to attendance, progress, and performance. Two copies of said records shall be maintained in secure places. Transcripts shall be issued upon the request of the students.

(16) Catalog. The institution shall provide students and other interested persons with a catalog or brochure containing information describing the purpose, length, and objectives of the programs offered by the institution; schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study; cancellation and refund policies; and such other material facts concerning the institution and the program or course of instruction as are reasonably likely to affect

the decision of the student to enroll therein. Any disclosures specified by the board or defined in the rules shall be included. This information shall be provided to prospective students prior to enrollment.

(17) Refund policy. The institution shall publish and adhere to a fair and equitable cancellation and refund policy.

(18) Credentials. Upon completion, the student shall be given appropriate educational credentials by the institution indicating that the program undertaken has been satisfactorily completed.

(19) Academic advising and counseling. The institution shall provide an effective program of academic advising for all students enrolled. The program shall include orientation to the academic program, academic and personal counseling, career information and planning, placement assistance, and testing services.

(20) Student handbook. A handbook listing the student's rights and responsibilities shall be published and supplied to the student upon enrollment in the institution. The institution shall establish a clear and fair policy regarding due process in disciplinary matters and publish it in the handbook.

(21) Health services. The institution shall provide an effective program of health services and education reflecting the needs of the students.

(22) Housing. The student housing owned, maintained, or approved by the institution, if any, shall be appropriate, safe, and adequate.

(23) Legal compliance. The institution shall be maintained and operated in compliance with all ordinances and laws, including rules and regulations adopted pursuant thereto, pertinent to the safety and health of all persons upon the premises.

(24) Open representation of activities. Neither the institution or its agents shall engage in advertising, recruiting, sales, collection, financial credit, or other practices of any type which are false, deceptive, misleading, or unfair.

(b) The board may accept as evidence of compliance with the standards established in this section the accreditation of an institution by selected accrediting agencies if the commissioner, or his designated representatives, have participated in the review by such an agency of the institution operating in Texas and concur with the actions of that agency. This option shall not be construed as giving exempt status to an applicant institution so accredited if it has not already been exempted under §5.212(a) (1) of this title (relating to Exemptions); nor is it to be understood that the board may not require further evidence and make further

investigations concerning whether the institution should be authorized to operate in Texas.

§5.215. Certificate of Authority to Grant Degrees and Offer Courses at Nonexempt Institutions.

(a) Eligibility to apply.

(1) Institutions which have been in operation in Texas and have complied with Texas statutes as non degree-granting institutions or educational or training establishments for a minimum of two years may make application to the board for a certificate of authority to grant degrees. As a minimum, the term "in operation" means to enroll students and to conduct classes.

(2) Documentary evidence of compliance with paragraph (1) of this subsection must be filed with the application.

(3) An institution must be fully operational as of the date of the on-site evaluation; i.e., it must have in-hand or under contract all the human, physical, administrative, and financial resources necessary to demonstrate its capability to meet the standards for nonexempt institutions. The conditions found at the institution as of the date of the on-site evaluation visit will provide the basis for the visiting team's evaluation and report, the certification advisory council's recommendation, the commissioner's recommendation, and the board's determination of the institution's qualifications for a certificate of authority.

(b) Application for certificate of authority.

(1) An institution may apply to the board for a certificate of authority to grant a degree in a specified program of study on forms provided by the board upon request. Institutions seeking a certificate of authority are urged to contact the institutional certification office before filing a formal application.

(2) Applications must be submitted in an original and four copies and accompanied by the fee described in §5.213(e) of this title (relating to Administrative Procedures Related to Certification of Nonexempt Institutions).

(c) Issuance of certificate.

(1) The board may issue a certificate of authority to grant a degree or degrees and to enroll students for courses which may be applicable toward a degree if it finds that the applicant institution meets the standards established by the board for certification.

(2) The certificate of authority to grant degrees is valid for a period of two years from the date of issuance.

(3) Certification by the State of Texas is not accreditation, but merely a protection of the public interest while the institution pursues accreditation from a recognized agency. Therefore, the institution awarded a certificate of authority shall not use terms to interpret the significance of the certificate which specify, imply, or connote greater approval than simple permission to operate and grant certain specified degrees in Texas. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended," by the State of Texas or agency thereof. Specific language prescribed by the commissioner which explains the significance of the certificate of authority shall be included in all publications, advertisements, and other documents where certification and the accreditation status of the institution are mentioned.

(d) Renewal of certificate.

(1) At least 180 days, but no more than 210 days, prior to the expiration of the current certificate of authority an institution, if it desires renewal, shall make application to the board on forms provided upon request. Reports not previously submitted to the board and related to the application for or renewal of accreditation to national or regional accrediting agencies shall be included. Formal application for renewal by the board shall be accompanied by the fee described in §5.213(e) of this title.

(2) The application for renewal of the certificate of authority will be evaluated in the same manner as that prescribed for evaluation of an initial application, except that the evaluation will include the institution's record of improvement and progress toward accreditation.

(3) An institution may be granted consecutive certificates of authority for no longer than eight years. Absent sufficient cause, at the end of the eight years, the institution must have been accredited by a recognized accrediting agency.

(4) If the institution has applied for and pursued accreditation in good faith, the board shall consider the application of any accreditation standard that prohibited accreditation of the institution on the basis of religious policies practiced by the institution as a prima facie justification for extending the institution's eligibility for certification if all other requirements of the board are satisfied. If the board determines that an institution has been unable to achieve accreditation by a recognized agency on the basis of religious policies practiced by the institution, the board will consider the institution eligible to apply for a certificate of authority, provided that all other standards are met at the level of accreditation and that such religious institu-

tions shall be eligible to grant degrees of a religious nature only.

(5) Subject to the restrictions of paragraph (3) of this subsection, the board shall renew the certificate if it finds that the institution has maintained all requisite standards and has complied with the provisions of this subchapter, as appropriate.

(e) Amendments to applications.

(1) The chief administrative officer of each institution which has been issued a certificate of authority shall immediately notify the board of any change in principal location, ownership, governance, administrative personnel, faculty, or facilities at the institution or any other changes of a nature specified by the board.

(2) An institution which wishes to amend an existing program of study to award a new or different degree during the period of time covered by its current certificate may file an application for amendment on forms provided by the board upon request. If the board finds that the new program of study meets the required standards, the board may amend the institution's certificate accordingly.

(3) Applications for amendment shall be accompanied by a fee of \$75.

(f) Authority to represent transferability of course credit. Any institution as defined in §5.211 of this title (relating to Definitions), offering degrees or not, may solicit students for and enroll them in courses on the basis that such courses will be credited to a degree program offered by another institution, provided that:

(1) the other institution is named in such representation, and is accredited by an accrediting agency listed in §5.211 of this title; and

(2) the courses are identified for which credit is claimed to be applicable to the degree programs at the other institution; and

(3) the written agreement between the institution subject to these rules and the accredited institution is approved by both boards of trustees in writing and by its accrediting agencies, and is filed with the board.

§5.216. Certificate of Registration for Agents of Nonexempt Institutions.

(a) A person desiring to solicit or perform the services as an agent pursuant to the provisions of the Texas Education Code, Title 3, Chapter 61, Subchapter G shall make application for a certificate of registration on forms provided by the board on request.

(b) The application shall be accompanied by a fee of \$50.

(c) Upon request of the board, the agent will provide sufficient evidence of good character.

(d) The agent's certificate of registration shall be issued for a two-year period.

(e) At least 60 days, but no more than 120 days, prior to the expiration of an agent's certificate, the agent shall complete and file with the board an application for renewal.

§5.217. Off-Campus Operations and Changes of Level at Exempt Institutions.

(a) Off-campus operations. An exempt private institution must be approved by the board to operate a branch campus, extension center, or other off-campus unit in Texas. An institution whose off-campus offerings approach the scale of a branch campus, extension center, or other off-campus unit, as defined in §5.211 of this title (relating to Definitions), must submit a description of its plans, including such information as provided for on an application form furnished by the board. Upon receipt of an acceptable planning letter, the commissioner may authorize the institution to continue the planned activity, on a temporary basis, pursuant to the following procedures.

(1) If the institution is exempt by virtue of appropriate accreditation, the Coordinating Board may elect to have the branch visited and evaluated solely by the Coordinating Board, pursuant to the requirements of this subchapter; solely by the accrediting body; or jointly by the accrediting body and the Coordinating Board.

(2) The institution may submit to the board for annual approval or disapproval each credit course proposed to be taught off-campus pursuant to §5.152(d), (e), and (9) of this title (relating to Criteria and Procedures for the Consideration of Upper Level and Graduate Off-Campus Courses). In this latter event, the institution's branch will not be subject to a separate site review and approval by the accrediting agency or the board until its off-campus courses constitute two-thirds of a degree program.

(b) Branch campus. A certified but unaccredited institution may not operate a branch campus.

(c) Changes of level for exempt private institutions. An institution which is exempt by accreditation from a recognized agency and which has established stability by being so accredited for the previous 10 years and which wishes to expand to a different degree level not covered by its existing accreditation may submit a description of its plans, including such information

as provided for on an application form furnished by the board, instead of seeking a certificate of authority. If the plan is found to be acceptable, the institution will be granted state authorization by the commissioner to seek the change in level with the accrediting agency. If the plan is found to be unacceptable, the institution may seek a certificate of authority by the procedures listed in §5.215 of this title (relating to Certificate of Authority To Grant Degrees and Offer Courses at Nonexempt Institutions).

§5.218. Denial of Certificates to Institutions and Agents.

(a) If the board, upon review and consideration of an application for a certificate of authority, or for an agent's certificate of registration, or for renewal of either, shall determine that the applicant fails to meet the requisite criteria promulgated in this subchapter, the board shall so notify the applicant, setting forth the reasons for denial in writing.

(b) In the event the board denies an application for an agent's certificate, or for renewal thereof, it shall so notify the institution or institutions which said agent represented or proposed to represent, according to the records of the board, and shall include the reasons for denial.

(c) The board may allow institutions which have been denied a renewal of their certificate of authority to continue to award degrees for up to two years after the denial to students who were enrolled in a degree program covered by the certification. The institution must help students who are not able to finish the degree requirements within that time to transfer to other institutions. This allowance is not automatic and will not be extended to institutions who are found to be extremely deficient or to have engaged in fraudulent practices as determined by the board. In any event, no new students may be enrolled in degree programs after the date of denial.

§5.219. Revocation of Certificates to Nonexempt Institutions and Agents.

(a) The board may revoke an institution's certificate of authority to grant degrees at any time if it finds that:

(1) any statement contained in an application for the certificate is untrue;

(2) the institution has failed to maintain the faculty, facilities, equipment, and programs of study on the basis of which the certificate was issued;

(3) advertising or representations made on behalf of and sanctioned by the institution is deceptive or misleading; or

(4) the institution has violated any provision of this subchapter.

(b) The board may revoke an agent's certificate of registration at any time if it finds that:

(1) any statement contained in the application is untrue;

(2) the institution represented has had its certificate of authority revoked;

(3) the agent makes false, deceptive, or misleading statements while attempting to solicit residents of this state as students; or

(4) the agent has violated any provision of this subchapter.

§5.220. Prohibitions Applicable to Nonexempt Institutions. A person may not:

(1) grant, award, or purport to offer a degree on behalf of a private institution of higher education unless the institution has been issued a certificate of authority to grant the degree by the board in accordance with the provisions of the subchapter;

(2) represent that credits earned or granted by that person or institution are applicable for credit toward a degree to be granted by some other person or institution except under conditions and in a manner specified under §5.216 of this title (relating to Certificate of Authority to Grant Degrees and Offer Courses at Nonexempt Institutions), and approved by the board;

(3) award an honorary degree on behalf of a private institution of higher education subject to the provisions of the subchapter, unless the institution has been awarded a certificate of authority to award such a degree, and, further, unless the degree shall plainly state on its face that it is honorary;

(4) use the term "college" or "university," its abbreviation, or its foreign cognate in the official name or title of a private institution of higher education established after the effective date of the Texas Education Code, Title 3, Chapter 61, Subchapter G (the subchapter), unless the institution has been issued a certificate of authority to grant a degree or degrees;

(5) use the term "college" or "university," its abbreviation, or its foreign cognate in the official name or title of an educational or training establishment; or

(6) act as an agent who solicits students for enrollment in a private institution of higher education subject to the provisions of the subchapter without a certificate of registration.

§5.221. Penalties for Nonexempt Institutions.

(a) Any person who confers or offers to confer a degree on behalf of a private institution of higher education subject to the provisions of this subchapter which has not been issued a certificate of authority to grant degrees is guilty of a misdemeanor and upon conviction is subject to a fine of not less than \$1,000 nor more than \$5,000. Each degree conferred without authority constitutes a separate offense.

(b) Any person who establishes a private institution of higher education and uses the term "college" or "university" in the official name of the institution without first having been issued a certificate of authority to grant degrees or any person who establishes an educational or training establishment and uses the term "college" or "university" in the official name or title of the establishment is guilty of a misdemeanor and upon conviction is subject to a fine of not less than \$1,000 nor more than \$3,000.

(c) Any agent who solicits students for enrollment in a private institution of higher education subject to the provisions of the Texas Education Code, Title 3, Chapter 61, Subchapter G without a certificate of registration is guilty of a misdemeanor and on conviction is subject to a fine of not less than \$500 nor more than \$1,000.

(d) Any operations which are found after due process to be in fraudulent violation of the law shall be terminated.

§5.222. Judicial Procedures for Nonexempt Institutions.

(a) An institution whose application for a certificate of authority, amendment to a certificate of authority, or certificate of registration is denied or whose existing certificate is revoked, shall receive a written notice of the reasons for the denial or revocation. The institution may request a hearing before the board to seek administrative remedy. The hearing shall be held within 120 days after written request is received by the board, but not sooner than 30 days after receipt of notice from the aggrieved.

(b) The board shall conduct hearings in accordance with the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas, on September 1, 1992.

TRD-9211995

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

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For further information, please call: (512) 483-6160

Chapter 17. Campus Planning

Subchapter A. Criteria for Approval of New Construction and Major Repair and Rehabilitation

• 19 TAC §17.24

The Texas Higher Education Coordinating Board proposes an amendment to §17.24, concerning new construction. The Deferred Maintenance Advisory Committee's report recently accepted by the board had recommended changes in the current deferred maintenance policy; the board is following through with the committee's request in order to make the policy more effective in reducing deferred maintenance. The effect of this change would be that the board will evaluate the institutions' plans to eliminate critical deferred maintenance when reviewing submissions for new construction projects, instead of requiring institutions to reduce their 1991 total deferred maintenance by 15% each year for the next five years.

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

Mr. Brown also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the state's investment in buildings at institutions of higher education will be better protected from costly deterioration. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, Texas Civil Statutes, §§61.0572, 61.058, 61.0582, and 61.0583, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding new construction.

§17.24. New Construction.

(a) (No change.)

(b) In addition to other criteria that may be used by the board, the following information will be used in the evaluation of new construction of educational and general space: [its approval of new construction of educational and general space will adhere to the following principles and procedures].

(1) the plan established by each institution to eliminate and prevent the accumulation of critical deferred maintenance which must address how critical deferred maintenance would be eliminated by the end of fiscal year 1995 and specifically identify both the amount and the source of funds to be allocated for critical deferred maintenance. The acceptable level of critical deferred maintenance is zero, therefore the board will not approve new construction of educational and general space at an institution that is not carrying out its plan to eliminate critical deferred maintenance. For a particular project, the board may waive this requirement upon a determination by the board that the effective and efficient management of physical plants requires a waiver; [Each institution must establish a plan to reduce by at least 15% its total deferred maintenance each year based on the total projected cost for correcting deferred maintenance as included in its master plan to be filed by October 15, 1991. The plan should indicate the amount and source of funds to be allocated for each deferred maintenance item.]

(2) the amount of an institution's accumulated deferred maintenance as a percentage of its total building replacement value; [Total deferred maintenance is defined as maintenance projects from prior years and the current year that were not carried out because of lower priority status than those funded within available resources. Deferred maintenance included "postponed renewal and replacement maintenance" and "unperformed unscheduled major maintenance," as these terms are used by the National Association of College and University Business Officers and the Association of Physical Plant Administrators.]

(3) a forecast of the future cost of maintaining an institution's existing facilities. At a minimum this forecast should indicate the funds required for the institution's facilities renewal and replacement program; [The Coordinating Board will not approve new construction at any institution which has not established a deferred maintenance plan as described in paragraph (1) of this subsection by October 15, 1991. The board will not approve new construction at any institution that does not reduce its total deferred maintenance as included in its master plan update for October 15, 1991, by at least 15% of the 1991 total in each successive year. For a particular project, the board may waive the requirements of this section upon a determination by the board that the effective and efficient management of physical plants requires a waiver.]

(4) the projected or estimated cost of all mandated or legislated facilities requirements. [As a part of the Octo-

ber 15th update each year, an explanatory report of the deferred maintenance needs met during the previous year will be included covering both the work that was done and the cost of each project.]

(5) the institution's prior record in managing its facilities, including its record in preventing, reducing, or eliminating critical deferred maintenance.

(c) The information described in subsection (b) of this section should be included in the annual October 15 update of each institution's campus master plan described in §17.23 of this title (relating to Campus Master Plans)

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

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James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

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For further information, please call: (512) 483-6160

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Subchapter C. Requesting Coordinating Board Endorsement of Real Property Acquisitions

• 19 TAC §17.63

The Texas Higher Education Coordinating Board proposes an amendment to §17.63, concerning real property costing more than \$10,000. Several Coordinating Board members on the Campus Planning Committee felt the addition of this rule was necessary after a recent land acquisition's cost escalated because of condemnation proceedings. The institutions would now be aware that if an acquisition is acquired through condemnation proceedings that use of the state's general revenue would be limited to the amount initially approved by the board.

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

Mr. Brown 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 any additional costs incurred because of condemnation proceedings on an acquisition approved by the board could not come from state general revenue. However, it could strengthen the position of a less than willing seller during negotiations of the purchase price. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, Texas Civil Statutes, §§61.0572, 61.058, 61.0582, and §61.0583, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding real property costing more than \$10,000.

§17.63. *Real Property Costing More than \$10,000.* For the acquisition of real property whose cost exceeds \$10,000, the institutional shall comply with the following procedure.

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

(4) The board's policy on the procedure for property acquisitions is to approve a purchase price between the two appraisals. However, should the subject property become involved in condemnation proceedings any purchase amount above the highest appraisal will need to come from funds other than state general revenue.

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

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James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

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For further information, please call: (512) 483-6160

◆ ◆ ◆
Chapter 21. Student Services

Subchapter B. Determining Residence Status

• 19 TAC §21.26

The Texas Higher Education Coordinating Board proposes an amendment to §21.26, concerning economic development and diversification employees. The amendment is being made to apply a time limitation to those eligible for benefits under the statute. Persons employed by eligible organizations who move to the state more than five years after the organization qualified for benefits will be excluded.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local

government as a result of enforcing or administering the section.

Mr. Adams, 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 educational institutions and taxpayers will benefit by collection of additional amounts from those excluded from benefits. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, §54.053, and §54.0152, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding determining residence status (economic development and diversification employees).

§21.26. Economic Development and Diversification Employees. An individual, who has come from outside Texas and registered in an education institution before having resided in Texas for a 12-month period immediately preceding the date of registration, and his dependents are entitled to pay the tuition fee and other fees required of Texas residents if the individual has located in Texas as an employee of a business or organization within five years of the date that such business or organization [that] became established in this state as part of the program of state economic development and diversification authorized by the constitution and laws of this state and if the individual files with the Texas institution of higher education at which he registers a letter of intent to establish residency in Texas.

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

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James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

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For further information, please call: (512) 483-6160



Subchapter C. Hinson-Hazlewood College Student Loan Program for all Loans which are Subject to the Provisions of the Guaranteed Student Loan Program, the College Access Loan Program, the Health Education Assistance Loan Program, and the Health Education Loan Program

• 19 TAC §21.55, §21.56

The Texas Higher Education Coordinating Board proposes amendments to §21.55 and §21.56, concerning Hinson-Hazlewood College Student Loan Program. The rule changes are intended to help protect the student loan program against defaults. The amendments will exclude students attending high-default institutions from receiving loans.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Adams also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that fewer loans will default, resulting in savings to the taxpayers. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §52.54, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Hinson-Hazlewood College Student Loan Program.

§21.55. Eligible Institution.

(a) (No change.)

(b) Student attending other institutions. Any student attending an institution other than an eligible institution as set forth in subsection (a) of the section may be eligible for a loan made from the fund under the going provisions of the GSLP providing the postsecondary institution:

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

(4) is not owned by the owner of another postsecondary institution whose default rate is 15% or greater if outside of Texas or 30% or greater if within Texas;

(5)[(4)] does not employ recruiters of students on a commission basis;

(6)[(5)] does not employ the owner(s) or anyone related to the owner(s) by blood or marriage as student financial aid administrators; and

(7)[(6)] has a good credit rating as determined by the board.

(c)-(f) (No change.)

§21.56. Qualifications for Loans.

(a) Criteria. The commissioner may authorize, or cause to be authorized, Hinson-Hazlewood college student loans to students at any eligible institution which certified that the applicant meets program qualifications if the applicant:

(1)-(6) (No change.)

(7) has provided the board with the signature of a consigner for guaranteed student loans and supplemental loans for students if the institution's default rate is 30% or greater and for any of the following loans and conditions:

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

(8)-(13) (No change.)

(b) (No change.)

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

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TRD-9212000

James McWhorter
Assistant Commissioner for
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Texas Higher Education
Coordinating Board

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For further information, please call: (512) 483-6160



Subchapter L. Paul Douglas Teacher Scholarship Program

• 19 TAC §§21.304, 21.306, 21.308, 21.310, 21.314, 21.316, 21.319, 21.321

The Texas Higher Education Coordinating Board proposes amendments to §§21.304, 21.306, 21.308, 21.310, 21.314, 21.316, 21.319, 21.321, concerning Paul Douglas Teacher Scholarship Program. The amendments to the rules are required to bring the program into compliance with federal rules. The changes will generally work to the benefit of students enrolled in the program.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or

there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Adams 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 revised provisions for student recipients. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §§52.54, 61.027, and 61.051, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Paul Douglas Teacher Scholarship Program.

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

Approved teacher education program—A course of study leading to certification as a teacher at the preschool, elementary school, or secondary school level, as determined by the Texas Higher Education Coordinating Board [A teacher education program whose graduates are eligible for certification as a teacher by the Texas State Board of Education].

[Cosigner—A cosigner of a promissory note executed under the authority of the Paul Douglas Teacher Scholarship Program shall be a person signing a note, other than the loan recipient, who is over 21 years of age and who is gainfully employed or otherwise demonstrates financial responsibility. Such a person may be a relative, except a spouse, and may not be a student. A cosigner is jointly and severally responsible for all promissory notes issued through the program and signed by the maker and him or herself.]

Teacher shortage area—As defined by the United States Secretary of Education [Texas State Board of Education].

§21.306. Eligible Institutions of Higher Education.

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

(d) Designation of institutional representative. Unless otherwise specified by the chief executive officer of the institution, the Hinson-Hazlewood College Student Loan Program officer shall serve as the Paul Douglas Teacher Scholarship Program officer for Texas institutions, shall be the board's on-campus agent to certify all institutional transactions and activities with respect to the fund, and shall be responsible for all records and reports reflecting the

transactions with respect to the fund.

(e) (No change.)

§21.308. Criteria for Selecting Scholars. From among the qualified applicants, the scholars will be selected using the following criteria:

(1) (No change.)

(2) pursuit of a field of study in which Texas has a shortage of teachers as determined by the United States Secretary of Education [Texas State Board of Education];

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

§21.310. Criteria for Subsequent Scholarships.

[(a)] In order to be considered for subsequent scholarships qualified applicants must be:

(1) enrolled as a full-time student in a postsecondary institution that is currently accredited by a nationally recognized accrediting agency or association that the secretary determines to be a reliable authority as to the quality of training offered, in accordance with the Act, §1201(a) [must maintain satisfactory progress as determined by the institution of higher education the student is attending, in accordance with the criteria established in 34 Code of Federal Regulation 668.16(e) of the student assistance general provision regulations];

(2) pursuing a course of study leading to certification as a teacher at the preschool, elementary or secondary level, as recognized by the Texas Higher Education Coordinating Board, but not including graduate study that is not required for initial teacher certification; and [must receive certification by the program officer that the subsequent scholarship will not result in an overaward;]

(3) maintaining satisfactory progress as determined by the postsecondary institution the student is attending, in accordance with the criteria established in 34 Code of Federal Regulation 668.16(e) of the Student Assistance General Provisions regulations. [must be reranked if the major is switched to a major with a lower weight in the ranking;

[(4)] enroll as a full-time student in an eligible institution as defined in these rules; and

[(5)] will not be reranked by the Governor's Committee.]

[(b)] The recommended amendments are needed to comply with new federal rules. Under the federal rules Texas residents, regardless of where they intend to

enroll, must be eligible to apply and be considered for a scholarship.]

§21.314. Payments to Students.

(a) No payment shall be made to any scholar until he or she has executed a promissory note payable to the fund for the full amount of any authorized scholarship plus interest and other fees. The scholar must [The scholar also must obtain the signature of a cosigner and] execute a commitment to teach in a public or private nonprofit pre-school, elementary, or secondary school in any state or in a public pre-school, elementary, or secondary education program in any state. The original of such executed promissory note and commitment to teach shall be forwarded immediately to the commissioner.

(b) (No change.)

§21.316. Scholarship Conditions. To receive a scholarship, a scholar shall enter into an agreement with the board under which he or she agrees to the following:

(1) teach on a full-time basis in any state as determined by the institution or agency for which the scholar is teaching, for a period of not less than two years for each year in which scholarship assistance was received or in an area designated by the United States Secretary of Education as provided by the Higher Education Act, §428(b)(4), as amended, one year for each year of scholarship assistance was received in one of the following:

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

(2) (No change.)

(3) pursue a course of study leading to certification at the pre-school, elementary, or secondary level as recognized [determined] by the Texas Higher Education Coordinating Board [Texas State Board of Education] but not including graduate study that is not required for initial teacher certification;

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

(6) maintain eligibility for this scholarship through the following:

(A) (No change.)

(B) pursue a course of study leading to certification at the pre-school, elementary, or secondary level as recognized [determined] by the Texas Higher Education Coordinating Board [Texas State Board of Education] but not including graduate study that is not required for initial teacher certification; and

(C) (No change.)

§21.319. *Loan Interest.*

(a) **Capitalized interest.** Interest accrues from the date of each initial scholarship payment if the board has determined that the scholar is no longer pursuing a course of study leading to certification as a teacher at the preschool, elementary, or secondary level, but not before six months have elapsed after cessation of the scholar's full-time enrollment in such a course of study, or the day after that portion of the scholarship period for which the teaching obligation has been fulfilled. From the time capitalized interest begins to accrue to the time the repayment period begins (as described in §21.320 of this title (relating to Repayment of Loans), the interest charge is adjusted annually and is set by the United States Secretary of Education by regulation at the rate that in no event is higher than the rate applicable to loans under Part B of Title IV, HEA, during the same 12-month period. The board shall capitalize any accrued unpaid interest the time it establishes the scholar's repayment schedule. [Loan interest for scholars who fail to teach or who do not comply with scholarship conditions. Simple interest shall begin to accrue on the loan evidenced by the promissory note on the day which the funds are disbursed.]

(b) **Interest rate.** The interest rate is adjusted annually and is set by the United States Secretary of Education by regulation at the rate that in no event is higher than the rate applicable to loans under Part B of Title IV, HEA, during the same 12-month period. [Loan interest for scholars who fulfill a portion of the teaching obligation. Simple interest will begin to accrue on the loan evidenced by the promissory note on the day after that portion of the scholarship period for which the teaching obligation has been fulfilled.]

(c) **Interest rate applicable during the repayment period.** The interest rate applicable during the repayment period is the interest rate prescribed by the United States Secretary of Education by regulation at the rate that in no event is higher than the rate applicable to loans under Part B of Title IV, HEA, that is in effect as of the beginning date of the repayment period. [Interest rate. The interest rate shall be at an annually adjusted rate which is equivalent to the rate charged for loans made through the Supplemental Loans to Students (SLS) Program and the Parent's Loans to Undergraduate Students (PLUS) Program beginning July 1st of each year.]

(d) **Capitalized interest.** The board shall capitalize and accrued unpaid interest at the time it establishes the scholar's repay-

ment schedule.]

§21.321. *Minimum Repayment Amounts.*

(a) Although loans may be prepaid at any time without penalty, except for capitalized interest, repayment shall begin as provided in §21.320 of this title (relating to Repayment of Loans) and shall extend over such period authorized in §21.318 of this title (relating to Period Loan).

(b) (No change.)

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

Issued in Austin, Texas, on September 1, 1992.

TRD-9212001

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

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For further information, please call: (512) 483-6160

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**TITLE 22. EXAMINING
BOARDS**

**Part IX. Texas State
Board of Medical
Examiners**

Chapter 163. Licensure

• **22 TAC §163.2**

The Texas State Board of Medical Examiners proposes an amendment to §163.2, concerning requirements for licensure of applicants who graduated from a medical school outside the United States or Canada. The proposed change specifically addresses clinical clerkships.

Ivan Hurwitz, director of licensure, 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.

Pat Wood, secretary to the executive director, 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 clarify the licensing process and allow that process to proceed in a more expeditious manner. 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 Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The amendment is proposed under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners

with the authority to make rules, regulations, and bylaws not inconsistent with the Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

§163.2. *Medical Schools Approved by the Board for Licensure.*

(a) (No change.)

(b) In lieu of graduation from an approved medical school as defined in subsection (a) of this section, the following are required for licensure in Texas.

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

(6) For an applicant who graduated from a medical school outside the United States or Canada to possess the same requisite qualifications to provide the same standard of medical care as provided by a licensed physician in this state, the applicant must have graduated from a reputable medical school which shall meet certain criteria. The school shall be an institution of higher learning designed to select and educate medical students; to provide students with the opportunity to acquire a sound basic medical education through training in basic sciences and clinical sciences; to provide advancement of knowledge through research; to develop programs of graduate medical education to produce practitioners, teachers, and researchers; and to afford opportunity for postgraduate and continuing medical education. The school must provide resources, including faculty and facilities, sufficient to support a curriculum offered in an intellectual environment that enables the program to meet these standards. The faculty of the school shall actively contribute to the development and transmission of new knowledge. The medical school shall contribute to the advancement of knowledge and to the intellectual growth of its students and faculty through scholarly activity, including research. The medical school shall include, but not be limited to, the following characteristics:

(A)-(G) (No change.)

(H) clinical clerkships shall be carried out in a hospital with a program in graduate medical education approved by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or the Texas State Board of Medical Examiners in the same subjects as the clerkships; or the applicant must be specialty board certified by a board that is a member of the American Board of Medical Specialties or the Advisory Board for Osteopathic Specialists;

(I)-(L) (No change.)

(7) (No change.)

(c) (No change.)

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

Issued in Austin, Texas, on September 4, 1992.

TRD-9212080 Homer R. Goehrs, M.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: October 12, 1992

For further information, please call: (512) 834-4502



Chapter 175. Schedule of Fees and Penalties

• 22 TAC §175.1

The Texas State Board of Medical Examiners proposes an amendment to §175.1, concerning a new physician assistant registration fee. The Physician Assistant Advisory Committee to the board has suggested that physician assistants would like to be registered and this proposed amendment to the fee will help implement that credentialing process.

Ivan Hurwitz, director of licensure, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section is in effect will be an estimated increase in revenue of \$57,375. There will be no effect on local government for the first five-year period the section is in effect.

Pat Wood, secretary to the executive director, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be increased state revenue and a more adequate credentialing process for physician assistants. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed will be a cost of \$75 per annum to each physician assistant registered.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The amendment is proposed under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

§175.1. Fees. The board shall charge the following fees:

(1)-(13) (No change.)

(14) radiologic technologist registration—\$50 per annum;[.]

(15) physician assistant registration—\$75 per annum.

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 September 4, 1992.

TRD-9212077 Homer R. Goehrs, M.D.
Executive Director
Texas State Board of
Medical Examiners

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For further information, please call: (512) 834-4502



Chapter 185. Physician Assistants

• 22 TAC §§185.1-185.14

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

The Texas State Board of Medical Examiners proposes the repeal of §§185.1-185.14, concerning regulation of physician assistants. Extensive rewrite of the section is felt necessary; therefore, repeal with simultaneous proposed new chapter wording is presented.

Ivan Hurwitz, director of licensure, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Pat Wood, secretary to the executive director, has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be clarification by omission. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The repeals are proposed under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

§185.1. Purpose.

§185.2. Definitions.

§185.3. Application for Approval To Supervise.

§185.4. Grounds for Denial or Revocation of Approval.

§185.5. Notification of Termination of Employment.

§185.6. Consent and Identification.

§185.7. Supervision of Performance.

§185.8. Tasks Permitted To Be Delegated to a Physician Assistant.

§185.9. Tasks Not Permitted To Be Delegated to a Physician Assistant.

§185.10. Employment Guidelines.

§185.11. Qualifications for Carrying Out Prescription Drugs Orders.

§185.12. Identification Number.

§185.13. Enforcement.

§185.14. Exceptions.

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

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TRD-9212078 Homer R. Goehrs, M.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: October 12, 1992

For further information, please call: (512) 834-4502



• 22 TAC §§185.1-185.16

The Texas State Board of Medical Examiners proposes new §§185.1-185.16, concerning the regulation of physician assistants. The proposed new sections will allow for more adequate credentialing and discipline of physician assistants. Extensive rewrite of the rule chapter is felt necessary; therefore, repeal with simultaneous proposed new chapter wording is presented.

Ivan Hurwitz, director of licensure, has determined that there will be fiscal implications 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, will be an estimated increase in revenue of \$57,375. There will be no effect on local government for the first five-year period the sections are in effect.

Pat Wood, secretary to the executive director, 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 state revenue and a more adequate credentialing process for physician assistants. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the sections as proposed will be a cost of \$75 per annum to each physician assistant registered.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The new sections are proposed under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

§185.1. Purpose. The purpose of these rules and regulations is to encourage the more effective utilization of the skills of physicians by enabling them to delegate health care tasks to qualified physician assistants. These sections are not intended to, and shall not be construed to, restrict the physician from delegating technical and clinical tasks to technicians, other assistants, or employees who perform delegated tasks in the office of a physician but who are not rendering services as a physician assistant or identifying themselves as a physician assistant. Nothing in these rules and regulations shall be construed to relieve the supervising physician of the professional or legal responsibility for the care and treatment of his or her patients.

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

Alternate physician—That physician designated by the supervising physician to act in his stead.

Board—The Texas State Board of Medical Examiners.

Physician assistant—A graduate of a physician assistant training program accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association and/or a person who has passed the examination given by the National Commission on the Certification of Physician Assistants, and who is registered as a physician assistant with the Texas State Board of Medical Examiners.

Supervising physician—A physician licensed by the board either as a doctor of medicine or doctor of osteopathic medicine who is assuming responsibility and legal liability for the services rendered by the physician assistant, and who has received approval from the board to supervise a specific physician assistant.

Physician Assistant Advisory Committee—The Physician Assistant Advisory Committee of the Texas State Board of Medical Examiners.

§185.3. Registry. Except as otherwise provided in this section, an individual shall be registered with the board before the individual may function as a physician assistant. A certificate of registration shall be granted to an applicant who:

(1) submits an application on forms approved by the board;

(2) pays the appropriate annual fee as determined by the board;

(3) has successfully completed an educational program for physician assistants or surgeon assistants accredited by the Committee on Allied Health Education and Accreditation and/or has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants;

(4) is under no current disciplinary sanction by the board, which has imposed or could lead to revocation, suspension, or probation of registration resulting from the applicant's activities as a physician assistant, unless the board considers such sanction and agrees to register the physician assistant;

(5) submits to the board documentation the board requires of all applicants which it deems necessary to evaluate the applicant's qualifications and which is set out in the application forms adopted by the board; and

(6) whose application for registration has been approved by the board.

§185.4. Grounds for Denial of Registry Certification. The board may, following notice of hearing and hearing as provided in the *Texas Register* and the Administrative Procedure and Texas Register Act, discipline any physician assistant who:

(1) fraudulently or deceptively registers or attempts to register with the board;

(2) violates any provision of these rules;

(3) is convicted of a felony;

(4) is a habitual user of intoxicants or nontherapeutic drugs to such an

extent that he or she is unable to safely perform as a physician assistant;

(5) has been adjudicated as mentally incompetent or has a mental condition that renders him or her unable to safely perform as a physician assistant;

(6) has committed an act of moral turpitude. A misdemeanor involving moral turpitude shall be defined as an offense involving baseness, vileness, or depravity in the private and social duties one owes to others or to society in general, or an offense committed with knowing disregard for justice, honesty, principles, or good morals;

(7) represents himself as a physician; or

(8) has acted in an unprofessional or dishonorable manner which is likely to deceive, defraud, or injure any member of the public.

§185.5. Discipline of Physician Assistant. The board, upon finding a physician assistant has committed any offense described in §185.4 of this title (relating to Grounds for Denial of Registry Certification), may:

(1) refuse to register the physician assistant;

(2) order a public or private reprimand;

(3) order revocation, suspension, limitation, or other restrictions of a physician assistant's registration;

(4) require a physician assistant to submit to the care or counseling or treatment by a physician or physicians designated by the board;

(5) stay enforcement of its order and place the physician assistant on probation with the right to vacate the probationary stay and enforce the original order for noncompliance;

(6) restore or reissue, at its discretion, a certificate of registration, and remove any disciplinary order or corrective measure which may have been imposed;

(7) order the physician assistant to perform public service as a part of any disciplinary order; or

(8) require the physician assistant to complete additional training.

§185.6. Disciplinary Entity. Hearings on alleged rules violation by a physician assistant and discipline of a physician assistant shall be conducted by the board in accordance with the rules for such hearings following review of the allegations against the physician assistant by the Physician Assistant Advisory Committee and recommenda-

tion of that committee that hearings be conducted with regard to such allegations

§185.7. Enforcement.

(a) Any physician who is found to have violated Texas Civil Statutes, Article 4495b, §3.08, or §4.01 shall be subject to disciplinary action by the board including withdrawal or denial by the executive director of his current or future authority to supervise a physician assistant.

(b) A physician who has a formal complaint filed against him may, at the discretion of the executive director, have his authority to supervise a physician assistant denied or withdrawn.

§185.8. Supervising Physician. To be authorized to supervise a physician assistant, a physician must:

- (1) be currently licensed as a physician by the board;
- (2) submit to the board and receive approval of the application to supervise a physician assistant;
- (3) pay the appropriate fee as determined by the board.

§185.9. Application for Approval to Supervise. Approval by the board to supervise a physician assistant shall be obtained by the supervising physician by filing an application with the board on forms provided by said board, which shall include the following:

- (1) the name, business address, telephone number, and specialty of the supervising physician;
- (2) the name and Texas certificate of registration number of the physician assistant;
- (3) a statement that he will exercise supervision over the physician assistant in accordance with these rules and that he will retain professional and legal responsibility for all care rendered by the physician assistant at all times; and
- (4) the name, business address, telephone number, and specialty of any alternate supervising physician(s).

§185.10. Supervision.

(a) Supervision shall be continuous, but shall not be construed as necessarily requiring the constant physical presence of the supervising physician. Telecommunication shall always be available.

(b) It is the obligation of each team of physician(s) and physician assistant(s) to insure that the physician assistant's scope of function is identified; that delegation of

medical tasks is appropriate to the physician assistant's level of competence; that the relationship of, and access to, the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.

(c) Physician assistants must utilize mechanisms which provide medical authority when such mechanisms are indicated, including, but not limited to, standing delegation orders, standing medical orders or protocols.

§185.11. Physician Assistant Scope of Practice. The physician assistant shall provide medical services within the education, training, and experience of the physician assistant that are delegated by the supervising physician. These services include, but are not limited to:

- (1) obtaining patient histories and performing physical examinations;
- (2) ordering and/or performing diagnostic and therapeutic procedures;
- (3) formulating a working diagnosis;
- (4) developing and implementing a treatment plan;
- (5) monitoring the effectiveness of therapeutic interventions;
- (6) assisting at surgery;
- (7) offering counseling and education to meet patient needs; and
- (8) making appropriate referrals.

§185.12. Tasks Not Permitted To Be Delegated to a Physician Assistant. Except at sites serving medically underserved populations, the supervising physician shall not allow a physician assistant to prescribe or supply medication, except as authorized by law.

§185.13. Identification Requirements. A physician assistant registered with the board shall keep his Texas certificate of registration available for inspection at his primary place of business and shall, when engaged in his professional activities, wear a name tag identifying himself as a "physician assistant."

§185.14. Notification of Termination of Employment. A physician assistant shall notify the board in writing of any change in employment status within 10 working days.

§185.15. Employment Guidelines.

(a) Except as otherwise provided in this section, two full-time equivalent physi-

cian assistant positions shall be allowed for each supervising physician. A supervising physician may utilize more than two physician assistants to allow part-time employment or the employment of a substitute during the temporary absence of a supervising physician's primary physician assistant.

(b) The physician assistant may not independently bill patients for services provided.

(c) Except at a site serving medically underserved populations, a physician assistant shall not be maintained in an office practice setting separate from that of his supervising physician.

§185.16. Exceptions. Upon written application to the board, the board may grant exceptions to its rules.

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

Issued in Austin, Texas, on September 4, 1992.

TRD-9212079

Homer R. Goehrs, M.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: October 12, 1992

For further information, please call: (512) 834-4502

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 101. General Rules

• 31 TAC §101.1, §101.29

The Texas Air Control Board (TACB) proposes amendments to the State Implementation Plan and the General Rules, with amendments to §101.1, concerning definitions, and the addition of a new §101.29, concerning emissions banking. Four new definitions and modifications of two existing definitions are proposed. The new definitions added are emissions banking, emissions reduction credit, emissions reduction credit certificate, and stationary source. The two redefined topics are actual emissions, which specifies the executive director as the reviewing authority and potential to emit, which has been reworded to more closely match the federal definition in the Code of Federal Regulations (CFR). The new rule establishes an emissions banking program to support the emissions offset provisions in the amended Federal Clean Air Act. The need for an emissions banking program has intensified with the more stringent new source review (NSR) requirements for new and modified sources in

ozone nonattainment areas. The effective date for the NSR rules is November 15, 1992. The proposed amendments are intended to be in effect as soon as possible after that date and will apply only to designated ozone nonattainment areas.

Under the provisions of this new section, applicable pollutants are restricted to volatile organic compounds and nitrogen oxides; affected areas are restricted to federally designated ozone nonattainment areas; and affected sources for emissions reduction may include stationary, area, and mobile sources. The emissions reduction credit must be used within five years; shall depreciate at an annual 3.0% rate; must be federally enforceable; and shall be limited to an actual decrease below that required by applicable state or federal law, regulation, or permit. Credits can be withdrawn only for use within the same ozone nonattainment area and only to provide offsets for new sources or modifications to existing sources. It is a TACB goal to establish a computer data base which will allow the public to review the amount of registered or banked reductions in each designated ozone nonattainment area.

Lane Hartssock, deputy director of air quality planning, has determined that for the first five-year period the proposed emissions banking program will be in effect, there will be a cost of \$15,000 for the state to implement and \$45,000 annually to administer the program. This cost is based on an anticipated 100 banking applications verified and processed per year and an estimated average of 10 hours per application for verifying and documenting the banked emissions reduction credit. There will be no fiscal implications for local units of government as a result of administering the section.

Mr. Hartssock also has determined that for the first five-year period the proposed emissions banking program is in effect, the public benefit anticipated will be an enhanced opportunity for industry and some small businesses to locate or modify a facility in an ozone nonattainment area without a resultant growth in total emissions. There will be a minor cost to industry and small businesses for the recordkeeping; however, this cost will be offset by the increased potential for expansion in a nonattainment area.

Public hearings on this proposal are scheduled for the following times and places: September 30, 1992, 2 p.m., City of Houston, Pollution Control, Building Auditorium, 7411 Park Place Boulevard, Houston; September 30, 1992, 7 p.m., John Gray Institute, 855 Florida Avenue, Beaumont, October 7, 1992, 6 p.m., City of El Paso, Council Chambers, Second Floor, 2 Civic Center Plaza, El Paso; October 8, 1992, 2 p.m., City of Arlington, Council Chambers, 101 West Abram Street, Arlington.

The hearings are structured for the receipt of oral and written comments by interested persons on the proposed changes. Interrogation or cross-examination is not permitted; however, a TACB staff member will be available to discuss the proposal 30 minutes prior to each hearing.

Written comments not presented at the hearing may be submitted to the TACB, located at 12124 Park 35 Circle, Austin, Texas 78753 through October 9, 1992. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the TACB, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, and at all TACB regional offices. For further information, contact Alan J. Henderson at (512) 908-1510.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The amendments and new section are proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code (Vernon 1990), which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§101.1. Definitions. Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the board, the terms used by the board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

Actual emissions (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—Actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The executive director [reviewing authority] shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. The executive director [reviewing authority] may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

Emissions banking (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—A system for recording emissions reduction credits so they may be used or transferred for future use.

Emissions reduction credit (applies only to nonattainment area, new

source review rules pursuant to Federal Clean Air Act provisions)—Any emissions reduction which has been banked in accordance with §101.29, of this title (relating to Emissions Banking).

Emissions reduction credit certificate (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—The certificate issued by the executive director which indicates the amount of qualified reduction available for use as offsets and the length of time the reduction is eligible for use.

Potential to emit (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions) [(as contained in the definitions of "major facility/stationary source" and "major modification" in this section)]—The maximum [design or operational] capacity of a facility/stationary source to emit a pollutant under its physical and operational design. Any physical or enforceable operational limitation on the capacity of the facility/stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions, as defined in 40 Code of Federal Regulation 51.165(viii), do not count in determining the potential to emit of a stationary source. [Any physical or enforceable operational limitation on the capacity of the facility/stationary source to emit a pollutant may be treated as part of its design. Limitations may include, but are not limited to, special operating limitations, air pollution control equipment, and/or restrictions on hours of operation or on the type of material combusted, stored, or processed.]

Stationary source (applies only to nonattainment area, new source review rules pursuant to Federal Clean Air Act provisions)—Any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Federal Clean Air Act.

§101.29. Emissions Banking.

(a) Applicable pollutants. Qualified reductions of volatile organic compounds (VOC) as defined in §101.1 of this title (relating to Definitions) and nitrogen oxides (NO_x) shall be eligible for deposit in the bank. Interpollutant trading, for example, using a NO_x credit to offset a VOC emission is not allowed.

(b) Applicable areas. The only geographical areas in which eligible sources may participate in the emissions banking program are the federally designated ozone nonattainment areas.

(c) Eligible source. The following sources are eligible to participate in the emissions banking program for a designated ozone nonattainment area:

- (1) any stationary source;
- (2) any area source; and

(3) any mobile source registered in the designated ozone nonattainment area.

(d) Length of time available as an offset. A certified emissions reduction credit (ERC) is available for use to fulfill an offset requirement during the five-year period after the reduction was actually achieved. The banking applicant shall identify the date the reduction was actually achieved. The ERC certificate shall indicate the expiration date for the certified reduction.

(e) ERC certification or registration. ERCs will be certified for any emissions reduction resulting from a shutdown of a minimum of 50 tons per year (tpy) VOC or 100 tpy NO_x, and which has been registered in accordance with this section. When each bank has a minimum balance of 1,000 tpy of certified emissions reductions of a given pollutant in a given nonattainment area, the remaining shutdown emissions reductions applications will be registered, but not certified. Whenever any bank balance drops below 700 tpy, registered emissions reductions will be certified in the order they were received to return the bank balance to a minimum of 1,000 tpy. All non-shutdown emission reductions will be registered; however, the Texas Air Control Board (TACB) will not certify the non-shutdown reductions until an application for withdrawal of credits has been received by the TACB. The emissions reduction amounts shall be determined based on actual monitoring results, when available, or otherwise calculated using good engineering practices. An ERC certificate will be issued by the executive director which indicates the amount of certified emissions reduction which is available for use as offsets and the length of time the reduction is eligible for use.

(f) Qualified reduction. A qualified reduction is a reduction in emissions of an applicable pollutant from an eligible source located in a designated area, which results in an actual and permanent emissions decrease below that required by applicable state or federal law, regulation, or permit. The reduced emissions level must be enforceable for the reduction to qualify. Emissions reductions may come from any eligible sources, including stationary, area, and mobile sources. Applications for mobile source reductions will be certified beginning January 1, 1994. The executive director shall have the authority to inspect and request information to assure that the emissions reduction has been actually achieved.

Qualified reductions include, but are not limited, to the following:

(1) an actual emissions reduction resulting from a permanent shutdown of equipment after January 1, 1990, and which causes a loss of capability to produce emissions that were reported in the 1990 emissions inventory;

(2) an actual emissions reduction resulting from the installation of a level of control greater than that which is required by regulation, permit, board order, or State Implementation Plan (SIP) provision if the applicant accepts a permit provision specifying a lower level of emissions;

(3) an actual emissions reduction resulting from the installation of different processes or equipment which emit less than the previous processes or equipment that performed the same function if the applicant accepts a permit provision specifying a lower level of emissions;

(4) an actual emissions reduction resulting from more effective operation and maintenance of abatement and process equipment if the applicant accepts a permit provision specifying a lower level of emissions;

(5) an actual emissions reduction resulting from a reduction in production rates if the applicant accepts a permit provision specifying a lower level of emissions or a limit at that production rate;

(6) an actual emissions reduction resulting from the utilization of alternative fuel vehicles beyond that which is required by law, regulation, or permit which has occurred after January 1, 1992; and

(7) any other actual emissions reduction which the executive director or United States Environmental Protection Agency approves as a qualified reduction.

(g) Deposits. There are special deposit timelines regarding pre-bank reductions and shutdowns.

(1) Depositing pre-bank reductions. Applications to deposit a qualified emissions reduction resulting from a shutdown which occurred between January 1, 1990, and the effective date of this regulation, must be received within six months after the effective date of this regulation. All other emissions reductions shall have occurred after the effective date of this regulation to qualify for a credit. The SIP revisions, permit revisions, or regulatory amendments, which have occurred prior to the deposit registration, shall be the basis for determining the eligibility of the emissions reductions to be banked.

(2) Mandatory banking of credits from shutdown for external offset purposes. An emissions reduction due to the shutdown of a source must be banked to be

used as an external offset, unless the shutdown occurs within six months of an associated emissions increase which will use the reduction credit.

(h) Withdrawal of credits. Certified emissions reduction credits can be withdrawn only for use within the same designated ozone nonattainment area and for the following purposes:

(1) providing offsets for new sources; or

(2) providing offsets for modifications to an existing source.

(i) Withdrawals between adjacent nonattainment areas. ERCs cannot be used in a different designated ozone nonattainment area.

(j) Depreciation. The executive director is prohibited from depreciating any ERC, except under the following circumstances:

(1) the credit will incur an annual three percent depreciation from the date the reduction occurred as a demonstration of reasonable further progress toward ozone attainment; or

(2) the ERC certificate has expired; or

(3) regulatory changes were promulgated after the ERC certificate has been issued which would have required reductions from the source that created the qualifying reduction. The credit shall be reduced by the amount affected by the regulatory change.

(k) ERC use. The use of ERCs will be accomplished either through transfers or withdrawals.

(1) Transfer. The certificate may be freely transferable, in whole or in part, and may be sold or conveyed in any manner in accordance with the laws of the State of Texas. The executive director shall be notified within 30 days of any transfer of the certificate to another party. The old certificate shall be submitted to the executive director, who shall then issue a new certificate indicating the new owner. In the case of a partial transfer, the Executive Director shall issue a new certificate to the new owner as well as a revised certificate to the current owner reflecting the available credits to each owner.

(2) Withdrawal. Only the owner of the certificate is eligible to withdraw deposits from the bank. Once a certificate has been issued, the ERC shall be valid for the time period indicated on the certificate, unless the certificate has been depreciated in accordance with subsection (j) of this section.

(l) Program administration. The administration of the emissions banking pro-

gram includes deposit registration, deposit certification, and ERC withdrawal.

(1) Deposit registration. A deposit registration of a qualified emissions reduction in the ERC bank should be submitted in an approved format to the executive director. An emissions reduction must be registered within six months of achieving the actual emissions reduction, with the exception of the pre-bank reductions identified in subsection (g)(1) of this section. Failure to file in a timely manner will result in forfeiture of the ability to bank the emissions reduction. However, such a reduction will still be available for internal netting purposes. The executive director shall annotate the deposit registration with the date of receipt. If the executive director determines that the emissions reduction does not qualify for registration, the applicant shall be notified, within 60 calendar days of receipt of the registration, with a letter which states the reasons for registration denial.

(2) Deposit certification. The executive director will certify emissions reduction credits in accordance with the guidelines stated in subsection (e) of this section. The applicant shall be notified in writing of the executive director's certification decision. If the decision is to grant the ERC as registered, the ERC certificate shall be mailed to the owner. If the decision is to grant less credit than the deposit registration or to deny certification, the letter shall state the specific reasons for the decision. The applicant will then have 30 days to respond in writing to the executive director. If the executive director affirms the certification decision, the applicant may appeal to the board. The board, at its option, may hear the appeal directly or may appoint a hearing examiner to obtain evidence from the applicant and staff and provide an advisory opinion to the Board. Such a hearing shall be conducted in accordance with the rules of evidence, but need not meet all the formal procedures for a contested case hearing. If called, the hearing shall be held within 60 days of the executive director's receipt of the applicant appeal. The hearing examiner report shall be submitted to the Board within 30 days of the close of the hearing.

(3) ERC withdrawal. The owner of an ERC certificate shall submit an application for withdrawal in a format approved by the executive director. The executive director shall have 30 calendar days to review the application. Upon notification of approval, the old certificate shall be submitted to the executive director, who shall keep the old certificate and issue a new certificate if any reduction credit is remaining in the bank. If the executive director denies the application, the applicant may appeal to the board. The appeal will be handled in accordance with the procedures for appeal of decisions affecting deposit applications.

(m) Public access. It is the goal of the Texas Air Control Board to establish a computerized data base which will allow the public to ascertain the amount of reductions which are registered or banked in each designated ozone nonattainment area. The registry shall not contain proprietary information.

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

Issued in Austin, Texas, on September 3, 1992.

TRD-9212076

Lane Hartscock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: December 15, 1992

For further information, please call: (512) 908-1451

TITLE 34. PUBLIC FINANCE

Part IV. Employees Retirement System of Texas

Chapter 87. Deferred Compensation

- 34 TAC §§87.1, 87.5, 87.7, 87.9, 87.11, 87.13, 87.15, 87.17, 87.19, 87.21, 87.29

The Employees Retirement System of Texas proposes amendments to §§87.1, 87.5, 87.7, 87.9, 87.11, 87.13, 87.15, 87.17, 87.19, 87.21 and new §87.29, concerning deferred compensation plan, Internal Revenue Code, §457. Amendments are proposed for clarifications to numerous sections in addition to a new section of the existing rules. Provisions are made for the transfer of funds in undercollateralized bank accounts, deposits in excess of \$100,000 in a credit union, and restricting future sales of life insurance as an independent product.

William S. Nail, general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Nail also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to allow the ERS to effectively and efficiently administer the deferred compensation plan authorized by the Internal Revenue Code, §457. State employees who choose to participate in this program will benefit by virtue of these rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to William S. Nail, General Counsel, P.O. Box 13207, Austin, Texas 78711-3207.

The amendments and new section are proposed under Texas Civil Statutes, Article 6252-3g, §2.45, which provide the Employees Retirement System of Texas with the authority to adopt rules, regulations, plans, and procedures to carry out the purposes of the Act.

§87.1. *Definitions.* The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise [and whenever appropriate, the singular includes the plural, the plural includes the singular, and the use of any gender includes the other gender].

NCUA-National Credit Union Administration, a United States Government agency which regulates, charters, and insures deposits of the nation's federal credit unions. Shares and deposits in credit unions are insured by the NCUSIF as detailed in this section.

NCUSIF-National Credit Union Share Insurance Fund, is administered by the NCUA as detailed in this section and insures members' share and deposit accounts at federally insured credit unions.

Nonfiler-A qualified vendor which does not ensure that the plan administrator receives a quarterly report by [within 45 days after] the due date specified in §87.19(c)(1) of this title (relating to Reporting and Record Keeping by Qualified Vendors) [This definition includes reports that the plan administrator returns for completion or correction].

§87.5. *Participation by Employees.*

- (a) (No change.)
- (b) Enrollment of participants in the plan.
 - (1)-(3) (No change.)
 - (4) The plan administrator may not complete any forms provided by a qualified vendor in connection with initial participation.
- (c) (No change.)
- (d) Contents of a participation agreement.

(1) A participation agreement must contain, but shall not be limited to:

- (A) (No change.)
- (B) the participant's surrender of all rights to the deferrals and investment income until the 51st [31st] day after he becomes entitled to a distribution under the sections in this chapter;

(C)-(H) (No change.)

(2) (No change.)

(e) Participants with existing [Initial selection of] life insurance products. When a participant has deferrals and investment income in a life insurance product, the State of Texas:

(1) retains all of the incidents of ownership of the life insurance product;

(2) is the sole beneficiary of the life insurance product;

(3) is not required to transfer the life insurance product to the participant or the participant's beneficiary; and

(4) is not required to pass through the proceeds of the product to the participant or the participant's beneficiary.

[(1) This subsection applies when a new participant chooses a life insurance product to receive the participant's deferrals.

[(2) The selection of a life insurance product is voidable, without loss to the participant or the plan, at the instance of the plan administrator or the participant making the selection unless the following procedures are followed in sequence.

[(A) A participant applies for coverage from a qualified vendor.

[(B) The qualified vendor determines the insurability of the participant.

[(C) If the participant is insurable, the vendor issues to the participant a letter of intent to insure.

[(D) The vendor issues a duplicate copy of the policy to the participant upon the participant's request.

[(E) The participant submits an executed participation agreement and disclosure form and the letter of intent to the participant's agency coordinator.

[(F) The vendor sends the original policy to the agency coordinator.

[(3) When a participant chooses to invest his deferrals and investment income in a life insurance product, the State of Texas:

[(A) retains all of the incidents of ownership of the life insurance product;

[(B) is the sole beneficiary of the life insurance product;

[(C) is not required to transfer the life insurance product to the participant or his beneficiary; and

[(D) is not required to pass through the proceeds of the product to the participant or his beneficiary.]

(f)-(l) (No change.)

(m) Market risk and related matters.

(1) (No change.)

(2) A participant is solely responsible for monitoring his or her own investments and being knowledgeable about:

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

(C) the resulting cost of making a transfer or distribution from a qualified investment product;

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

(n) (No change.)

§87.7. Vendor Participation.

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

(c) Eligibility to become a qualified vendor.

(1) (No change.)

(2) Credit unions. The plan administrator shall disapprove a credit union's application to become a qualified vendor if:

(A) (No change.)

(B) the National Credit Union Administration and the National Credit Union Share Insurance Fund [or the Texas Share Guaranty Credit Union] does not insure deposits with the credit union; or

(C) the credit union does not agree to collateralize deferrals and investment income to the extent that:

(i) they exceed the amounts insured by the National Credit Union Administration and National Credit Union Share Insurance Fund [or the Texas Share Guaranty Credit Union]; and

(ii) (No change.)

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

(d) (No change.)

(e) Contacts.

(1) In the application package, a vendor shall designate one individual [the individuals] who will be:

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

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

[(4) A qualified vendor shall ensure that the plan administrator receives a new and complete list of contact persons no later than February 1 of each year. The list is required even if no changes have been made from the previous list.]

(4)[(5)] The designations and updates required by this subsection must contain the names, addresses, and business telephone numbers of the individuals designated.

(f)-(i) (No change.)

(j) Collateralization by banks.

(1)-(6) (No change.)

(7) The plan administrator, in its discretion, may immediately transfer under-collateralized funds plus any amount reasonably necessary to prevent future under-collateralization. The transfer shall be carried out in accordance with the procedures set forth in §87.15(e) of this title (relating to Transfers). The vendor may not charge the participant a fee or penalty due to a withdrawal of under-collateralized funds.

(k) Collateralization by savings and loan associations.

(1)-(6) (No change.)

(7) The plan administrator, in its discretion, may immediately transfer under-collateralized funds plus any amount reasonably necessary to prevent future under-collateralization. The transfer shall be carried out in accordance with the procedures set forth in §87.15(e) of this title. The vendor may not charge the participant a fee or penalty due to a withdrawal of under-collateralized funds.

(l) Limits on account balances in credit unions.

(1) (No change.)

(2) A qualified vendor may not accept deferrals to an account if the deferrals would cause the balance of the account to exceed \$100,000, [\$95,000.] the amount insured by the National Credit Union Administration and National Credit Union Share Insurance Fund unless the vendor or participant has complied with paragraph (6) of this subsection.

(3) In this subsection, the term "deferred compensation information" means:

(A) the amount by which the balance of each account as of the end of the previous month exceeds \$100,000 [\$95,000];

(B) (No change.)

(C) the total amount by which the balances of all reported accounts exceed \$100,000 [\$95,000].

(4) Once each month, a qualified vendor shall report deferred compensation information to the plan administrator no later than 1 p.m., central time, on a call-in day. If a qualified vendor has no accounts that exceed \$100,000 [\$95,000], the vendor must report that fact to the plan administrator.

(5) The plan administrator shall notify the agency coordinator for each participant whose account exceeds \$100,000 [\$95,000]. Upon receiving the notice, the agency coordinator shall request the participant to specify in a change agreement:

(A) the qualified investment product to which at least the amount in the account in excess of \$100,000 [\$95,000] will be moved; and

(B) (No change.)

(6) If a participant does not want funds in excess of \$100,000 transferred from the credit union, the participant may keep funds at the credit union if:

(A) the credit union will pledge collateral for all funds in excess of \$100,000 in accordance with plan administrator procedures; or

(B) the participant acknowledges and accepts the liability of uninsured funds through a signed statement on forms furnished by the plan administrator.

(7)[(6)] If a participant does not submit a change agreement to the agency coordinator immediately [by the 30th day] after receiving a request from the participant's [his] agency coordinator in accordance with paragraph (5) of this subsection and if paragraph (6) of this subsection is not complied with, the agency coordinator shall notify the plan administrator. Upon receiving the notification, the plan administrator shall:

(A) initiate a transfer of the amount in the account in excess of \$100,000 [\$95,000] in accordance with §87.15(e)(1) of this title; and

(B) (No change.)

(m) (No change.)

§87.9. Investment Products.

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

(c) Eligibility of investment products. The investment products that are eligible for approval as qualified investment products are:

(1) (No change.)

(2) life insurance (except that new life policies may not be offered in the plan by any vendor after December 31, 1992);

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

(d)-(e) (No change.)

(f) Withdrawal of a qualified investment product from the plan.

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

(6) When a qualified vendor that is an insurance company with existing life policies in the plan withdraws a life insurance product from the plan, this paragraph applies in addition to the preceding paragraphs of this subsection.

(A)-(I) (No change.)

§87.11. Advertising Material and Solicitation.

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

(e) Solicitation methods.

(1) (No change.)

(2) A qualified vendor shall notify the plan administrator in writing if the vendor will be marketing its qualified investment products through vendor representatives. The notification must contain a complete identification of the vendor representatives who will be marketing the products. Every vendor representative and agent that enroll participants in the plan and is authorized by the vendor to sign plan forms must be included on this notification. The vendor must ensure that the plan administrator receives:

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

§87.13. Disclosure.

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

(c) Use of disclosure forms.

(1) (No change.)

(2) A qualified vendor or vendor representative must enter the cost and product information on a disclosure form when a

participant and the vendor or representative sign the participation [participant] agreement and/or change agreement and the disclosure form.

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

(d) Life insurance products.

(1) This subsection applies when an employee of a qualified vendor or a vendor representative sells an existing [an additional or] replacement life insurance product to a participant.

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

(4) An employee of a qualified vendor or a vendor representative does not satisfy paragraph (2) of this subsection unless the participant signs the statement. If the participant refuses to sign the statement, then the employee or representative may not sell an existing [additional or] replacement life product to the participant. The employee or representative shall permanently retain a copy of the signed written statement.

§87.15. Transfers.

(a) (No change.)

(b) Transfers initiated by the plan administrator.

(1) (No change.)

(2) Transfers from credit unions.

(A) The plan administrator shall initiate a transfer of a participant's deferrals and investment income from a credit union's qualified investment product in accordance with §87.7(1)(7)[(6)] of this title (relating to Vendor Participation).

(B) (No change.)

(c) (No change.)

(d) Procedures for making a transfer of all deferrals and investment income from a qualified investment product.

(1) (No change.)

(2) The plan administrator shall send a written notice to the qualified vendor who is sponsoring the qualified investment product. The notice must require the vendor to:

(A) immediately issue a check or cause a wire-transfer to be made in a lump-sum amount equal to the deferrals and investment income being moved or the plan administrator may choose: [; and]

(i) to not immediately exercise the requirement of subsection (a) of this section if it is in the best interest of participants; or

(ii) to request the vendor to issue separate checks or cause separate wire transfers in behalf of each affected participant; and

(B) (No change.)

(3) If a check is used to make a transfer, this paragraph applies.

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

(C) After or before depositing the check in the deferred compensation fund or with the qualified vendor selected by the plan administrator, and receiving a list of affected participants from the qualified vendor, the plan administrator shall direct the agency coordinators for the participants to:

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

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

(4) If a wire-transfer is used to make a transfer, this paragraph applies.

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

(C) After or before the plan administrator receives notice that the State Treasury Department or the qualified vendor chosen by the plan administrator to hold these funds has deposited the wire-transfer and after the plan administrator has received a list of affected participants from the vendor, the plan administrator shall direct the agency coordinators for the participants to:

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

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

(e) Procedures for making a transfer of less than all deferrals and investment income from a qualified investment product.

(1) (No change.)

(2) If the plan administrator initiates a transfer, this paragraph applies.

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

(G) Upon approval of the plan administrator, the vendor transferring funds may cause a wire transfer to be made in lieu of issuing a check:

(i) if the vendor ending funds complies with procedures specified by the plan administrator;

(ii) the vendor receiving funds is approved by the plan administrator to accept a wire transfer of funds; and

(iii) the vendor receiving funds complies with procedures specified by the plan administrator.

(3) If a participant initiates a transfer, this paragraph applies.

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

(F) upon approval of the plan administrator, the vendor transferring funds may cause a wire transfer to be made in lieu of issuing a check:

(i) if the vendor sending funds complies with procedures specified by the plan administrator;

(ii) the vendor receiving funds is approved by the plan administrator to accept a wire transfer of funds; and

(iii) the vendor receiving funds complies with procedures specified by the plan administrator.

(f) Resolving transfer-related problems. A qualified vendor shall exercise good faith and reasonable diligence in resolving all transfer-related administrative problems with the plan administrator within a reasonable length of time, not to exceed 30 days, after receiving a transfer notification. The plan administrator may not complete any forms provided by qualified vendor in connection with a transfer.

(g) Transfers into life insurance products.

(1) The only transfer allowed into a life product is a transfer from an existing life insurance product to an existing replacement life insurance product within the same vendor.

[(1) A transfer into a life insurance product is voidable, without loss to the participant or the plan, at the instance of the plan administrator or the participant making the transfer unless the following procedures are followed in sequence.

[(A) A participant applies for coverage from a qualified vendor.

[(B) The qualified vendor determines the insurability of the participant.

[(C) If the participant is insurable, the vendor issues a letter of intent to insure to the participant.

[(D) The vendor issues a duplicate copy of the product to the participant upon the participant's request.

[(E) The participant submits an executed participation agreement, change agreement, disclosure form, as applicable, and the letter of intent to the participant's agency coordinator.

[(F) The vendor sends the original policy to the agency coordinator.]

(2) When a participant chooses to transfer [his] deferrals and investment income to an existing replacement [a] life insurance product within the same vendor, the State of Texas:

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

(h) Telephone transfers within qualified vendors.

(1) A vendor may apply for approval to offer to participants the capability of making transfers of plan deferrals and investment earnings currently on account with that vendor from one qualified investment product or products to another qualified investment product or products within that vendor via telephone instructions given by the participant or plan administrator.

(2) The vendor and the participant must obtain approval from the plan administrator and must follow all instructions and procedures prescribed by the plan administrator.

§87.17. Distributions.

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

(d) Commencement of distributions. Notwithstanding anything in a distribution agreement:

(1) the earliest a participant or beneficiary may begin receiving a distribution is the 51st [31st] day after the occurrence that entitles the participant or beneficiary to the distribution, except this paragraph does not apply to an emergency withdrawal; and

(2) (No change.)

(e) Filing of distribution agreements by participants.

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

(6) If a participant does not comply with paragraphs (2) and (3) of this subsection, the relevant agency coordinator shall submit a written request to the plan administrator for an immediate lump-sum distribution to the participant of all the participant's deferrals and investment income. Proof that the agency coordinator notified the participant concerning the necessity to file a distribution agreement must accompany the written request. The agency coordinator shall ensure that the plan administrator receives the request and proof

no later than the 60th [30th] day after the occurrence that entitles the participant to the distribution.

(7) (No change.)

(f)-(h) (No change.)

(i) Amendments of distribution agreements.

(1) (No change.)

(2) Frequency of distribution.

The frequency of distribution may be amended only if the plan administrator receives an amended distribution agreement no later than the 30th day before the beginning date of the first distribution.

(3) Amount of distribution. The amount to be distributed during each time period may be amended only if the plan administrator receives an amended distribution agreement no later than the 30th day before the beginning date of the first distribution.

(4)-(8) (No change.)

(j)-(t) (No change.)

§87.19. Reporting and Recordkeeping by Qualified Vendors.

(a) Definition of current market value. In this section, the term "current market value" has the following meanings.

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

(5) For an investment in an annuity, current market value equals the amount of deferrals plus investment income minus payouts minus applicable fees. For annuitized accounts, current market value means the present value of all remaining payments, taking into consideration the prevailing statutory interest rates pursuant to the Texas Insurance Code, Article §3.28. [This definition also applies to annuitized accounts].

(b) (No change.)

(c) Reports to the plan administrator.

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

(3) Format of reports.

(A) All reports must be in a format prescribed by the plan administrator on a:

(i) 10 1/2 inch (preferred size) magnetic [reel] tape;

(ii) 3380 magnetic cartridge;

(iii) 5 1/4 or 3 1/2 inch high quality PC diskette; or

(iv) (No change.)

(B) (No change.)

(C) Before a qualified vendor may use a medium other than a manual form to file a quarterly report with the plan administrator, the vendor must submit a test tape, cartridge, or diskette to the plan administrator. The test tape, cartridge, or diskette must be in the format and contain the information that the plan administrator requires. Failure to submit data in the specified format will result in the return of the media without processing. If the plan administrator determines that the test tape, cartridge, or diskette is inadequate, the plan administrator shall ensure that the number of participants whose deferrals and investment income are invested at any given time in the vendor's qualified investment products does not exceed 49.

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

(F) If a participant has invested deferrals and investment income in two or more qualified investment products offered by the same qualified vendor and the products are of the same type, then the vendor must [may] report a cumulative total of those deferrals and investment income.

(G) Failure to submit a quarterly report with an authorized signature will result in a formal reprimand. After three formal reprimands, a vendor is subject to suspension or expulsion from the plan.

(4) Late reports.

(A) (No change.)

(B) A report that is received before the due date but which is returned to the vendor for completion or correction is delinquent if the plan administrator does not receive the completed or corrected version of the report within 10 days after [on or before] the original due date.

(d) (No change.)

§87.21. Remedies.

(a) Remedies for violations of the sections in this title.

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

(5) The plan administrator shall suspend or expel a qualified vendor [nonfiler] that does not file a report with the plan administrator for any two quarters in a 12-month period.

(6) The plan administrator shall suspend or expel a nonfiler that files two

[three] or more quarterly [delinquent] reports after the due date specified within §87.19(c)(1) of this title (relating to Reporting and Recordkeeping by Qualified Vendors) within a 12-month period.

(7) The plan administrator may suspend or expel a qualified vendor who fails to comply with the DCP quarterly reporting specifications and rules on reporting for any two quarters within a 12-month period.

(8)[(7)] The plan administrator may suspend or expel a qualified vendor whose failure to comply with the collateralization requirements in §87.7(j) or (k) of this title (relating to Vendor Participation):

(A) intentional;

(B) caused by a reckless disregard of the requirements;

(C) due to gross negligence; or

(D) due to negligence.

(9)[(8)] For violations not specifically mentioned in this subsection, the plan administrator may reprimand, suspend, expel, or otherwise discipline a qualified vendor, employee of a qualified vendor, or vendor representative.

(10)[(9)] The plan administrator may determine the effective date of an expulsion, termination, prohibition, or cancellation when the plan administrator:

(A) expels a qualified vendor or terminates a qualified vendor's participation in the plan;

(B) prohibits a vendor representative or an employee of a qualified vendor from further solicitation or acceptance of deferred compensation business; or

(C) cancels a product contract, change agreement, participation agreement, or combination of the preceding.

(11)[(10)] When the plan administrator suspends a qualified vendor's participation in the plan, the plan administrator may determine the effective date and termination date of the suspension.

(b) Transfers from qualified vendors that violate the sections in this chapter.

(1) If the plan administrator expels a qualified vendor from the plan, the plan administrator shall initiate a transfer of all deferrals and investment income from the vendor in accordance with §87.15(c)

and (d) of this title (relating to Transfers).

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

(c) Continuation of life insurance coverage.

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

(4) If an insurance company has not been terminated from participation in the plan, this paragraph applies. The company must offer continuing life insurance coverage to each participant whose deferrals and investment income were invested in a terminated life insurance product offered by the company. The insurance company shall offer continuing coverage in:

(A) an existing [a] qualified investment product that is equivalent to the terminated life insurance product; and

(B) (No change.)

(5)-(10) (No change.)

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

§87.29. Termination of Coverage. The plan administrator may prohibit any person from deferring funds to the Deferred Compensation Plan who violates the plan for a period to be determined by the plan administrator. Any person with a grievance concerning action taken under this section may submit a grievance in accordance with §87.23 of this title (relating to Grievance Procedure).

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 September 3, 1992.

TRD-9212066

Charles D. Travis
Executive Director
Employees Retirement
System of Texas

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For further information, please call: (512) 867-3336

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part XIII. Texas Commission on Fire Protection

Chapter 421. Standards for Certification

• 37 TAC §421.5

The Texas Commission on Fire Protection

proposes an amendment to §421.5 (formerly 233.13), concerning definitions. The amendment adds a new definition of "inactive status" and replaces the definition of "training chief" with a definition of "training officer."

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Bostick also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a clarification of requirements that pertain to "inactive status" and "training officer." 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 Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under the Texas 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 Texas Government Code, §419.022(a)(5) which provides the commission with authority to establish minimum standards for admission to employment as fire protection personnel and for advanced or specialized fire protection personnel positions.

§421.5. Definitions.

(a) (No change.)

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

(1)-(18) (No change.)

(19) **Inactive status**—When a person no longer is employed by an entity regulated by the commission under the Texas Government Code, Chapter 419, Subchapter B, or no longer meets the requirements for certification.

(20)[(19)] **Lead instructor**—An individual charged with the responsibility of conducting a training school under the provision of the Code.

(21)[(20)] **Municipality**—Any incorporated city, village, or town of this state and any county or political subdivision or district in this state. Municipal pertains to a municipality as herein defined.

(22)[(21)] **School**—Any school, college, university, academy, or local training program which offers fire service training and included within its meaning the combination or course curriculum, instructors, and facilities.

(23)[(22)] **Trainee**—A member of

a fire department who has not satisfied the requirements to become a fire fighter.

(24)[(23)] **Training officer**—The full-time officer or supervisor, by whatever title he or she may be called, that is in charge of the fire department training programs [Training chief—The full-time officer or supervisor in charge of the fire department training programs].

(25)[(24)] **Training points**—One semester hour earned at any accredited college or university shall equal one training point or 20 class hours of accredited training other than college semester hours shall be equal to one training point.

(26)[(25)] **Years of experience**—Defined as full years of full-time, full-paid service as an employee of a government entity.

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 September 3, 1992.

TRD-9212052

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: October 12, 1992

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

Chapter 423. Fire Suppression

Subchapter A. Minimum Standards for Structure Fire Protection Personnel Certification

• 37 TAC §423.1

The Texas Commission on Fire Protection proposes an amendment to §423.1 (formerly 233.9), concerning minimum standards for basic structural fire protection personnel. The amendment reflects a change to delete the word "structure" from the name of the Basic Fire Suppression Curriculum to describe its general scope and also reflects an administrative reorganization of other chapters referenced in the section.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Bostick 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 greater flexibility in using the basic fire suppression curriculum as a building block for other disciplines of fire protection personnel. There will be no

effect on small or large 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 Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under the Texas 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 Texas Government Code, §419.022(a)(5), which provides the commission with authority to establish minimum standards for admission to employment as fire protection personnel and for advanced or specialized fire protection personnel positions.

§423.1. Minimum Standards for Basic Structural Fire Protection Personnel.

(a) (No change.)

(b) All full-time, full-paid employees of any local government entity, who are assigned structure fire protection duties must be certified by the commission. In order to be certified, structure fire protection personnel must:

(1) complete a commission-approved basic structural fire suppression program [curriculum] and successfully pass the commission examination prior to being assigned to fire suppression duties. An approved basic structure fire suppression program [curriculum] shall consist of one of the following:

(A) completion of the commission-approved basic [structural] fire suppression curriculum as specified in Chapter 1[, Basic Structure Fire Suppression Curriculum,] of the commission's document titled "Commission Certification Curriculum Manual", as adopted by reference in §443.1 of this title (relating to Basic [Structure] Fire Suppression Curriculum), and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examination for Certification), within one year prior to the date of assignment to fire suppression; or

(B) completion of an out-of-state training program deemed equivalent to a commission-approved basic [structural] fire suppression curriculum, documentation of one year's experience as a full-time/full-paid fire fighter and successfully pass the commission examination as specified in §439.17(b) of this title (relating to Testing for Proof of Proficiency); or

(C) completion of a military training program deemed equivalent to a commission-approved basic [structural] fire

suppression curriculum, documentation of one year's experience as a full-time/full-paid fire fighter and successfully pass the commission examination as specified in §439.17(b) of this title.

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

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

(e) The commission-approved basic [structural] fire suppression curriculum must be taught by a training facility that has been certified by the commission as provided in Chapter 427, Subchapter A of this title (relating to Minimum Standards for Structure Recruit Training Facilities [for Structural Fire Suppression Personnel]).

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

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TRD-9212053

Jack Woods
General Counsel
Texas Commission on Fire
Protection

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

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**Chapter 425. Fire Protection
Instructor**

Subchapter A. Instructor Certification

• 37 TAC §§425.1, 425.5, 425.7, 425.9

The Texas Commission on Fire Protection proposes amendments to §§425.1 (formerly 233.81), 425.5 (233.85), 425.7 (233.87) and 425.9 (233.89), concerning minimum standards for fire protection instructor training. The amendments to §425.1 and §425.9 are intended to clarify the experience requirements for basic instructor certification and instructor specialist certification to reflect current practice which does not require that fire department experience be devoted to training. The amendments to §425.5 and §425.7 are proposed to conform these sections with changes to the definition of training officer."

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Bostick 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 a clarification of the experience requirements pertaining to fire instructor certification. There will be no effect on small or large businesses. There is no anticipated additional economic cost to

persons required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendments are proposed under the Texas 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 Texas Government Code, §419.028(b)(3), which provides the commission with authority to prescribe conditions for certification of persons as qualified fire protection personnel instructors.

§425.1. Minimum Standards for Basic Fire Protection Instructor Certification.

(a) (No change.)

(b) In order to be certified as a basic instructor (equivalent to NFPA Standard 1041, Instructor I), the individual must:

(1) have a minimum of three years experience in one of the following:

(A) a paid fire department[,] ; or

(B) a department of a state agency, education institution, or political subdivision—devoting full time to fire service training and related responsibilities;

(2)-(7) (No change.)

§425.5. Minimum Standards for Advanced Fire Protection Instructor Certification (Equivalent to NFPA 1041, Instructor III Level). In order to be certified as an advanced instructor the individual must:

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

(3) be a full-time instructor or training officer;

(4) (No change.)

§425.7. Minimum Standards for Master Fire Protection Instructor Certification (Equivalent to NFPA Standard 1041, Instructor IV Level). In order to be certified as a master instructor the individual must:

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

(3) be a full-time instructor or training officer [administrator]. (Instructors who want to meet NFPA Standard 1041 for Instructor IV Level must first meet all requirements for NFPA 1041, Instructor III Level.)

§425.9. Minimum Standards for Instructional Specialist Certification.

(a) (No change.)

(b) In order to be certified as an instructional specialist the individual must:

(1) have [served] at least three years experience in one of the following:

(A) a paid fire department[.];

or

(B) a department of a state agency, educational institution, or a political subdivision, devoting full time to fire service training and [or] related responsibilities.

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

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

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Jack Woods
General Counsel
Texas Commission on Fire
Protection

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

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**Chapter 427. Training
Facilities**

Subchapter A. Minimum Standards for Structure Recruit Training Facilities

- 37 TAC §§427.1, 427.3, 427.5, 427.7, 427.13

The Texas Commission on Fire Protection proposes amendments to §§427.1 (formerly 233.17), 427.3 (233.19), 427.5 (233.21), 427.7 (233.23), and 427.13 (233.29), concerning structure recruit training facilities, including requirements relating to structures, apparatus, equipment, reference materials, and staff. The amendments conform the sections to changes in the basic fire suppression curriculum, delete repetitious references to resources required in the curriculum, update references to NFPA standards, correct references to material in other chapters, and include a new requirement for a burn building.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the sections are in effect there will be fiscal implications to state and local government as a result of enforcing or administering the sections. State agencies and local governmental entities that operate training facilities for fire protection personnel and who seek approval of those facilities from

the commission may have additional costs due to the new provision pertaining to the burn building requirement for live fire training. The cost can vary from \$10,000 to \$1.2 million depending on the size, building materials, fuel material, and/or other required preparation of a specifically designed burn building or an acquired building used for the purpose of live fire training evolutions. The cost of a burn building facility is often shared by more than one jurisdiction and most jurisdictions may already maintain or have access to a facility which complies with the requirements of §427.1.

Mr. Bostick 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 a more efficient organization of the requirements for training facility resources and minimum acceptable levels of safety for live fire training evolutions. There will be no effect on small or large businesses except for private fire training schools, if any, which will have the same costs as training facilities operated by public entities. There is no anticipated additional cost to persons required to comply with the sections as proposed inasmuch as training costs are usually borne by the employing governmental entity.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendments are proposed under the Texas 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 Texas Government Code, §419.028(b)(1), which provides the commission with authority to approve or revoke the approval of an institution or facility for a school operated by or for the state or a local government specifically for training fire protection personnel or recruits.

§427.1. Minimum Standards for Recruit Training Facilities for Structural Fire Protection Personnel.

(a) (No change.)

(b) The facilities and training shall be performance oriented. "Hands-on training with maximum practical participation by trainees should be an integral part of the training program. The evaluation process for each phase of training will emphasize performance testing to determine if the trainee has acquired the knowledge and skills to achieve the required level of competency as required by the basic fire suppression curriculum. [NFPA Standard Number 1001, fire fighter professional qualifications, provides valid and reliable criteria and should be used as a guide for performance testing.]

(c) (No change.)

(d) An organization, installation, or facility may submit a written application for certification as an approved recruit training

facility to the commission. Such application will include descriptions and addresses of physical facilities together with inventory of apparatus, equipment, and reference material to be utilized in conducting the basic fire suppression curriculum [basic fire fighter training curriculum] as specified by the commission. It is not required that the equipment be permanently assigned nor kept at a training facility, but must be readily available for use by the instructors for instructional purposes. Photographs of resources, annotated to reflect applicant and identity of the resource, may be included with application.

(e) All training must be submitted to the commission for approval prior to the commencement of the training. A recruit training facility should submit a written request to the commission to purchase a commission certification curriculum manual [be issued a set of basic fire fighter lesson plans and performance skills evaluations] to be utilized by the recruit training facility instructors. The recruit training facilities instructors are responsible for ensuring that all subjects are taught as required by the basic fire suppression curriculum [stated in §423.1 of this title (relating to Minimum Training Standards for Basic Structural Fire Protection Personnel)].

(f) The following minimum resources required for certification as an approved recruit training facility may be combined or separate utilizing one or more structures. In either event the facilities and equipment must be available and used by the instructor and trainees:

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

(5) a burn building meeting the requirements of the basic fire suppression curriculum available for use by the instructors to teach live fire training. NFPA 1403, Standard on Live Fire Training Evolutions in Structures, shall be used as a guide when conducting live fire training.

§427.3. Apparatus-Structure Training Facility.

(a) A pumper apparatus fully equipped as required by the basic fire suppression curriculum [used by the authority having jurisdiction] shall be readily available for use by the instructors for instructional purposes. [to teach pumper apparatus operation. NFPA Standard 1901, Automotive Fire Apparatus, should be used as a guide.]

(b) Ladders or a ladder truck as required by the basic fire suppression curriculum [used by the authority having jurisdiction] shall be readily available for use by the instructors for instructional purposes [to teach ladders or ladder truck

operation]. NFPA Standard 1904 [1901], Aerial Ladder and Elevating Platform Fire Apparatus [Automotive Fire Apparatus], should be used as a guide. [for ladder truck equipment.

[(c) The trainee should become familiar with each major type of apparatus utilized by the authority having jurisdiction].

§427.5. Equipment-Structure Training Facility. The following [is] equipment must be available for use [to be used] by recruit training facilities:

[(1) portable fire extinguishers utilized by the authority having jurisdiction. As a minimum, such extinguishers shall include dry chemical, carbon dioxide, and water can;

[(2) forcible entry tools utilized by the authority having jurisdiction;

[(3) ropes of assorted lengths, with at least one which is not less than 3/4 inch in diameter or shorter than 100 feet in length, suitable for rescue, repelling, and practicing knots and lashings;

[(4) salvage and overhaul equipment utilized by authority having jurisdiction;]

[(1)[(5)] self-contained breathing apparatus in sufficient numbers to enable each trainee to wear the equipment for at least the life of one breathing air tank during the training (note: must comply with §435.3(2) of this title (relating to Self-Contained Breathing Apparatus) [American National Standards Institute ANSI Z88.5 or its successor in the subject, must be used in order to comply with SCBA requirements, 1403 Broadway, New York, New York 10018.]);

[(6) standard first aid supplies and equipment for the teaching of the first aid training specified in the basic fire fighter training curriculum (not required if fire fighters are trained in ECA/EMT);]

[(2)[(7)] standard class room equipment to include chalkboard, speaker rostrum, etc.;

[(3)[(8)] supportive instructional aids available to include audio visual projection equipment. The use of cutaways, models, flip charts, and other visual aids are recommended to enhance effectiveness of the instruction; (note: The training instructor needs to ensure all necessary equipment is available for fire fighter trainees to use regarding the basic fire fighter performance skills as identified in the basic fire suppression curriculum [commission lesson plans] and to comply with §427.9 of this title (relating to Testing and Records.))

(4)[(9)] other equipment and tools required by the basic fire suppression curriculum. [utilized by the authority having jurisdiction. NFPA Standard #1901 should be utilized as a guide.]

§427.7. Reference Material-Structure Training Facility.

[(a)] A reference library is required. The library must contain the publications required to conduct research and develop lesson plans covering the material required in the basic fire suppression curriculum [Basic Structure Fire Protection Personnel Standards (see Chapter §423.1 of this title (relating to Minimum Standards for Basic Structure Fire Protection Personnel) and the commission lesson plans for a list)].

[(b) Current training manuals published by the International Fire Service Training Association (IFSTA), Oklahoma State University, Stillwater, Oklahoma 74074, are recommended. However, any published reference material equivalent to the IFSTA manuals may be used, including locally prepared training manuals, provided the material contained therein adequately covers the basic recruit fire fighter standard.

[(c) A current set of National Fire Codes and the Fire Protection Handbook are recommended for the library. These publications are available from the National Fire Protection Association (NFPA), 740 Atlantic Avenue, Boston, Massachusetts 02210.

[(d) Fire Service magazines and journals should be available for instructor reference. Such publications contain current events and improved methods which should be utilized to enhance the effectiveness of the training program.]

§427.13. General Information-Structure Training Facility.

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

(e) The commission shall be notified promptly of any change in the approved recruit training facility coordinator or [chief] training officer. A [chief] training officer must, as a minimum, possess an intermediate instructor's certification within one year from date of appointment. A newly appointed non-fire service coordinator must be certified by the commission in accordance with established procedures to be eligible to receive, upon appointment, an instructional specialist certificate (refer to §425.9 of this title (relating to Minimum Standards for Instructional Specialist Certification [§425.1(5) of this title (relating to Minimum Standards for Basic Fire Protection Instructor Certification)]). The term "coordinator," as used in these standards, is the official responsible for recruit training facilities/schools other than fire department(s), by whatever title he/she may

be called.

(f)-(g) (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 September 3, 1992.

TRD-9212055

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: October 12, 1992

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

◆ ◆ ◆
Subchapter B. Minimum Standards for Aircraft Fire Protection Personnel Training Facilities

• 37 TAC §427.215

The Texas Commission on Fire Protection proposes an amendment to §427.215 (formerly 233.61), concerning aircraft crash and rescue training facilities. The amendment to §427.215 corrects the cross reference in the section to the minimum standards for intermediate fire protection instructor certification.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Bostick also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a better understanding in the fire service of staffing requirements for aircraft crash and rescue training facilities. 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 Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under the Texas 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 Texas Government Code, §419.028(b)(1), which provides the commission with authority to approve or revoke the approval of an institution or facility for a school operated by or for this state or a local government specifically for training fire protection personnel or recruits.

§427.215. Commission Action-Aircraft Crash and Rescue Training Facilities.

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

(f) The commission shall be notified promptly of any change in intermediate instructors (certified as indicated in §425.3 of this title (relating to Minimum Standards for Intermediate Fire Protection Instructor Certification [§425.1 of this title (relating to Minimum Standards for Basic Fire Protection Instructor Certification)]) at an approved aircraft crash and rescue training facility. A new instructor may be appointed to the aircraft crash and rescue training facility that possesses a basic instructor certificate (as indicated in §425.1) and provided that an intermediate instructor certificate is obtained within one year from the date of appointment.

(g) (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.

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General Counsel
Texas Commission on Fire
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Chapter 431. Minimum Standards for Fire and Arson Investigator

• 37 TAC §431.9, §431.11

The Texas Commission on Fire Protection proposes amendments to §431.9 (formerly 233.121) and §431.11 (233.123), concerning minimum standards for fire fighter/arson investigator limited certification and fire and arson investigator certification for law enforcement personnel. The amendments correct inaccurate cross references within the text of the rules to §431.1 relating to basic fire and arson investigation certification.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Bostick 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 a clearer understanding of certification requirements applicable to fire fighter/arson investigation limited certification and fire and arson investigation certification for law enforcement personnel. There will be no fiscal implication for small or large businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendments are proposed under the Texas 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 Texas Government Code, §419.022(a)(5), which provides the commission with authority to establish qualifications for admission to employment as fire protection personnel for advanced or specialized fire protection personnel positions.

§431.9. Minimum Standards for Fire Fighter/Arson Investigator Limited Certification.

(a) (No change.)

(b) Applicants for fire fighter/fire inspector limited certification must complete the following requirements.

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

(4) submit documented proof of completing the training requirements for arson investigator prescribed by §431.1 of this title (relating to Minimum Standards for Basic Fire and Arson Investigation Certification [Advanced Structure Fire Protection Personnel Certification]);

(5) (No change.)

(c) (No change.)

§431.11. Minimum Standards for Fire and Arson Investigator Certification for Law Enforcement Personnel.

(a) A permanent, full-time, full-paid law enforcement officer designated as a fire and arson investigator by an appropriate local authority is eligible for certification by complying with §431.1 of this title (relating to Minimum Standards for Basic Fire and Arson Investigation Certification [Advanced Structural Fire Protection Personnel certification]).

(b) (No change.)

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

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General Counsel
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Chapter 437. Fees

• 37 TAC §§437.3, 437.5, 437.7, 437.9, 437.11

The Texas Commission on Fire Protection proposes amendments to §§437.3 (formerly 239.3), 437.5 (239.5), 437.7 (239.7), 437.9 (239.9), and 437.11 (239.11), concerning fees. The amendments delete requirements for payment by cashier's check, money order, or employing entity check to permit payment of fees by personal check, conform the rules pertaining to break in service to statutory changes, correct the cross reference for the proficiency test in §437.3, establish a \$12 annual subscription fee for standards manual updates, and substitutes the name of the "curriculum manual" for "lesson plan" in §437.11.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the sections are in effect there will be minimal fiscal implications for state and local government as a result of enforcing or administering the sections. There will be an increase in revenue from the \$12 annual subscription fee for manual updates which will be offset by the cost of printing and distribution of the manual updates. For local government which operates approved training facilities there will be an increase in cost of \$12 for each manual subscription update requested.

Mr. Bostick 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 uniformity among the commission's division regarding form of payment, greater assurance of competence of persons with a break in service, and better understanding in the fire service of current requirements pertaining to fire protection personnel. There will be no fiscal implications for small or large businesses. There are no anticipated additional costs to persons required to comply with the sections inasmuch as manual fees are usually borne by the employing governmental entity.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendments are proposed under the Texas 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 Texas Government Code, §419.025, authorizing a fee for the standards manual; the Texas Government Code, §419.026, authorizing fees for certification and testing; and the Texas Government Code, §419.034, authorizing fees for certificate renewal and proficiency testing.

§437.3. Fees—Certification.

(a) (No change.)

[(b) The certification fees must be in the form of a cashier's check, money order, or employing entity check. No personal checks will be accepted.]

(b)[(c)] Certification fees shall not be combined with other fees such as renewal fees, fees for commission manuals, fees for state lesson plans, or copying fees.

(c)[(d)] The employing entity shall be responsible for all certification fees required as a condition of employment.

(d)[(e)] Nothing in this section shall prohibit an individual from paying a certification fee for any certificate which he is qualified to hold, providing the certificate is not required as a condition of employment (see subsection (c) [(d)] of this section).

(e) [(f)] The following are minimum level certificates as defined by the Government Code, Executive Branch, Chapter 419 [416] and commission rules as being required as a condition of assignment to the respective discipline:

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

(f)[(g)] In addition to the certificates listed in subsection (e) [(f)] of this section, one of the following instructor certificates is required for personnel who will provide fire service training approved by the commission that is to be applied toward any level of certification:

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

(g)[(h)] Any certified fire protection personnel who leaves active fire service employment will be placed on the commission's inactive status list. Any certificates held by an individual who has been placed on the commission's inactive status list will also become inactive. No refund will be made of any certification fees that were paid prior to the employee's termination.

(h)[(i)] If a person who was placed on the commission's inactive status list re-enters the fire service, with a break in service of less than one year [two calendar years], the employing entity must:

(1) (No change.)

(2) within one year from the date of employment, make application for certification of the individual and pay the certification fee as required by subsection [subsections] (a) [and (b)] of this section. Upon payment of the required fees, the certificates previously held by the individual, for which he or she continues to qualify, will be re-issued. The employing entity has the option of making the application and paying the fee at any time within the one-year period.

(i)[(j)] If a person who was placed on the commission's inactive status list re-enters the fire service, with a break in service of one year or longer [more than two calendar years], the employing entity must:

(1) (No change.)

(2) prior to assignment to any fire suppression duties, obtain documented proof that the individual has passed the written proficiency test as required by §439.17 of this title (relating to Testing for Proof of Proficiency [Renewal or Certification Status]) within one calendar year prior to the date of employment; and

(3) (No change.)

§437.5. Fees-Renewal.

(a) (No change.)

(b) Payment shall be by money order, certified check, or employing entity check. No personal checks will be accepted.]

(b)[(c)] Renewal fees shall not be combined with other fees, such as certification fees, fees for commission manuals, fees for state lesson plans, and copying fees.

(c)[(d)] A renewal fee is not required for personnel whose status is inactive. No refund will be made of any renewal fees paid prior to the individual being placed on an inactive status.

(d) [(e)] In order for a certificate to remain active, the individual must continue to meet the qualifications of the certificate and the certificate must be renewed annually.

(e)[(f)] The employing entity shall pay the renewal fee for all certificates which a person must possess as a condition of employment.

(f)[(g)] Nothing in this section shall prohibit an individual from paying a renewal fee for any certificate which he or she is qualified to hold providing the certificate is not required as a condition of employment (see subsection (e) [(f)] of this section).

(g)[(h)] Certification renewal notices will be mailed to all employing entities at least 60 days prior to the renewal date of October 31 of each calendar year.

(h)[(i)] All certification renewal fees must be returned with the renewal notice to the commission.

(j) All certification renewal fees must be paid by cashier's check, money order, or employing entity check.]

(i)[(k)] All certification renewal fees must be paid on or before the renewal date posted on the renewal notice to avoid penalty.

(j)[(l)] All certification renewal fees received from one to 30 days after the renewal date posted on the renewal notice will cause the entity responsible for payment to be assessed a \$10 penalty in addition to the renewal fee for each individual for which a renewal fee was due.

(k)[(m)] All certification renewal fees received more than 30 days after the renewal date posted on the renewal notice will cause the entity responsible for payment to be assessed a \$20 penalty in addition to the renewal fee for each individual for which a renewal fee was due.

(l)[(n)] At the discretion of the commission, an informal conference may be held to determine what action should be taken, if any, in addition to the penalty assessed for certification renewal fees received after the due date.

§437.7. Fees-Standards Manual.

(a) A fee of \$25 will be charged for each copy of the commission's standards manual. A \$12 annual subscription fee will be charged to receive revisions.

(b) (No change.)

(c) Payment shall be by money order, certified check, or employing entity check. No personal checks will be accepted.]

§437.9. Fees-Commission Certification Curriculum Manual.

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

(c) Payment shall be by money order, certified check, or employing entity check. No personal checks will be accepted.]

§437.11. Fees-Copying.

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

(d) Payment shall be by money order, certified check, or employing entity check. No personal checks will be accepted.]

(d)[(e)] Copy fees shall not be combined with renewal fees or certification fees. Copy fees may be combined with commission standards manual fees and commission certification curriculum manual [lesson plan] fees.

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

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Jack Woods
General Counsel
Texas Commission on Fire
Protection

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



Chapter 439. Examinations for Certification

• 37 TAC §439.7, §439.15

The Texas Commission on Fire Protection proposes amendments to §439.7 (formerly 241.7) and §439.15 (241.15), concerning testing procedures and testing for certification status. The amendment to §439.7 provides for a preliminary notification of test results within 72 hours and official test results within 10 days after completion of an examination. The amendment to §439.15 changes the cross reference for the new definition of "inactive status."

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Bostick also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the sections will be greater flexibility in providing test results and a clearer understanding of requirements applicable to inactive status. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendments are proposed under the Texas 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 Texas Government Code, §419.026, which authorizes the commission to give examinations to fire protection personnel for basic certification; and the Texas Government Code, §419.034(d), authorizing proficiency examinations.

§439.7. Procedures.

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

(l) All official grading and notification shall come from the commission. The commission staff shall inform the training officer or coordinator of preliminary test results [in writing] within 72 hours after completion of the examination. The commission staff shall notify the chief training officer or coordinator of the official test results in writing within 10 days after completion of the examination.

(m) (No change.)

§439.15. Testing for Certification Status.

(a) An individual on inactive status (as defined in §421.5 of this title (relating to Definitions) [§437.3(h) of this title (relating to Fees)] for [more than] one year or longer may not renew the certificate or

certificates that were previously held.

(b) The individual may obtain a new certificate or certificates in the discipline or disciplines which was previously held by becoming employed to a position as defined in §421.5 [(b)(14)] of this title (relating to Definition of Fire Protection Personnel [Definitions]) and:

(1)-(2) (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.

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General Counsel
Texas Commission on Fire
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For further information, please call: (512) 873-1700

Chapter 441. Continuing Education

• 37 TAC §441.5, §441.9

The Texas Commission on Fire Protection proposes an amendment to §441.5 (formerly 243.5) and proposes new §441.9, concerning continuing education. The amendment to §441.5 provides that persons holding certifications in more than one discipline will only have one continuing education requirement. New §441.9 establishes a continuing education requirement for aircraft crash and rescue fire protection personnel.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the sections are in effect there will be minimal fiscal implications for state and local government as a result of enforcing or administering the sections due to the fact that current resources can be utilized to satisfy the requirements and the new state requirement for aircraft crash and rescue fire protection personnel is already mandated by federal regulations.

Mr. Bostick also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that duplication of continuing education will not be required and the competency of aircraft crash and rescue fire protection personnel will be maintained. There will be no effect on small businesses. The anticipated economic cost to persons required to comply with the sections will be minimal inasmuch as training cost are usually borne by the employing governmental entity.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment and new section are proposed under the Texas 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 Texas Government Code, §419.032(b), which provides the commission with authority to establish qualifications relating to continuing education programs.

§441.5. Requirements.

(a) Continuing education shall be required in order to renew certification for any discipline which has a continuing education required state in this chapter [structure fire protection personnel].

(b) The continuing education requirement for renewal of certification shall consist of 20 hours of training to be conducted during the certification period. Effective January 1, 1993, only 20 total hours of continuing education shall be required to renew all certificates if an individual holds more than one certificate.

(c) Continuing education may consist of either of the following types:

(1) in-service training, in basic subjects contained in the commission-approved basic curriculum of the particular discipline, intended to maintain basic knowledge and/or skills. This type of training must be conducted by a certified [qualified] instructor [and administered by a certified training officer].

(2) (No change.)

(d)-(e) (No change.)

§441.9. Continuing Education for Aircraft Crash and Rescue Fire Protection Personnel. For any certification period beginning after October 31, 1992, continuing education will be required for personnel certified as aircraft crash and rescue fire protection personnel and must meet the specific training requirements of FAR 139.319, j-2 (pertaining to aircraft rescue and firefighting operational requirements).

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 September 3, 1992.

TRD-9212050 Jack Woods
General Counsel
Texas Commission on Fire
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For further information, please call: (512) 873-1700

Chapter 443. Adoption by Reference

• 37 TAC §443.1

The Texas Commission on Fire Protection proposes an amendment to §443.1 (formerly 247.1), concerning adoption by reference. The amendment changes the name of the Basic Fire Suppression Curriculum by deleting the word "structure" and also adopts a revised edition of the curriculum manual. The name and address of the commission are also changed. The changes to the curriculum are not substantive and require no additional hours; rather, they are changes in formatting and organization of content only.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Bostick also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the flexibility to use the basic fire suppression curriculum as a building block for other disciplines of fire protection personnel and a more consistent and efficient organization of the curriculum's content. 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 Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under the Texas 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 Texas Government Code, §419.032(b), which provides the commission with authorization to establish qualifications for training programs for fire protection personnel.

§443.1. Basic [Structure] Fire Suppression Curriculum.

(a) (No change.)

(b) The Commission on Fire Protection [Personnel Standards and Education] adopts by reference Chapter 1, Basic [Structure] Fire Suppression Curriculum, of the commission's document title "Commission Certification Curriculum Manual" as amended June 4, 1992 [11, 1991].

(c) The document adopted by reference in this section is on file in the offices of the Commission on Fire Protection, 3006 B Longhorn Boulevard, Austin, Texas 78759-6735 [Personnel Standards and Education, 9800 North Lamar Boulevard, Suite 160, Austin, Texas, 78753], and is available

for public inspection during regular working hours. A copy of the document may be obtained upon request and payment of the fee as specified in Chapter 437 of this title (relating to Fees).

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

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Jack Woods
General Counsel
Texas Commission on Fire
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Texas Department of Insurance Exempt Filing

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

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

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

The State Board of Insurance, at a board meeting scheduled for 9 a.m., October 14, 1992, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider a proposal filed on behalf of the Texas Automobile Insurance Service Office (TAISO). TAISO's petition pro-

poses amendments to the Texas Automobile Rule and Rating Manual. These amendments were proposed in a petition (Reference Number A-0892-49), filed by TAISO on August 5, 1992.

TAISO's petition proposes deleting TE-23-14 and TE-23-15 truckers endorsements concerning the Equipment Interchange Association; amendments to endorsements 502 and 503 which concern uninsured/underinsured motorists coverage; and amendments to Rule 45 which concerns short rate cancellation and rule 58 which governs the use of the two truckers endorsements proposed for deletion.

A copy of the petition containing the full text of these proposed amendments to the Texas Automobile Rule and Rating Manual is available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the petition, please contact Angie Arizpe at (512) 322-4147; refer to Reference Number A-0892-49.

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

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

Issued in Austin, Texas, on September 1, 1992.

TRD-9211907

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

For further information, please call: (512) 463-6328



Adopted Sections

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

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

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter A. Automobile Insurance

Private Passenger Automobile Liability Insurance Requirements for Underwriting Treatment and Disclosure

• 28 TAC §5.401

The State Board of Insurance of the Texas Department of Insurance adopts an amendment to §5.401, concerning requirements regarding underwriting treatment of applicants for private passenger automobile liability insurance who have not had such insurance prior to application, with one change to the proposed text as published in the July 3, 1992, issue of the *Texas Register* (17 TexReg 4725).

The amendment to the section is necessary to continue to provide protection to applicants for private passenger automobile liability insurance who have not had such insurance prior to application. The change made to the proposed amendment as published results in the expiration, by operation of law on August 8, 1992, of subsection (a) as published. The adoption therefore results in the redesignation of proposed subsections (b), (c), (d), (e) and (f) as adopted subsections (a), (b), (c), (d) and (e), respectively. The amendment originally published as subsections (b) and (c) is necessary for two essential reasons: first, to continue the underwriting measures set forth in original subsection (b) of this section through December 31, 1992, while the department continues to gather data to test insurers' contention that applicants lacking prior insurance ("no priors") pose a greater risk of loss than applicants having prior insurance ("priors"), and second, to permanently forbid insurers from using an applicant's lack of prior insurance in determining the appropriate rate to charge such applicant for liability insurance if such "no prior" has not driven an uninsured motor vehicle in Texas for more than 30 days in the 12 months preceding his or her application for insurance. Proposed subsection (c) is adopted as subsection (b), and remains in effect as a permanent subsection to §5.401. The adopted amendment is necessary to continue to address arbitrary and unfair practices used

against applicants for private passenger automobile liability insurance who lack prior insurance and to support greater compliance with the Texas Motor Vehicle Safety-Responsibility Act (Texas Civil Statutes, Article 6701h). Certain arbitrary and unfair practices were identified and highlighted by amendments, effective September 1, 1991, strengthening the Texas Motor Vehicle Safety-Responsibility Act, as the board noted in originally approving §5.401. The board found that many uninsured motorists seeking liability insurance were being denied coverage or charged high rates for liability insurance because they lacked such insurance at the time of application. Some of the applicants had not needed or had not been legally required to have liability insurance, because, for example, they had been overseas either in the armed services or for other employment, had driven company cars, or had not used a motor vehicle for transportation for some period prior to their applications. These "no priors" will be permanently protected under adopted subsection (b), which was proposed and published as subsection (c). Other "no prior" applicants lacked prior insurance because they could not afford it, having been out of work or otherwise impoverished. In initially adopting §5.401 and making original subsections (a) and (b) temporary, the board intended to gather data to evaluate and determine whether applicants lacking prior insurance present a greater claims risk than applicants possessing prior insurance. The Department of Insurance thereafter developed a "Special Call For Texas Private Passenger Automobile Experience" (Special call) for this purpose. The special call and accompanying instructions were approved for use by the State Board of Insurance on March 18, 1992, after incorporating a number of changes suggested by the Office of Public Insurance Counsel and the auto insurance industry. The special call was developed to obtain experience comparing applicants with no prior insurance to applicants having prior insurance between August 1, 1991 through January 19, 1992. The special call was sent to 34 insurance companies and the completed responses were due May 1, 1992. The staff of the department reported that few insurers had fully complied with the special call and determined that the data which was submitted pursuant to the special call did not conclusively demonstrate that applicants with no prior insurance present a greater claims risk. Although the board did not extend the expiration date of subsection (a) as proposed and published in the July 3, 1992, issue of the *Texas Register* and permitted subsection (a) to expire on August 8, 1992, the board has approved, contemporaneous with this adoption, a revised special call, to secure credible

data on the issue of whether applicants lacking prior insurance present a greater claims risk than applicants possessing prior insurance. Because insurers have failed to provide credible data to support their contention that "no priors" present a greater risk of loss than "priors," the board has indicated that it will consider on a permanent basis a rule including a provision substantially similar to that of subsection (a) as originally published, prohibiting an insurer from using an applicant's lack of prior insurance as the basis for declining coverage or for charging higher rates to the applicant, if the data obtained as a result of the second special call fails to conclusively establish that applicants lacking prior insurance present a greater claims risk than those possessing prior insurance. The board has indicated that consideration of such a rule will be made under the Insurance Code, Article 21.21, relating to unfair marketing practices. The special call for submitted data requires that forms developed by the department be completed and returned to the department no later than September 30, 1992. The data submission forms will permit the department to obtain data from the voluntary automobile insurance market across Texas territories and among driver classifications in such a manner as to address the issue of whether a risk-based difference between applicants with prior insurance and those without prior insurance exists and supports a conclusion that an applicant's lack of prior insurance is a proper basis for charging higher rates to an applicant without prior insurance coverage, or for declining coverage.

The adopted amendments extend specific protections to "no-prior" applicants for private passenger automobile liability insurance. The amendment to §5.401(b) as proposed and published, which upon adoption has been resequenced as subsection (a), extends through December 31, 1992, its provisions which permit those individuals whose lack of insurance at the time of application was used by the insurer as an underwriting criterion to receive the benefit of overcoming the substandard risk classification and to be evaluated at the time of renewal pursuant to underwriting criteria of a carrier at the carrier's lowest applicable rate. Essentially, such individuals will continue to be entitled to be re-underwritten without regard to the "no prior insurance" criteria and to receive the lowest applicable rates of the insurance companies or group of insurance companies to which they apply. New subsection (b), originally published as proposed subsection (c), prohibits all insurers from using an applicant's lack of prior insurance in determining the appropriate rate for private passenger automobile liability insurance where such applicant has not been operating an uninsured vehicle in the

State of Texas for more than 30 days during the 12 months immediately preceding the date of the application. Because the board permitted adopted subsection (a) to expire and resequenced proposed subsections (b) and (c) as subsections (a) and (b) respectively, adopted subsections (c), (d), and (e) remain so designated, were not resequenced as proposed and otherwise remain unchanged.

Two sets of written comments were received in opposition to the proposed amendments, from State Farm Insurance Companies, and Texas Farmers Companies. During the period for public comment a public hearing was requested and granted. The hearing was conducted on August 5, 1992, under Docket Number R-1922. Other than the commissioner's staff, those commenting on the amendments to §5.401 at the hearing included the Office of Public Insurance Counsel and members of the public.

A number of written comments were submitted during the comment period to state opposition to extension of subsection (a) as published. A number of reasons were stated for such opposition. First, one commenter stated that extension of subsection (a) as published would be unfair to its company because: that company's new and reinstated applications are twice what they had been a year ago; that company's total auto production for the first six months of 1992 approximated the entire year's production for 1991; and for that company, nearly a third of the "no priors" insured in one of the early months of 1992, had lapsed or been canceled by policyholders, or by the company for undisclosed accidents or violations. The commenter concluded that the extension of subsection (a), as proposed and published, until December 31, 1992 would be unfair to a company as visible and accessible as its company. The department disagrees with the conclusions of the commenter. Economic regulation must be uniform in order to be fair to all members of the regulated industry. It should not be fashioned intentionally to either the benefit or the detriment of a particular regulated industry entity. The department expects each insurer to write its proportionate share of the new business generated by adoption of §5.401. This type of proportionate increase cannot be characterized as "unfair," because each insurer is expected to carry its respective share of the new business. As a practical matter, uniform regulation does not always guarantee that each regulated entity will be affected in an identical fashion. However, the department has emphasized its intention to aggressively pursue disciplinary action against any insurer exhibiting conduct which is contrary to the letter and/or intent of this section, and that any aggrieved party should report to the department insurers believed to be noncompliant. Another comment objected to the extension of subsection (a), as proposed and published, until December 31, 1992, on the basis that one company or part of the marketplace should not be asked to support the social goals of the state at the expense of law-abiding policyholders who essentially will be subsidizing the added business. The department disagrees that a single company or part of the marketplace is being asked to support the social goals of the state. The

section as a whole is designed to prohibit insurers from using underwriting practices which are unfair to insurance consumers. For that reason, the department is unwilling to assume, in the absence of clear, compelling, and credible data, that the rule results in subsidization of persons with no prior insurance by persons who had prior insurance. Two commenters objected to the extension of subsection (a), as proposed and published, until December 31, 1992, on the basis that its extension cannot be justified, since anyone who failed to obtain insurance during the interim effective period of the subsection is violating the law despite having had ample opportunity to obtain insurance. Although the department agrees that one of the objectives of the temporary provisions of the subsection has been in part attained, it does not agree with the conclusion of the commenter, and further believes that this issue can be appropriately resolved only when the relative added risk or absence of added risk attributable to so called "no priors" has been conclusively established by the board. Two commenters urged that the data obtained in the department's original special call indicated a difference in loss experience between persons having no prior insurance and those who did have prior insurance, and for that reason the extension of subsection (a) would be contrary to established data. The department disagrees with this conclusion, and points out that at a board meeting on June 15, 1992, a departmental summary of data received in response to the special call indicated that insurer response to the special call was not sufficient to determine or establish the relative risk of persons with prior insurance in relation to those who did not have prior insurance. The testimony of the department's consulting actuary supported the conclusion that the limited response to the original special data call resulted in data that was not credible. One comment emphasized that permitting subsection (a), as proposed and published, to expire on August 8, 1992, will return incentive to drivers to maintain insurance. The department responds that it has not received any evidence to indicate that failure to extend the rule will necessarily provide an incentive to comply with the safety responsibility law. The department has, however, structured a second special call for data so that information may be obtained indicating the average length of time policies remain in force. This information will permit a determination of whether a large number of insureds are letting policies lapse after initially obtaining coverage. Although the department does not agree with many of the conclusions reached by the commenters to the amendment for subsection (a) as proposed and published, the adoption of amendment to this section reflects a decision by the board to permit subsection (a) as proposed and published to expire by operation of law on August 8, 1992. That expiration is accompanied by the board's announcement that it will consider on a permanent basis under the Insurance Code, Article 21.21, a provision, substantially similar to that of the subsection which was permitted to expire, prohibiting an insurer from using an applicant's lack of prior insurance as the basis for declining coverage or for charging higher rates to the applicant. One comment urged that the purpose of sub-

section (b), as proposed and published, and underwriting provisions associated with it, have already been met and for that reason extension of such provisions through December 31, 1992, is unnecessary. The department responds that extending the effective date of that subsection is necessary to cover persons insured under any annual policies which were issued prior to the date of industry's voluntary compliance with §5.401 which began January 20, 1992. For this reason, the adoption extends the provisions of subsection (b), as proposed and published, through December 31, 1992, as adopted subsection (a). The board had published a proposal to amend adopted subsection (c), (d), and (e), only by resequencing them as subsections (d),(e), and (f), respectively. The board did not resequence these subsections because it allowed subsection (a) to expire and resequence proposed subsections (b) and (c) as subsections (a) and (b). Nevertheless, the board received comments seeking repeal of adopted subsections (c),(d), and (e). One comment urged that subsection (c) be repealed as unnecessary because its purposes have been served. The department disagrees, and points out that application of subsection (c) as adopted previously goes beyond the immediate issue of no prior insurance. The provision is intended to prohibit an insurance company from stigmatizing an insurance consumer based on the type of carrier previously providing coverage. For that reason, the board makes no change to the provisions of subsection (c) as originally adopted. One comment suggested that subsection (d) be repealed as unnecessary and undesirable because it invites drivers into the inadequately rated assigned risk plan, and may conflict with the plan rule which requires rejection by at least one insurer. The department disagrees, and points out that subsection (d) as adopted previously was designed to provide fair and equitable treatment of insureds. Consumers should at a minimum be informed of the availability of lower priced coverage through the assigned risk plan. The department does not believe this disclosure is in conflict with the rules of the assigned risk plan requiring rejection by at least one insurer. For that reason, the board makes no change to the provisions of subsection (d) as originally adopted. One comment stated the severability clause in subsection (e) be repealed as having no purpose and being not necessary. The department disagrees with such a conclusion and points out that the severability clause may serve a useful purpose in the event of legal action contesting §5.401. For this reason, the board makes no change to the provisions of subsection (e) as originally adopted. Several comments made on the record urged that subsections (a) and (b) as proposed and published not be extended until December 31, 1992, but rather that the provisions of §5.401, including subsections (a) and (b) as proposed and published, but without any distinctions as temporary subsections, be permanently adopted. In support of such permanent adoption the commenters emphasized that: a steady migration of Texas drivers into the Texas Automobile Insurance Plan continues, despite the fact that the interim provisions have been in place for some time; no credible evidence has been presented by insurers,

independently or pursuant to the first special call, to justify discrimination against drivers without prior insurance based on increased risk of claims; suitable alternatives exist to address the possible higher rates of cancellation among "no priors" and costs associated with such cancellations; and marketplace evidence suggests that compliance with the interim provisions set out in §5.401 has been less than satisfactory. The board responds that although it agrees with many of the concerns raised in such comments, its decision to permit subsection (a) as originally adopted to expire by operation of law is accompanied by its stated intention to consider authorization for publication of a permanent rule recommended by the staff under the Unfair Competition and Unfair Practices chapter of the Insurance Code (Article 21.21), which will contain provisions substantially similar to the temporary provisions which expired August 8, 1992, to protect all previously uninsured drivers. The members of the general public commenting on the section favored making the rule permanent. Essentially the requests from the general public were that the board prevent insurers from charging higher rates based on lack of prior insurance so that statutorily required liability insurance will be available and affordable to all Texas drivers, and that some practical mechanism be put into place to make information available to consumers about rates and rate structure among companies so that consumers can make informed choices in selecting insurance. The department responds that it currently is putting a database in place to permit retrieval of information that will assist consumers in making informed choices about insurance coverages. In the meantime, the staff of the Department is available to assist individual and business consumers to compare and search for insurance if those consumers are encountering difficulty in obtaining the information necessary to choose coverage. The department also encouraged parties who might be aware of inadequacies in departmental response functions to make that known to the department so that corrective action may be implemented. The board further responds that if there are violations of compliance with the provisions of §5.401, every available regulatory resource will be utilized to adequately redress any of the public deprived of automobile insurance at a fair price.

The amendment is adopted under the Insurance Code, Article 5.10, which authorizes the State Board of Insurance to make and enforce rules and regulations not inconsistent with the provisions of the Insurance Code, Chapter 5, Subchapter A (Motor Vehicle or Automobile Insurance); the Insurance Code, Article 5.01, which gives the board sole and exclusive authority to determine and prescribe just, reasonable, and adequate rates and rating plans and classification of risks for motor vehicle insurers; the Insurance Code, Article 5.09, which prohibits discrimination or distinctions in favor of an insured having a like hazard, in the charge of premiums for insurance; the Insurance Code, Article 1.04, which provides the board with the authority to determine policy and rules in accordance with the laws of this state; the Insurance Code, Article 21.49-2B, §12, which authorizes the

board to adopt rules relating to the cancellation and nonrenewal of personal automobile insurance policies; and the Insurance Code, Article 21.49-2, which authorizes the board to prescribe, adopt, promulgate, and enforce reasonable rules and regulations as to the cancellation, nonrenewal, and in certain cases, declination, of certain policies of insurance, including those issued through the Texas Automobile Insurance Plan. The amended section affects the regulation of rates, rating plans, classification of risks, antidiscriminatory provisions, and cancellation and nonrenewal of personal automobile insurance policies under the Insurance Code, Articles 5.01, 5.09, 21.49-2B, and 21.49-2.

§5.401. Temporary and Permanent Requirements Regarding Underwriting Treatment of and Disclosure to Applicants for Private Passenger Automobile Liability Insurance.

(a) Effective until December 31, 1992, each previous "no-prior insurance" applicant who was written in a higher-rated insurance company will be re-underwritten on the applicant's renewal date subject to the underwriting criteria of each company to which the applicant applies at each company's or group of companies' lowest applicable rate.

(b) Insurers may not use an applicant's lack of prior insurance in determining the appropriate rate for private passenger automobile liability insurance where such applicant has not been operating an uninsured motor vehicle in the State for more than 30 days during the 12 months immediately preceding the date of the application.

(c) Applicants for automobile liability insurance currently or previously insured in a higher-rated insurance company or through the Texas Automobile Insurance Plan (the assigned risk plan) will be underwritten without consideration of the applicant's prior insurance carrier.

(d) Insurers or agents who make a quote to an applicant with no prior insurance having no more than one accident and one violation within the past three years which quote equals or exceeds the premium available through the assigned risk plan must inform the applicant of the approximate cost of coverage available through the assigned risk plan.

(e) If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of said provisions which can be given effect without the invalid provision or application. To this end all provisions of this section are declared to be severable.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 3, 1992.

TRD-9212018 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: September 24, 1992

Proposal publication date: July 3, 1992

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

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter V. Franchise Tax

• 34 TAC §3.555

The Comptroller of Public Accounts adopts new §3.555, concerning earned surplus: computation, with changes to the proposed text as published in the March 3, 1992, issue of the *Texas Register* (17 TexReg 1597).

The new section sets out guidelines for determining reportable federal taxable income and the deductions allowed in computing earned surplus before apportionment pursuant to the Tax Code, §171.110.

Comments were received from Guaranty Bancshares Inc., the Texas Bankers Association, Independent Bankers Association of Texas, First National Bank of Canadian, Texas Savings & Loan League, Plains National Bank, First National Bank of Valley Mills, First National Bank of Alvin, and Davis, Kinard and Company P.C. These entities requested a more detailed explanation of the securities included in federal obligations in subsection (k) of the proposed section. The comptroller agreed and changes were made to subsection (k) to effect a clarification.

Comments were received from the Texas Association of Taxpayers, Inc. on several issues. The association suggested that the reference to the 1991 Form 1120 be changed because some taxpayers might not be eligible to use the 1991 Form 1120. The comptroller agreed and deleted the reference to the 1991 form in subsection (b)(5).

The association also suggested that credits which reduce deductions for research and development on the federal income tax return be disregarded in computing earned surplus in accordance with the treatment given jobs credit in subsection (d). The comptroller did not make the suggested changes and made changes to subsection (d) to disallow any reduction of federal taxable income for research and development and similar credits.

The association also suggested that the language in subsection (e) be changed to clarify deductions for dividends received from members of a consolidated group with which a

corporation filed a consolidated federal income tax return. The comptroller agreed and the language in subsection (e) was changed to clarify the Schedule C deductions allowed.

The association also suggested that the section be changed to allow the exclusion of all foreign source income from earned surplus. The comptroller declined to make the suggested change.

The association and the Certified Public Accounting Firm of Collis & Ryan suggested that the final sentence of subsection (e) relating to transactions between members of an affiliated group be deleted in its entirety because the sentence is not supported by statutory authority. The association also suggested that subsection (e) gave no standards for use in this determination. The comptroller changed the final sentence in subsection (e) to clarify the standards used in this determination.

Panhandle Eastern Corporation suggested that subsection (g)(2) be changed to allow a taxpayer to use a business loss deduction to the extent that it benefits the taxpayer. The comptroller declined to make the suggested change.

The Texas Mid-Continent Oil & Gas Association suggested that subsection (b) (3) be changed to allow deductions from earned surplus for dividends from United States domestic corporations that do not transact a substantial portion of business or maintain a substantial portion of assets in the United States. The comptroller agreed and subsection (b)(3) was changed to provide for deductions for such dividends.

Comments were also received from United Services Advisors, Inc., requesting that the exclusion of interest and dividends from federal obligations under subsection (k) of the proposed section be extended to distributions by mutual funds to their shareholders. The comptroller declined to make the suggested changes.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.555. Earned Surplus: Computation.

(a) Effective date. The provisions of this section apply to franchise tax reports originally due after January 1, 1992.

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

(1) Business loss—A negative amount after apportionment but before any deductions for solar energy devices under the Tax Code, §171.107, or investment in an enterprise zone under the Tax Code, §171.1015.

(2) Corporation—An entity subject to franchise tax under the Tax Code, §171.

(3) Dividends from a subsidiary, associate, or affiliate that does not transact a substantial portion of its business or maintain a substantial portion of its assets in the United States—Dividends treated as gross income from sources without the United States under the Internal Revenue Code, §862, and dividends received from United States corporations that would satisfy the 80% foreign business requirements of Internal Revenue Code, §861(c)(1).

(4) Internal Revenue Code—The Internal Revenue Code of 1986 in effect for the tax year beginning on or after January 1, 1990, and before January 1, 1991.

(5) Schedule C special deductions—The special deductions allowed in computing federal taxable income as listed in column (c) of Form 1120 of the Department of the Treasury Internal Revenue Service. Any limitations on Schedule C deductions imposed for federal income tax purposes will apply in computing such deductions for earned surplus.

(c) Accounting methods. In computing earned surplus, a corporation is deemed to have made an election to use the same methods used in filing its federal income tax return.

(d) Jobs and other credits. A corporation required to reduce or forego deductions in order to claim credits for federal income tax purposes cannot deduct any amount from reportable federal taxable income based on the reduced or foregone deductions. For example:

(1) if a corporation, in computing federal taxable income, reduces the deduction for salaries and wages in order to claim a federal jobs credit, reportable federal taxable income is computed without adjustment of the federal deduction for salaries and wages;

(2) if a corporation elects, for federal income tax purposes, to take a foreign tax credit instead of a deduction for foreign income or profits taxes, reportable federal taxable income is computed without a deduction for such taxes.

(e) Consolidated income tax returns. For the purposes of this section, if a corporation joins in filing a consolidated federal income tax return, the corporation must compute its earned surplus as though no consolidated federal income tax return were filed. Therefore, taxable income, compensation, and other items must be computed as though a separate federal income tax return had been filed by the corporation. For example, the corporation must eliminate all dividends received from members of the consolidated group with which the corporation filed a consolidated federal income tax return. No special or overt election is required for purposes of this dividend elimination. If the comptroller determines that

transactions between members of a controlled group of corporations are not entered into on an arm's-length basis, the comptroller may distribute or allocate income and deductions as necessary to prevent franchise tax avoidance provided such adjustments are authorized by applying the principles in Internal Revenue Code, §482, and regulations thereunder.

(f) Deductions. In computing earned surplus for each reporting period, a corporation may take Schedule C deductions, deductions under the Internal Revenue Code, §§78 or 951-964, and other items deducted in computing earned surplus only to the extent each item is included in computing reportable federal taxable income.

(g) Business losses.

(1) A business loss which is carried forward to a report year must be deducted from apportioned taxable earned surplus after any allowable deductions for enterprise zone projects or solar energy devices.

(2) A business loss which is carried forward to a successive year must be applied to the extent of apportioned taxable earned surplus in that succeeding year.

(h) Deductions for solar energy devices and investments in enterprise zones.

(1) A corporation that elects to take a deduction from apportioned earned surplus for solar energy devices under the Tax Code, §171.107, or a deduction for investments in enterprise zones under the Tax Code, §171.1015, may not claim a deduction from taxable capital for such item.

(2) A deduction from apportioned earned surplus for solar energy devices or investments in enterprise zones may not reduce apportioned earned surplus below zero. Any unused deductions may not be carried over to a subsequent report.

(3) No other deduction is allowed in computing reportable federal taxable income with regard to amounts deducted from earned surplus under the Tax Code, §171.107 or §171.1015. For example, any depreciation or amortization of a solar energy device in computing reportable federal taxable income is not allowed if the deduction under Tax Code, §171.107, is claimed.

(i) Officer and director compensation. Regarding the add-back of compensation of officers or directors of corporations, managers of limited liability companies, and directors and executive officers of banking corporations see §3.558 of this title (relating to Earned Surplus: Officer and Director Compensation).

(j) Temporary credit on net taxable earned surplus.

(1) A corporation which qualifies and properly elects a temporary credit from net taxable earned surplus under the Tax Code, §171.111, may take the credit as a reduction of the tax due on earned surplus. See §3.559 of this title (relating to Earned Surplus: Temporary Credit).

(2) If the temporary credit is elected on a report, the corporation must pay an additional tax of 0.2% of net taxable capital in addition to the franchise tax due under the Tax Code, §171.002. This additional tax is added to tax otherwise due before the provisions of the Tax Code, §171.002(d), are applied. In other words, if the amount of tax due after adding this additional tax is less than \$100, then no tax is owed for the reporting period.

(k) Federal obligations.

(1) Dividends and interest received from federal obligations are not included in earned surplus or gross receipts for earned surplus purposes.

(2) For purposes of this subsection, the term "federal obligations" means:

(A) stocks and other direct obligations of, and obligations unconditionally guaranteed by, the United States government and United States government agencies; and

(B) direct obligations of United States government-sponsored agencies.

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

(A) Obligation—Any bond, debenture, security, mortgage-backed security, pass-through certificate, or other evidence of indebtedness of the issuing entity. The term "obligation" does not include a deposit, a repurchase agreement, a loan, a lease, a participation in a loan or pool of loans, a loan collateralized by an obligation of an agency of the United States government, or a loan guaranteed by an agency of the United States government.

(B) United States government—Any department and ministry of the federal government including the 12 Federal Reserve Banks. The definition of "United States government" does not include state or local governments or commercial enterprises owned in whole or in part by the United States government. In addition, the term does not include local government entities or commercial enterprises whose obli-

gations are guaranteed by the United States government.

(C) United States government agency—An instrumentality of the United States government whose obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States government. These agencies include the Government National Mortgage Association (GNMA), the Veterans Administration (VA), the Federal Housing Administration (FHA), the Farmers Home Administration (FmHA), the Export-Import Bank (Exim Bank), the Overseas Private Investment Corporation (OPIC), the Commodity Credit Corporation (CCC), and the Small Business Administration (SBA)

(D) United States government-sponsored agency—Agencies originally established or chartered by the United States government to serve public purposes specified by the United States Congress but whose obligations are not explicitly guaranteed by the full faith and credit of the United States government. These agencies include the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), the Farm Credit System, the Federal Home Loan Bank System, and the Student Loan Marketing Association (SLMA).

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 September 2, 1992.

TRD-9211968 Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: September 23, 1992

Proposal publication date: March 3, 1992

For further information, please call: (512) 463-4028

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part XIII. Texas Commission on Fire Protection

Chapter 420. Administration Practice and Procedure

• 37 TAC §420.93, §420.95

The Texas Commission on Fire Protection adopts the repeal of §420.93 and §420.95,

concerning final decisions and orders and administrative finality, without changes to the proposed text as published in the July 24, 1992, issue of the *Texas Register* (17 TexReg 5189).

The repeals are necessary to delete obsolete and contradictory language and to allow a more efficient administration of the commissions' duties concerning contested cases arising under the Texas Government Code, Chapter 419.

The repealed sections will be replaced by new sections which define the decision-making authority of the executive director and state fire marshal in contested cases and provides for an appellate procedure of those decisions to the commission.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas 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.

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 September 3, 1992.

TRD-9212051 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 25, 1992

Proposal publication date: July 24, 1992

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part XVII. Texas Department of Protective and Regulatory Services

(Editor's Note. House Bill 7, 72nd Legislature, First Called Session, (Texas Civil Statutes, Article 4413 (503)) created the Texas Department of Protective and Regulatory Services effective September 1, 1992. The bill transfers all functions, programs, and activities related to the child protective services program, including adoption and foster care from the Texas Department of Human Services and investigations of abuse and neglect from the Texas Department of Mental Health and Mental Retardation.)

The Texas Register is administratively transferring or duplicating the following rules listed in the table below from Title 40, Part I. Texas Department of Human Services and Title 25, Part II. Texas Department of Mental Health and Mental Retardation to the Texas Department of Protective and Regulatory Services. The table lists the new section number and the old section number that correspond to them.)

Chapter 700. Child Protective Services
Previously: 40 TAC Chapter 49. Child Protective Service

Subchapter A. Administration

New	Old	
700.101.	49.101.	Fiscal Resources for Child Welfare Contracts.
700.102.	49.102.	Confidential Information.
700.103.	49.103.	Public Information.
700.104.	49.104.	CANRIS Retention Schedules.
700.105.	49.105.	Criminal Records Checks for Authorized Volunteer Organizations.
700.106.	49.106.	Presenting Records to Prospective Adoptive Parents Before Placing a Child for Adoption.
700.107.	49.107.	Deleting Confidential Information Before Releasing a Child's Records to Authorized Parties.

Subchapter C. Eligibility for Child Protective Services

New	Old	
700.308.	49.308.	Right to Refuse Services and Consequences of Refusal.
700.309.	49.309.	Administrative Reviews of Client Complaints.
700.310.	49.310.	Fair Hearings.
700.311.	49.311.	Eligible Individuals.
700.312.	49.312.	Eligibility for Community Services Purchased for Child Protective Services Clients.
700.313.	49.313.	Limitations on Purchased Services.
700.314.	49.314.	Authorization and Re-authorization of Services.
700.315.	49.315.	Foster Care Maintenance Resources.
700.316.	49.316.	Eligibility Requirements for AFDC, MAO, and State-paid Foster Care Assistance.
700.317.	49.317.	Additional Eligibility Requirements for AFDC Foster Care.
700.318.	49.318.	Additional Eligibility Requirements for State-paid Foster Care Assistance.
700.319.	49.319.	Effective Date of Eligibility.
700.320.	49.320.	Eligibility in Medical Facilities before Placement.
700.321.	49.321.	AFDC Domicile for Children Relinquished at Birth and Children Born to Incarcerated Mothers.
700.322.	49.322.	Eligibility in Placements Provide by Relatives.
700.323.	49.323.	Eligibility during Absences from the Foster Care Facility.
700.324.	49.324.	Redetermination of Foster Care Eligibility.
700.325.	49.325.	Redetermination of Deprivation of Parental Support.
700.327.	49.327.	Eligibility for Four Months of Medicaid Coverage following Denial of AFDC Foster Care.

- 700.328. 49.328. Foster Care Assistance Payments.
- 700.329. 49.329. Effective Dates of Foster Care Assistance Payments.
- 700.330. 49.330. Billing and Payment for Foster Care Assistance.
- 700.331. 49.331. Effect of SSI Eligibility on State-paid Foster Care.
- 700.332. 49.332. Effect of SSI Eligibility on AFDC Foster Care.
- 700.333. 49.333. Effect of SSI Eligibility on MAO Foster Care.
- 700.334. 49.334. Foster Care for Refugee or Entrant Foster Children.
- 700.335. 49.335. Eligibility Criteria for Receipt of Refugee or Entrant Foster Care.
- 700.336. 49.336. Rate of Payment for Refugee or Entrant Foster Care.
- 700.337. 49.337. Eligibility Requirements for State-paid Adoption Subsidies.
- 700.338. 49.338. Additional Eligibility Requirements for Title IV-E Subsidy.
- 700.339. 49.339. Determination of Subsidy Payments.
- 700.340. 49.340. Effective Dates of Subsidy Benefits.
- 700.341. 49.341. Application and Right to Notification.
- 700.342. 49.342. Beginning the Subsidy.
- 700.343. 49.343. Reporting Changes.
- 700.344. 49.344. Right to Appeal.
- 700.345. 49.345. Eligibility for Foster Care Recipients Placed Out of State or Placed in Texas from Other States.
- 700.346. 49.346. Reimbursement for Nonrecurring Adoption Expenses.

Subchapter E. Intake, Investigation, and Assessment

New Old

- 700.501. 49.501. Terminology Used in Statutory Definitions of Child Abuse and Neglect and Person Responsible for a Child's Care, Custody, or Welfare.
- 700.502. 49.502. Definitions.
- 700.503. 49.503. Response to Reports That Do Not Allege Abuse or Neglect.
- 700.504. 49.504. Availability of Intake Services.
- 700.505. 49.505. Priorities for Investigation and Assessment.
- 700.506. 49.506. Notification of Law Enforcement Agencies.
- 700.507. 49.507. Investigation Interviews.
- 700.508. 49.508. Interviews with Parents or Other Alleged Perpetrators.
- 700.509. 49.509. Purchase of Medical, Psychological, or Psychiatric Examinations.
- 700.510. 49.510. Completion of the Investigation and Assessment.
- 700.511. 49.511. Disposition of the Allegations of Abuse or Neglect.
- 700.512. 49.512. Designation of Alleged Perpetrators.
- 700.513. 49.513. Notification about Results.
- 700.514. 49.514. Risk Assessment and Safety Evaluation.
- 700.515. 49.515. Providing Immediate Protection.

- 700.516. 49.516. Administrative Review of Investigation Findings.
- 700.517. 49.517. Investigation of Lack of Medical Care because of Religious Beliefs.
- 700.518. 49.518. Texas Department of Human Services (DHS) Managing Conservatorship of Children in DHS Regulated Care.
- 700.519. 49.519. Voluntary Standards for Investigators of Child Abuse

Subchapter F. Expunction Hearings

New Old

- 700.601. 49.601. Definitions.
- 700.602. 49.602. Release of Child Protective Services (CPS) Abuse or Neglect Data and Right to Appeal.
- 700.603. 49.603. Appeal Process.
- 700.604. 49.604. Notice Requirements for the Appeal.

Subchapter G. Family Preservation Services

New Old

- 700.701. 49.701. Family Preservation Services.
- 700.702. 49.702. Provision of Services.
- 700.703. 49.703. Family Service Plan.

Subchapter I. Purchased Protective Services to Prevent Removal or to Reunify Families

New Old

- 700.901. 49.901. Services Purchased.
- 700.902. 49.902. Protective Homemaker Services.
- 700.903. 49.903. Protective Day Care.
- 700.904. 49.904. Community-based Treatment Services.

Subchapter K. Court-related Services

New Old

- 700.1101. 49.1101. Eligibility and Priorities.
- 700.1102. 49.1102. Informing and Notifying Parents and Children.
- 700.1103. 49.1103. Provision of In-Home Services When an Emergency Hearing Cannot Be Held Within Legally Required Time Limits.
- 700.1104. 49.1104. Affidavit of Relinquishment of Parental Rights.
- 700.1105. 49.1105. Diligent Search for Missing Parents.
- 700.1106. 49.1106. Obtaining Court Approval.
- 700.1107. 49.1107. Notifying the Court.
- 700.1108. 49.1108. Request for Child Support Orders.
- 700.1109. 49.1109. Enforcement of Child Support Orders.
- 700.1110. 49.1110. Collection and Use of Child Support Payments.

Subchapter M. Substitute-Care Placement Services

New Old

- 700.1301. 49.1301. Substitute-Care Services.
- 700.1302. 49.1302. The Case Plan.
- 700.1303. 49.1303. The Child's Service Plan.
- 700.1304. 49.1304. The Family Service Plan.
- 700.1305. 49.1305. Case Plan Review.
- 700.1306. 49.1306. Subsequent Placements.
- 700.1309. 49.1309. Family Planning Services for Children in Substitute Care.
- 700.1310. 49.1310. Medical and Dental Services to Children in Substitute Care.
- 700.1311. 49.1311. Visits and Contacts between Children and Biological Parents.
- 700.1312. 49.1312. Transfer of Money Owed to Children Placed for Adoption.
- 700.1312. 49.1313. Administrative Review of Foster Parent Concerns About Placement Decisions.

Subchapter N. AIDS Policies for Children in DHS Conservatorship

New Old

- 700.1401. 49.1401. Definitions.
- 700.1402. 49.1402. Identification of Children to be Tested.
- 700.1403. 49.1403. Testing and Counseling.
- 700.1404. 49.1404. Notification.
- 700.1405. 49.1405. Caregiver Training.
- 700.1406. 49.1406. Confidentiality.

Subchapter O. Foster and Adoptive Home Development

New Old

- 700.1501. 49.1501. Decision on Foster Home Applications.
- 700.1502. 49.1502. Adoptive Home Screening.
- 700.1503. 49.1503. Processing Adoption Applications.
- 700.1504. 49.1504. Approval of Adoptive Home Study.
- 700.1505. 49.1505. Administrative Review.

Subchapter P. Preparation for Adult Living

New Old

- 700.1601. 49.1601. Required Services.
- 700.1602. 49.1602. Transitional Living Allowance.
- 700.1603. 49.1603. Household Supplies Stipend.

Subchapter Q. Purchased Protective Services

New Old

- 700.1701. 49.1701. The Contract Document.

- 700.1702. 49.1702. The Plan of Operation.
- 700.1703. 49.1703. Plan Changes and Amendments.
- 700.1704. 49.1704. Payment Determination.
- 700.1705. 49.1705. Cost Reimbursement Method.
- 700.1706. 49.1706. Unit Rate Method.
- 700.1707. 49.1707. Unit Rates for Emergency Foster Care or Group Home Services Contracts.
- 700.1708. 49.1708. Foster Care Assistance Funds in Emergency Foster Care or Group Home Services Contracts.
- 700.1709. 49.1709. Local Funds.
- 700.1710. 49.1710. Billing Requirements for Providers Using the Purchase of Services System.
- 700.1711. 49.1711. Billing Requirements for Providers Using the Administrative Claim System.
- 700.1712. 49.1712. Eligibility.
- 700.1713. 49.1713. Referral of Clients.
- 700.1714. 49.1714. Homemaker Services.
- 700.1715. 49.1715. Emergency Homemaker Services.
- 700.1716. 49.1716. Protective Homemaker Services.
- 700.1717. 49.1717. The Plan of Operation for Homemaker Contracts.
- 700.1718. 49.1718. Parent/Caretaker Training.
- 700.1719. 49.1719. Parent Training.
- 700.1720. 49.1720. Specialized Training for Caretakers.
- 700.1721. 49.1721. The Plan of Operation for Parent/Caretaker Training.
- 700.1722. 49.1722. Emergency Foster Care.
- 700.1723. 49.1723. The Plan of Operation for Emergency Foster Care Contracts.
- 700.1724. 49.1724. Foster Group Home Services.
- 700.1725. 49.1725. The Plan of Operation for Foster Group Home Contracts.
- 700.1726. 49.1726. Evaluation and Treatment Services.
- 700.1727. 49.1727. Psychological/Developmental Testing.
- 700.1728. 49.1728. Psychological/Psychiatric Evaluation.
- 700.1729. 49.1729. Counseling/Therapy.
- 700.1730. 49.1730. Programs for Developmentally Delayed Children.
- 700.1731. 49.1731. Reimbursement for Court Appearance.
- 700.1732. 49.1732. The Plan of Operation for Evaluation and Treatment Services.
- 700.1733. 49.1733. Camping.
- 700.1734. 49.1734. Therapeutic Camp.
- 700.1735. 49.1735. Basis for Payment for Therapeutic Camps.
- 700.1736. 49.1736. Youth Camp.
- 700.1737. 49.1737. Basis for Payment for Youth Camps.
- 700.1738. 49.1738. Specialized Camping.
- 700.1739. 49.1739. Referrals to Camps.
- 700.1740. 49.1740. Travel to and from Camps.

- 700.1741. 49.1741. Plan of Operation for Camping Contracts.
- 700.1742. 49.1742. Social Studies.
- 700.1743. 49.1743. Plan of Operation for Social Study Contracts.
- 700.1744. 49.1744. Purchased Adoption Services.
- 700.1745. 49.1745. Types of Purchased Adoption Services.
- 700.1746. 49.1746. Provider Eligibility for Purchased Adoption Services.
- 700.1747. 49.1747. Reimbursement of Purchased Adoption Services.
- 700.1748. 49.1748. Purchasing Adoption Services for Sibling Groups.
- 700.1749. 49.1749. Plan of Operation for Adoption Services Contracts.
- 700.1753. 49.1753. Community and Parent Groups.
- 700.1754. 49.1754. Councils, Associations, and Organizations.
- 700.1755. 49.1755. Budget for Community and Parent Groups Contracts.
- 700.1756. 49.1756. Limitations on Reimbursements in Contracts with Councils, Associations, and Organizations.
- 700.1757. 49.1757. Volunteer or Self-Help Programs.
- 700.1758. 49.1758. Budget for Volunteer or Self-Help Program Contracts.
- 700.1759. 49.1759. Plan of Operation for Community and Parent Groups.
- 700.1760. 49.1760. Training Contracts.
- 700.1761. 49.1761. Plan of Operation for Training Contracts.
- 700.1762. 49.1762. Case Specific Consultation.
- 700.1763. 49.1763. Other Consultation.
- 700.1764. 49.1764. Day Care for Foster Children.
- 700.1765. 49.1765. Post-adoption Services.

Subchapter R. Cost-finding Methodology for 24-Hour Child-care Facilities

New Old

- 700.1801. 49.1801. Cost Reporting.
- 700.1802. 49.1802. Cost-finding Analysis.
- 700.1803. 49.1803. Definition of Allowable and Unallowable Costs.
- 700.1804. 49.1804. Allowable Costs.
- 700.1805. 49.1805. Unallowable Costs.
- 700.1806. 49.1806. Cost Not Included in Recommended Payment Rates.

Subchapter S. Interstate Placement of Children

New Old

- 700.1901. 49.1901. Requests for Placement.
- 700.1902. 49.1902. Courtesy Supervision of a Child from Another State.
- 700.1903. 49.1903. Request for Adoptive Placement.

Subchapter U. Services to Truants and Runaways Program

New Old

- 700.2101. 49.2101. Program Description.
- 700.2102. 49.2102. Clients.
- 700.2103. 49.2103. Contractors.
- 700.2104. 49.2104. Nonresidential Services.
- 700.2105. 49.2105. Nonresidential Service Requirements.
- 700.2106. 49.2106. Emergency Residential Care.
- 700.2107. 49.2107. Service Requirements for Emergency Residential Care.
- 700.2108. 49.2108. Services to Abandoned Youth.
- 700.2109. 49.2109. Interagency Coordination
- 700.2110. 49.2110. Financial Requirements.

Chapter 705. Adult Protective Services

Previously: Partial Rules from 40 TAC Chapter 48. Community Care for Aged and Disabled

Eligibility

New Old

- 705.2915. 48.2915. Eligibility for Adult Protective Services.
- 705.2916. 48.2916. Protective Services Priorities.
- 705.2940. 48.2940. Adult Protective Emergency Client Services

Release Hearings

New Old

- 705.4101. 48.4101. Adult Protective Services Release Hearings.

Chapter 710. Protection of Clients and Staff

Previously: Partial Rules from 25 TAC Chapter 404. Protection of Clients and Staff

Subchapter A. Abuse and Neglect of Persons Services by TXMHMR Facilities

New Old

- 710.1. 404.1. Purpose.
- 710.2. 404.2. Application.
- 710.3. 404.3. Definitions.
- 710.4. 404.4. Classification of Abuse and Neglect.
- 710.5. 404.5. Prohibition Against Abuse and Neglect of Persons Served by Facilities, Facility Contractors, and Agents.
- 710.6. 404.6. Reporting Responsibilities of All TXMHMR Employees.

- 710.7. 404.7. Responsibilities of the Head of the Facility or Designee: Immediate Actions Required.
- 710.8. 404.8. Abuse and Neglect Investigator.
- 710.9. 404.9. Responsibilities of Abuse and Neglect Investigator: Completion of Investigation.
- 710.10. 404.10. Responsibilities of the Head of the Facility of Designee: Completion of Investigation.
- 710.11. 404.11. Responsibilities of the Head of the Facility of Designee Disciplinary Action.
- 710.12. 404.12. Abuse and Neglect Investigative Procedures for Facility Contractors, Private Citizens, and Independent School District (ISD) Employees.
- 710.13. 404.13. Responsibilities of the Office of Consumer Services and Rights Protection.
- 710.14. 404.14. Appeals Process.
- 710.15. 404.15. Prohibition Against Retaliatory Action.
- 710.16. 404.16. Staff Training in Identifying and Reporting Abuse and Neglect.
- 710.17. 404.17. Confidentiality of Investigative Process and Report.
- 710.18. 404.18. Exhibits.
- 710.19. 404.19. References.
- 710.20. 404.20. Distribution.

Chapter 715. Day Care Licensing

Previously: 40 TAC Chapter 81. Day Care Licensing

Subchapter B. Minimum Standards for Registered Family Homes

New Old

- 715.101. 81.101. Definitions.
- 715.102. 81.102. Caregiver Qualifications.
- 715.103. 81.103. People in the Home.
- 715.104. 81.104. The Number of Children in Care.
- 715.105. 81.105. Admission Requirements.
- 715.106. 81.106. Health and Safety.
- 715.107. 81.107. Child Care.

Subchapter C. Standards for Kindergartens and Nursery Schools

New Old

- 715.201. 81.201. Organization.
- 715.202. 81.202. General Administration.
- 715.203. 81.203. Enrollment.
- 715.204. 81.204. Records.
- 715.205. 81.205. Director Qualifications.
- 715.206. 81.206. Director Responsibilities.

715.207. 81.207. Staff Qualifications and Responsibilities.

715.208. 81.208. Training.

715.209. 81.209. Staff-Child Ratio.

715.210. 81.210. Space.

715.211. 81.211. Furnishings.

715.212. 81.212. Equipment.

715.213. 81.213. Toilet Facilities.

715.214. 81.214. Use of Facility.

715.215. 81.215. Fire.

715.216. 81.216. Sanitation.

715.217. 81.217. Safety.

715.218. 81.218. Health Requirements for Children.

715.219. 81.219. Illness or Injury.

715.220. 81.220. Medications.

715.221. 81.221. Emergency Phone Numbers.

715.222. 81.222. Animals.

715.223. 81.223. Food Service.

715.224. 81.224. Operation.

715.225. 81.225. Discipline and Guidance.

715.226. 81.226. Children with Need for Special Care.

715.227. 81.227. Water Activities.

715.228. 81.228. Transportation.

715.229. 81.229. Glossary.

715.231. 81.231. Waiver Request.

Subchapter D. Standards for Schools: Grades Kindergarten and Above

New Old

715.301. 81.301. Organization.

715.302. 81.302. General Administration.

715.303. 81.303. Enrollment.

715.304. 81.304. Records.

715.305. 81.305. Director Qualifications.

715.306. 81.306. Director Responsibilities.

715.307. 81.307. Staff Qualifications and Responsibilities.

715.308. 81.308. Training.

715.309. 81.309. Staff-Child Ratio.

715.310. 81.310. Space.

715.311. 81.311. Furnishings.

715.312. 81.312. Equipment.

715.313. 81.313. Toilet Facilities.

- 715.314. 81.314. Use of Facility.
- 715.315. 81.315. Fire.
- 715.316. 81.316. Sanitation.
- 715.317. 81.317. Safety.
- 715.318. 81.318. Health Requirements for Children.
- 715.319. 81.319. Illness or Injury.
- 715.320. 81.320. Medications.
- 715.321. 81.321. Emergency Phone Numbers.
- 715.322. 81.322. Animals.
- 715.323. 81.323. Food Service.
- 715.324. 81.324. Operation.
- 715.325. 81.325. Discipline and Guidance.
- 715.326. 81.326. Children with Need for Special Care.
- 715.327. 81.327. Water Activities.
- 715.328. 81.328. Transportation.
- 715.329. 81.329. Glossary.
- 715.330. 81.330. Waiver Requests.

Subchapter E. Standards for Day Care Centers

- | New | Old |
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| 715.401. | 81.401. Organization. |
| 715.402. | 81.402. General Administration. |
| 715.403. | 81.403. Enrollment. |
| 715.404. | 81.404. Records. |
| 715.405. | 81.405. Director Qualifications. |
| 715.406. | 81.406. Director Responsibilities. |
| 715.407. | 81.407. Staff Qualifications and Responsibilities. |
| 715.408. | 81.408. Training. |
| 715.409. | 81.409. Staff-Child Ratio. |
| 715.410. | 81.410. Space. |
| 715.411. | 81.411. Furnishings. |
| 715.412. | 81.412. Equipment. |
| 715.413. | 81.413. Toilet Facilities. |
| 715.414. | 81.414. Use of Facility. |
| 715.415. | 81.415. Fire. |
| 715.416. | 81.416. Sanitation. |
| 715.417. | 81.417. Safety. |
| 715.418. | 81.418. Health Requirements for Children. |
| 715.419. | 81.419. Illness or Injury. |
| 715.420. | 81.420. Medications. |

- 715.421. 81.421. Emergency Phone Numbers.
- 715.422. 81.422. Animals.
- 715.423. 81.423. Food Service.
- 715.424. 81.424. Nutrition.
- 715.425. 81.425. Operation.
- 715.426. 81.426. Discipline and Guidance.
- 715.427. 81.427. Infant and Toddler Care.
- 715.428. 81.428. Children with Need for Special Care.
- 715.429. 81.429. Night Care.
- 715.430. 81.430. Water Activities.
- 715.431. 81.431. Transportation.
- 715.432. 81.432. Glossary.
- 715.433. 81.433. Waiver Request.

Subchapter F. Standards for Registered Family Homes

- | New | Old |
|------------|-------------------------------------|
| 715.501. | 81.501. The Children in Care. |
| 715.502. | 81.502. The Caregiver and Family. |
| 715.503. | 81.503. Health and Safety. |
| 715.504. | 81.504. The Care Given to Children. |
| 715.505. | 81.505. Definitions. |
| 715.506. | 81.506. Time Limited Registration. |
| 715.507. | 81.507. Inquiries. |

Subchapter G. Standards for Group Day Care Homes

- | New | Old |
|------------|--|
| 715.601. | 81.601. Organization. |
| 715.602. | 81.602. General Administration. |
| 715.603. | 81.603. Enrollment. |
| 715.604. | 81.604. Records. |
| 715.605. | 81.605. Director Qualifications. |
| 715.606. | 81.606. Director Responsibilities. |
| 715.607. | 81.607. Staff Qualifications and Responsibilities. |
| 715.608. | 81.608. Training. |
| 715.609. | 81.609. Staff-Child Ratio. |
| 715.610. | 81.610. Space. |
| 715.611. | 81.611. Furnishings. |
| 715.612. | 81.612. Equipment. |
| 715.613. | 81.613. Toilet Facilities. |
| 715.614. | 81.614. Fire. |
| 715.615. | 81.615. Sanitation. |

- 715.616. 81.616. Safety.
- 715.617. 81.617. Health Requirements for Children.
- 715.618. 81.618. Illness or Injury.
- 715.619. 81.619. Medications.
- 715.620. 81.620. Emergency Phone Numbers.
- 715.621. 81.621. Animals.
- 715.622. 81.622. Food Service.
- 715.623. 81.623. Nutrition.
- 715.624. 81.624. Operation.
- 715.625. 81.625. Discipline and Guidance.
- 715.626. 81.626. Infant and Toddler Care.
- 715.627. 81.627. Children with Need for Special Care.
- 715.628. 81.628. Night Care.
- 715.629. 81.629. Water Activities.
- 715.630. 81.630. Transportation.
- 715.631. 81.631. Definition.
- 715.632. 81.632. Glossary.

Subchapter H. Minimum Standards for Drop-in Care Centers

New Old

- 715.701. 81.701. Organization.
- 715.702. 81.702. General Administration.
- 715.703. 81.703. Admission of Children for Care.
- 715.704. 81.704. Records.
- 715.705. 81.705. Director Qualifications.
- 715.706. 81.706. Director Responsibilities.
- 715.707. 81.707. Staff Qualifications and Responsibilities.
- 715.708. 81.708. Training.
- 715.709. 81.709. Staff-Child Ratio.
- 715.710. 81.710. Space.
- 715.711. 81.711. Furnishings.
- 715.712. 81.712. Equipment.
- 715.713. 81.713. Toilet Facilities.
- 715.714. 81.714. Use of Facility.
- 715.715. 81.715. Fire.
- 715.716. 81.716. Sanitation.
- 715.717. 81.717. Safety.
- 715.718. 81.718. Health Requirements for Children.
- 715.719. 81.719. Illness or Injury.
- 715.720. 81.720. Medications.

715.721. 81.721. Emergency Phone Numbers.

715.722. 81.722. Animals.

715.723. 81.723. Food Service and Nutrition.

715.724. 81.724. Operation.

715.725. 81.725. Discipline and Guidance.

715.726. 81.726. Infant Care.

715.727. 81.727. Children with Need for Special Care.

715.728. 81.728. Night Care.

715.729. 81.729. Transportation.

715.730. 81.730. Glossary.

Subchapter UUUU. Support Documents

New Old

715.9801. 81.9801. Kinds and Amounts of Foods To Be Served.

Chapter 720. Standards for Twenty-Four Hour Care Facilities

Previously: 40 TAC Chapter 83. Twenty-four Hour Care Licensing

Subchapter A. Standards for Child-Placing Agencies (24-hour Care and Adoption)

New Old

720.25. 83.25. Legal Basis for Operation.

720.26. 83.26. Governing Body Responsibilities.

720.27. 83.27. Fiscal Accountability.

720.28. 83.28. Reports and Records.

720.29. 83.29. Personnel Policies.

720.30. 83.30. Personnel Qualifications and Responsibilities.

720.31. 83.31. Training.

720.32. 83.32. Staff Records.

720.33. 83.33. Admission Policies.

720.34. 83.34. Services to Biological Parents.

720.35. 83.35. Intake for Substitute Care.

720.36. 83.36. Placement into Substitute Care.

720.37. 83.37. Plan of Service.

720.38. 83.38. Subsequent Placement.

720.39. 83.39. Foster Family Care.

720.40. 83.40. Children's Rights.

720.41. 83.41. Medical and Dental Care.

720.42. 83.42. Discharge.

720.43. 83.43. Foster Home Study.

720.44. 83.44. Adoptive Services.

- 720.45. 83.45. Adoptive Readiness Review.
- 720.46. 83.46. Adoptive Home Study.
- 720.47. 83.47. Adoptive Placement.
- 720.48. 83.48. Post Placement Supervision.
- 720.49. 83.49. Subsequent Adoptive Placements.
- 720.50. 83.50. Definitions.
- 720.51. 83.51. Placement in Emergency Shelter Type Care.
- 720.52. 83.52. General Policy.
- 720.53. 83.53. Reports and Records.
- 720.54. 83.54. Training.
- 720.55. 83.55. Admission Policies.
- 720.56. 83.56. Intake for Emergency Shelter Type Care.
- 720.57. 83.57. Foster Family Care.
- 720.58. 83.58. Children's Rights.
- 720.59. 83.59. Medical and Dental Care.
- 720.69. 83.69. Discharge.

Subchapter B. Standards for Agency Homes

- | New | Old |
|------------|---------------------------------------|
| 720.117. | 83.117. Foster Family Qualifications. |
| 720.118. | 83.118. Admission. |
| 720.119. | 83.119. Daily Care. |
| 720.120. | 83.120. Children's Rights. |
| 720.121. | 83.121. Nutrition. |
| 720.122. | 83.122. Environment. |
| 720.123. | 83.123. Medical. |
| 720.124. | 83.124. Records. |
| 720.125. | 83.125. Emergency Reports. |
| 720.126. | 83.126. Other Requirements. |

Subchapter C. Standards for Habilitative and Therapeutic Agency Homes

- | New | Old |
|------------|--|
| 720.131. | 83.131. Personnel - Staffing Standards for Habilitative Agency Homes. |
| 720.132. | 83.132. Admission - Policies for Habilitative Agency Homes. |
| 720.133. | 83.133. Child Care, Development, and Training Standards for Habilitative Agency Homes. |
| 720.134. | 83.134. Buildings, Grounds, and Equipment Standards for Habilitative Agency Homes. |
| 720.135. | 83.135. Personnel Standards for Therapeutic Agency Homes. |
| 720.136. | 83.136. Admission Standards for Therapeutic Agency Homes. |
| 720.137. | 83.137. Child Care, Development, and Training Standards for Therapeutic Agency |

Homes.

Subchapter D. Standards for Habilitative and Therapeutic Family Homes

New Old

- 720.201. 83.201. Personnel - Staffing Standards for Habilitative Family Homes.
720.202. 83.202. Admission Policies for Habilitative Family Homes.
720.203. 83.203. Child Care, Development, and Training Standards for Habilitative Family Homes.
720.204. 83.204. Buildings, Grounds, and Equipment Standards for Habilitative Family Homes.
720.205. 83.205. Personnel Standards for Therapeutic Family Homes.
720.206. 83.206. Admission Standards for Therapeutic Family Homes.
720.207. 83.207. Child Care, Development, and Training Standards for Therapeutic Family Homes.

Subchapter E. Standards for Foster Family Homes

New Old

- 720.231. 83.231. Qualifications.
720.232. 83.232. Training.
720.233. 83.233. Reports and Records.
720.234. 83.234. Other Requirements.
720.235. 83.235. Admission Policies.
720.236. 83.236. Intake Study.
720.237. 83.237. Discharge.
720.238. 83.238. Children's Records.
720.239. 83.239. Plan of Service.
720.240. 83.240. Daily Care.
720.241. 83.241. Money.
720.242. 83.242. Education, Work, and Training.
720.243. 83.243. Children's Rights and Privileges.
720.244. 83.244. Medical and Dental Care.
720.245. 83.245. Nutrition.
720.246. 83.246. Health and Safety.
720.247. 83.247. Environment.
720.248. 83.248. Definition.

Subchapter F. Standards for Foster Group Homes

New Old

- 720.301. 83.301. Foster Group Homes Responsible to a Child-Placing Agency.
720.302. 83.302. Requirements for Home Responsible to Child-Placing Agency.
720.303. 83.303. Staff and Training.
720.304. 83.304. Daily Care in Homes Responsible to Child-Placing Agency.

- 720.305. 83.305. Children's Rights and Privileges.
- 720.306. 83.306. Medical and Dental Care.
- 720.307. 83.307. Nutrition.
- 720.308. 83.308. Health and Safety.
- 720.309. 83.309. Environment.
- 720.310. 83.310. Food Preparation, Storage, and Equipment.
- 720.311. 83.311. Reports and Records.
- 720.312. 83.312. Other Requirements.
- 720.313. 83.313. Legal Basis for Operation of Independent Foster Group Homes.
- 720.314. 83.314. Governing Body Responsibilities of Independent Foster Group Homes.
- 720.315. 83.315. Fiscal Accountability of Independent Foster Group Homes.
- 720.316. 83.316. Personnel Requirements for Independent Foster Group Homes.
- 720.317. 83.317. Staffing of Independent Foster Group Homes.
- 720.318. 83.318. Training of Staff in Independent Foster Group Homes.
- 720.319. 83.319. Admission Policies of Independent Foster Group Homes.
- 720.320. 83.320. Intake Study in the Independent Foster Group Home.
- 720.321. 83.321. Emergency Placement in an Independent Foster Group Home.
- 720.322. 83.322. Plan of Service.
- 720.323. 83.323. Daily Care in Independent Foster Group Home.
- 720.324. 83.324. Money.
- 720.325. 83.325. Education, Work, and Training in the Independent Foster Group Home.
- 720.326. 83.326. Children's Rights and Privileges in an Independent Foster Group Home.
- 720.327. 83.327. Medical and Dental Care in the Independent Foster Group Home.
- 720.328. 83.328. Nutrition.
- 720.329. 83.329. Discharge.
- 720.330. 83.330. Health and Safety in the Independent Foster Group Home.
- 720.331. 83.331. Environment of the Independent Foster Group Home.
- 720.332. 83.332. Food Preparation, Storage, and Equipment in the Independent Foster Group Home.
- 720.333. 83.333. Children's Records.
- 720.334. 83.334. Staff Records.
- 720.335. 83.335. Emergency Reports and Records in the Independent Foster Group Homes.
- 720.336. 83.336. Definition.

Subchapter G. Standards for Habilitative and Therapeutic Group Homes Responsible to a Child-Placing Agency and For Independent Habilitative and Therapeutic Group Homes.

New Old

- 720.361. 83.361. Personnel - Staffing Standards for Habilitative Group Homes.
- 720.362. 83.362. Admission Policies for Habilitative Group Homes Responsible to a Child Placing Agency.

- 720.363. 83.363. Child Care, Development, and Training Standards for Habilitative Group Homes Responsible to a Child-Placing Agency.
- 720.364. 83.364. Buildings, Grounds, and Equipment Standards for Habilitative Group Homes Responsible to a Child-Placing Agency.
- 720.365. 83.365. Personnel Standards for Therapeutic Group Homes Responsible to a Child-Placing Agency.
- 720.366. 83.366. Admission Policies for Therapeutic Group Homes Responsible to a Child-Placing Agency.
- 720.367. 83.367. Child Care, Development, and Training Standards for Therapeutic Group Homes Responsible to a Child-Placing Agency.
- 720.368. 83.368. Personnel - Staffing Standards for Independent Habilitative Group Homes.
- 720.369. 83.369. Admission Policies for Independent Habilitative Group Homes.
- 720.370. 83.370. Child Care, Development, and Training Standards for Independent Habilitative Group Homes.
- 720.371. 83.371. Buildings, Grounds, and Equipment Standards for Independent Habilitative Group Homes.
- 720.372. 83.372. Personnel Standards for Independent Therapeutic Group Homes.
- 720.373. 83.373. Admission Policies for Independent Therapeutic Group Homes.
- 720.374. 83.374. Child Care, Development, and Training Standards for Independent Therapeutic Group Homes.

Subchapter H. Consolidated Standards for 24-Hour Care Facilities

- | New | Old |
|------------|---|
| 720.401. | 83.401. Organization. |
| 720.402. | 83.402. Governing Body. |
| 720.403. | 83.403. General Admission. |
| 720.404. | 83.404. Audit Requirements. |
| 720.405. | 83.405. Children's Records. |
| 720.406. | 83.406. Administrative Reports and Records. |
| 720.407. | 83.407. Requirements for New Facilities. |
| 720.408. | 83.408. Personnel Policies and Practices. |
| 720.409. | 83.409. Personnel Records. |
| 720.410. | 83.410. Volunteers. |
| 720.411. | 83.411. General Staffing. |
| 720.412. | 83.412. Management Staff. |
| 720.413. | 83.413. Program Staff. |
| 720.414. | 83.414. Staff-child Ratio. |
| 720.415. | 83.415. Training and Orientation. |
| 720.416. | 83.416. Admission Policies. |
| 720.417. | 83.417. Admission Procedures. |

- 720.418. 83.418. Emergency Admission.
- 720.419. 83.419. Service Planning.
- 720.420. 83.420. Plan of Service.
- 720.421. 83.421. Plan of Service Review.
- 720.422. 83.422. Discharge.
- 720.423. 83.423. Problem Management.
- 720.424. 83.424. Restraining Measures.
- 720.425. 83.425. Personal Restraint.
- 720.426. 83.426. Child Care.
- 720.427. 83.427. Medical and Dental Care.
- 720.428. 83.428. Nutrition.
- 720.429. 83.429. Health and Safety.
- 720.430. 83.430. Environment.
- 720.431. 83.431. Transportation.
- 720.432. 83.432. Food Preparation, Storage, and Equipment.
- 720.440. 83.440. Program Staff--Institutions Providing Basic Child Care.
- 720.441. 83.441. Staff-child Ratio--Institutions Providing Basic Child Care.
- 720.442. 83.442. Training--Institutions Providing Basic Child Care.
- 720.443. 83.443. Admission Policies--Institutions Providing Basic Child Care.
- 720.444. 83.444. Plan of Service Review--Institutions Providing Basic Child Care.
- 720.445. 83.445. Discharge--Institutions Providing Basic Child Care.
- 720.446. 83.446. Problem Management:Institutions Providing Basic Child Care.
- 720.447. 83.447. Restraining Measures:Institutions Providing Basic Child Care.
- 720.448. 83.448. Child Care:Institutions Providing Basic Child Care.
- 720.449. 83.449. Environment--Institutions Providing Basic Child Care.
- 720.501. 83.501. Program Staff-Institutions Serving Mentally Retarded Children.
- 720.502. 83.502. Staff Child Ratio--Institutions Serving Mentally Retarded Children.
- 720.503. 83.503. Training--Institutions Serving Mentally Retarded Children.
- 720.504. 83.504. Admission Policies--Institutions Serving Mentally Retarded Children.
- 720.505. 83.505. Admission Procedures--Institutions Serving Mentally Retarded Children.
- 720.506. 83.506. Plan of Service--Institutions Serving Mentally Retarded Children.
- 720.507. 83.507. Plan of Service Review--Institutions Serving Mentally Retarded Children.
- 720.508. 83.508. Problem Management--Institutions Serving Mentally Retarded Children.
- 720.509. 83.509. Restraining Measures--Institutions Serving Mentally Retarded Children.
- 720.510. 83.510. Protective Devices--Institutions Serving Mentally Retarded Children.
- 720.511. 83.511. Mechanical Restraints--Institutions Serving Mentally Retarded Children.
- 720.512. 83.512. Child Care--Institutions Serving Mentally Retarded Children.
- 720.514. 83.514. Health and Safety--Institutions Serving Mentally Retarded Children.
- 720.515. 83.515. Environment--Institutions Serving Mentally Retarded Children.
- 720.520. 83.520. Program Director and Admission Assessment Staff--Residential Treatment Centers.
- 720.521. 83.521. Other Professional Staff--Residential Treatment Centers.

- 720.522. 83.522. Staff Child Ratio--Residential Treatment Centers.
- 720.523. 83.523. Training--Residential Treatment Centers.
- 720.524. 83.524. Admission Policies--Residential Treatment Centers.
- 720.525. 83.525. Admission Procedures--Residential Treatment Centers.
- 720.526. 83.526. Emergency Admission--Residential Treatment Centers.
- 720.527. 83.527. Preliminary Treatment Plan--Residential Treatment Centers.
- 720.528. 83.528. Treatment Plan--Residential Treatment Centers.
- 720.529. 83.529. Treatment Plan Review--Residential Treatment Centers.
- 720.530. 83.530. Problem Management--Residential Treatment Centers.
- 720.531. 83.531. Restraining Measures--Residential Treatment Centers.
- 720.532. 83.532. Protective Devices--Residential Treatment Centers.
- 720.533. 83.533. Mechanical Restraint--Residential Treatment Centers.
- 720.534. 83.534. Seclusion--Residential Treatment Centers.
- 720.535. 83.535. Child Care-Residential Treatment Centers.
- 720.536. 83.536. Health and Safety--Residential Treatment Centers.
- 720.537. 83.537. Environment--Residential Treatment Centers.
- 720.540. 83.540. Program Staff-Halfway Houses.
- 720.541. 83.541. Staff-Child Ratio--Halfway Houses.
- 720.542. 83.542. Training-Halfway Houses.
- 720.543. 83.543. Admission Policies--Halfway Houses.
- 720.544. 83.544. Plan of Service--Halfway Houses.
- 720.545. 83.545. Plan of Service Review--Halfway Houses.
- 720.546. 83.546. Problem Management--Halfway Houses.
- 720.547. 83.547. Restraining Measures--Halfway Houses.
- 720.548. 83.548. Child Care--Halfway Houses.
- 720.549. 83.549. Environment--Halfway Houses.
- 720.550. 83.550. Program Staff--Therapeutic Camps.
- 720.551. 83.551. Staff-Child Ratio--Therapeutic Camps.
- 720.552. 83.552. Training-Therapeutic Camps.
- 720.553. 83.553. Admission Policies--Therapeutic Camps.
- 720.554. 83.554. Plan of Service--Therapeutic Camps.
- 720.555. 83.555. Plan of Service-Therapeutic Camps.
- 720.556. 83.556. Problem Management--Therapeutic Camps.
- 720.557. 83.557. Restraining Measures--Therapeutic Camps.
- 720.558. 83.558. Child Care--Therapeutic Camps.
- 720.559. 83.559. Medical and Dental Care--Therapeutic Camps.
- 720.560. 83.560. Environment--Therapeutic Camps.
- 720.570. 83.570. Definitions.
- 720.571. 83.571. Facilities Providing Care for Children and Adults.
- 720.572. 83.572. Texas Department of Health - Minimum Standards of Environmental Health for Texas Department of Human Services Licensed Therapeutic Camps - Permanent Camps.

- 720.573. 83.573. Texas Department of Health p Minimum Standards of Environmental Health for Texas Department of Human Services Licensed Therapeutic Camps - Primitive or Wilderness Camps.
- 720.574. 83.574. Additional Minimum Standards for Institutions Serving Mentally Retarded Children with Primary Medical Needs.

Subchapter J. Standards for Institutions Providing Basic Child Care

New Old

- 720.620 83.620. Discharge.

Subchapter K. Standards for Therapeutic Camps

New Old

- 720.701. 83.701. Texas Department of Health -Minimum Standards of Environmental Health for Department of Human Resources Licensed Therapeutic Camps -Permanent Camps.
- 720.702. 83.702. Texas Department of Health - Minimum Standards of Environmental Health for Department of Human Resources Licensed Therapeutic Camps - Primitive or Wilderness Camps.

Subchapter M. Standards for Emergency Shelters

New Old

- 720.901. 83.901. Legal Basis for Operation.
- 720.902. 83.902. Governing Body Responsibilities.
- 720.903. 83.903. Fiscal Accountability.
- 720.904. 83.904. Placement in Foster or Adoptive Homes.
- 720.905. 83.905. Reports and Records.
- 720.906. 83.906. Personnel Policies.
- 720.907. 83.907. Administrator Qualifications and Responsibilities.
- 720.908. 83.908. Staffing.
- 720.909. 83.909. Qualifications and Responsibilities.
- 720.910. 83.910. Training.
- 720.911. 83.911. Staff Records.
- 720.912. 83.912. Admission Policies.
- 720.913. 83.913. Intake Information.
- 720.914. 83.914. Children's Records.
- 720.915. 83.915. Daily Care.
- 720.916. 83.916. Children's Rights.
- 720.917. 83.917. Medical and Dental Care.
- 720.918. 83.918. Nutrition.
- 720.919. 83.919. Discharge.

- 720.920. 83.920. Health and Safety.
- 720.921. 83.921. Environment.
- 720.922. 83.922. Food Preparation, Storage, and Equipment.
- 720.923. 83.923. Definitions.

Subchapter O. General Policies and Procedures

New Old

- 720.1101. 83.1101. Procedural Guide for Pharmaceutical Services in the
Child-Caring Institution.

Subchapter P. Minimum Standards for Juvenile Correctional Institutions

New Old

- 720.1201. 83.1201. Legal Basis for Operation.
- 720.1202. 83.1202. Administrative Responsibilities.
- 720.1203. 83.1203. Fiscal Accountability.
- 720.1204. 83.1204. Records and Reports.
- 720.1205. 83.1205. Availability of Records.
- 720.1206. 83.1206. Personnel Policies.
- 720.1207. 83.1207. Administrator Qualifications and Responsibilities.
- 720.1208. 83.1208. Staffing.
- 720.1209. 83.1209. Staff Qualifications and Responsibilities.
- 720.1210. 83.1210. Training.
- 720.1211. 83.1211. Staff Records.
- 720.1212. 83.1212. Admission.
- 720.1213. 83.1213. Assessment.
- 720.1214. 83.1214. Trips Away from the Institution.
- 720.1215. 83.1215. Student's Records.
- 720.1216. 83.1216. Child Care and Training; Individualized Program Plan.
- 720.1217. 83.1217. Daily Care.
- 720.1218. 83.1218. Education, Work, and Training.
- 720.1219. 83.1219. Student's Rights Privileges.
- 720.1220. 83.1220. Restraint.
- 720.1221. 83.1221. Security.
- 720.1222. 83.1222. Medical and Dental Care.
- 720.1223. 83.1223. Nutrition.
- 720.1224. 83.1224. Release.
- 720.1225. 83.1225. Health and Safety.
- 720.1226. 83.1226. Environment.
- 720.1227. 83.1227. Food Preparation, Storage, and Equipment.
- 720.1228. 83.1228. Glossary.

Subchapter Q. Minimum Standards for Juvenile Correctional Camps

New Old

- 720.1301. 83.1301. Legal Basis for Operation.
- 720.1302. 83.1302. Administrative Responsibilities.
- 720.1303. 83.1303. Fiscal Accountability.
- 720.1304. 83.1304. Records and Reports.
- 720.1305. 83.1305. Availability of Records.
- 720.1306. 83.1306. Personnel Policies.
- 720.1307. 83.1307. Administrator Qualifications and Responsibilities.
- 720.1308. 83.1308. Staffing.
- 720.1309. 83.1309. Staff Qualifications and Responsibilities.
- 720.1310. 83.1310. Training.
- 720.1311. 83.1311. Staff Records.
- 720.1312. 83.1312. Admission.
- 720.1313. 83.1313. Assessment.
- 720.1314. 83.1314. Camper's Records.
- 720.1315. 83.1315. Child Care and Training, Individualized Program Plan.
- 720.1316. 83.1316. Daily Care.
- 720.1317. 83.1317. Camper's Rights and Privileges.
- 720.1318. 83.1318. Trips Away From the Correctional Camp.
- 720.1319. 83.1319. Restraint.
- 720.1320. 83.1320. Security.
- 720.1321. 83.1321. Medical and Dental Care.
- 720.1322. 83.1322. Nutrition.
- 720.1323. 83.1323. Release.
- 720.1324. 83.1324. Health and Safety.
- 720.1325. 83.1325. Glossary.

Subchapter R. Minimum Standards for Juvenile Reception Centers

New Old

- 720.1401. 83.1401. Legal Basis for Operation.
- 720.1402. 83.1402. Administrative Responsibilities.
- 720.1403. 83.1403. Fiscal Accountability.
- 720.1404. 83.1404. Records and Reports.
- 720.1405. 83.1405. Availability of Records.
- 720.1406. 83.1406. Personnel Policies.
- 720.1407. 83.1407. Administrator Qualifications and Responsibilities.
- 720.1408. 83.1408. Staffing.
- 720.1409. 83.1409. Staff Qualifications and Responsibilities.
- 720.1410. 83.1410. Training.

- 720.1411. 83.1411. Staff Records.
- 720.1412. 83.1412. Admission.
- 720.1413. 83.1413. Assessment.
- 720.1414. 83.1414. Student's Records.
- 720.1415. 83.1415. Daily Care.
- 720.1416. 83.1416. Student's Rights and Privileges.
- 720.1417. 83.1417. Restraint.
- 720.1418. 83.1418. Security.
- 720.1419. 83.1419. Medical and Dental Care.
- 720.1420. 83.1420. Nutrition.
- 720.1421. 83.1421. Transfer and Release.
- 720.1422. 83.1422. Health and Safety.
- 720.1423. 83.1423. Environment.
- 720.1424. 83.1424. Food Preparation, Storage, and Equipment.
- 720.1425. 83.1425. Glossary.

Subchapter S. Standards for Child Care Facilities Serving Children with Autistic-like Behavior

New Old

- 720.1501. 83.1501. Staffing.
- 720.1502. 83.1502. Training.
- 720.1503. 83.1503. Admission.
- 720.1504. 83.1504. Treatment Plan
- 720.1505. 83.1505. Behavior Therapy.
- 720.1506. 83.1506. Medical Therapy.
- 720.1507. 83.1507. Mechanical Restraint.

Subchapter XXXX. Support Documents

New Old

- 720.9801. 83.9801. Daily Food Guide.

Chapter 725. General Licensing Procedures

Previously: Partial Rules from 40 TAC Chapter 85. General Licensing Procedures

Subchapter O. Exemptions from Licensing

New Old

- 725.1403. 85.1403. Facilities Exempt from Licensing.
- 725.1404. 85.1404. Nonregulated Activities.
- 725.1405. 85.1405. Facilities Not Subject to Regulation Requesting Regulation.
- 725.1406. 85.1406. Multiple Programs: Exempt Programs and Licensed Facilities.
- 725.1407. 85.1407. Programs Not Subject to Regulation as Day Care.

Subchapter S. Administrative Procedures

New Old

- 725.1801. 85.1801. Criminal History Check.
- 725.1802. 85.1802. Notice of Action Against a Facility.
- 725.1803. 85.1803. Application Received after Revocation of License.

Subchapter U. Day Care Licensing Procedures

New Old

- 725.2001. 85.2001. Investigation Visits.
- 725.2002. 85.2002. Exemptions.
- 725.2003. 85.2003. Exemptions under Human Resources Code, Section 42.041(b)(8).
- 725.2004. 85.2004. Exemption under Human Resources Code, Section 42.041(b)(9).
- 725.2005. 85.2005. Exemption under Human Resources Code, Section 42.041(b)(11).
- 725.2006. 85.2006. Submission and Acceptance of Application.
- 725.2007. 85.2007. Personal History Statement.
- 725.2008. 85.2008. Application Received after Revocation or Denial of License.
- 725.2009. 85.2009. Notification of Non-compliance.
- 725.2010. 85.2010. Notification of Inspection/Investigation Visit.
- 725.2011. 85.2011. Separate Licenses.
- 725.2012. 85.2012. Issuance of Provisional License.
- 725.2013. 85.2013. Restrictions.
- 725.2014. 85.2014. Issuance of Biennial License.
- 725.2015. 85.2015. Sampling Facility Records.
- 725.2017. 85.2017. Changing the Restrictions/Conditions on a License Requested by Licensee and Right to Appeal.
- 725.2018. 85.2018. Administrative Licensing Suspension.
- 725.2019. 85.2019. Corrective/Adverse Action.
- 725.2020. 85.2020. Appeal Not Requested.
- 725.2021. 85.2021. Appeal Requested.
- 725.2022. 85.2022. Rehearing Requested.
- 725.2023. 85.2023. Requesting the Waiver/Variance.
- 725.2024. 85.2024. Requesting an Administrative Review.
- 725.2025. 85.2025. Requirements for an Advisory Opinion.
- 725.2026. 85.2026. Change of Facility Ownership
- 725.2027. 85.2027. Opportunity to Show Rehabilitation.
- 725.2028. 85.2028. Notification of Complaint Investigation.

- 725.2029. 85.2029. Receiving and Recording the Complaint.
- 725.2030. 85.2030. Findings of the Complaint Investigation.
- 725.2031. 85.2031. Exemptions from Registration.
- 725.2032. 85.2032. Failure To Register.
- 725.2033. 85.2033. Registration.
- 725.2034. 85.2034. Registration Fees.
- 725.2035. 85.2035. Denial or Revocation of a Registration.
- 725.2036. 85.2036. Restriction.
- 725.2037. 85.2037. Probation or Evaluation.
- 725.2038. 85.2038. Notification of Non-compliance.
- 725.2039. 85.2039. Extending Probation or Evaluation.
- 725.2040. 85.2040. Licensing Fees.
- 725.2041. 85.2041. Annual License Fee.
- 725.2042. 85.2042. Non-payment of Annual License Fee.
- 725.2044. 85.2044. Non-payment of Annual Registration Fee.
- 725.2045. 85.2045. Facilities Offering Overnight or Weekend Care.
- 725.2046. 85.2046. Regulation of Family Homes.

Subchapter EE. Agency and Institutional Licensing Procedures

New Old

- 725.3043. 85.3043. Facilities Not Subject to Regulation
- 725.3044. 85.3044. Application.
- 725.3045. 85.3045. Personal History Statement.
- 725.3046. 85.3046. Sampling Records To Be Reviewed.
- 725.3047. 85.3047. Issuance of Provisional License.
- 725.3048. 85.3048. Notification of Inspection/Investigation Visit.
- 725.3049. 85.3049. Facilities Not Providing Services in Provisional Licensing Period.
- 725.3050. 85.3050. License.
- 725.3053. 85.3053. Notice of Non-compliance.
- 725.3054. 85.3054. Request for Suspension.
- 725.3055. 85.3055. Monitoring during Appeal Process.
- 725.3056. 85.3056. Denial or Revocation of a License without a Standard-by-standard Evaluation.
- 725.3057. 85.3057. Cessation of Operation.
- 725.3058. 85.3058. Amending a License for Changes in Operation.
- 725.3059. 85.3059. Renewal of Certificate.
- 725.3061. 85.3061. Receiving and Recording the Complaint.
- 725.3062. 85.3062. Notification of Investigation of Complaints.
- 725.3063. 85.3063. Reporting Investigatory Findings.
- 725.3064. 85.3064. Investigation of Complaints at State-operated Facilities.
- 725.3065. 85.3065. Operating Unlicensed Child Care Facilities.
- 725.3066. 85.3066. Planning for Placement.

- 725.3067. 85.3067. Requesting the Waiver/Variance.
- 725.3068. 85.3068. Requesting an Administrative Review.
- 725.3069. 85.3069. Purpose of an Advisory Opinion.
- 725.3070. 85.3070. Special Procedures for Facilities Wanting To Employ
Persons with Previous Convictions.
- 725.3071. 85.3071. Reasons for Probation or Evaluation.
- 725.3072. 85.3072. Notification of Non-compliance.
- 725.3073. 85.3073. Extending Probation or Evaluation.
- 725.3074. 85.3074. Licensing Fees.
- 725.3075. 85.3075. Annual License Fee.
- 725.3076. 85.3076. Non-payment of Annual License Fee.

Subchapter OO. Appeals of Licensing Staff Decisions

New Old

- 725.4001. 85.4001. Request for Appeal Hearing and Preliminary Procedures.
- 725.4002. 85.4002. Operation Pending an Appeal.
- 725.4003. 85.4003. Advisory Review Board for Licensing Appeals.
- 725.4004. 85.4004. Notice of the Hearing.
- 725.4005. 85.4005. Amended Notice.
- 725.4006. 85.4006. Nature of the Hearing.
- 725.4007. 85.4007. Appellant's Right to Representation.
- 725.4008. 85.4008. Withdrawal of Hearing Request and Informal Disposition.
- 725.4009. 85.4009. General Rights of Parties to a Hearing.
- 725.4010. 85.4010. Defaults, Postponements, and Continuations.
- 725.4011. 85.4011. Hearing Record.
- 725.4012. 85.4012. Communication.
- 725.4013. 85.4013. Rules of Evidence.
- 725.4014. 85.4014. Opinion of the Advisory Review Board.
- 725.4015. 85.4015. Appeal Review Committee for a Licensed Facility Appeal.
- 725.4017. 85.4017. Decision, Orders, and Notification.
- 725.4018. 85.4018. Rehearing Requested.
- 725.4019. 85.4019. Decision Records.
- 725.4020. 85.4020. Judicial Review.
- 725.4021. 85.4021. Appeal Hearing General Procedures

Subchapter PP. Release Hearings

New Old

- 725.4050. 85.4050. Release Hearings.
- 725.4051. 85.4051. Emergency Release and Use of Information.
- 725.4052. 85.4052. Release Hearing for a Facility Employee.
- 725.4053. 85.4053. Request for a Release Hearing from a Facility Employee.

- 725.4054. 85.4054. Conduct of Release Hearings.
725.4055. 85.4055. Request for a Release Hearing by an Operator of an
Unlicensed or Unregistered Facility Subject to Regulation.
725.4056. 85.4056. Request for an Release Hearing by a Licensee, Registrant, or Applicant.
725.4057. 85.4057. Release of Findings of Child Protective Services.

Subchapter YY. Institutional Administrators Licensing

New Old

- 725.5010. 85.5010. License Required.
725.5011. 85.5011. Applicant Qualifications.
725.5012. 85.5012. Handling Applications.
725.5013. 85.5013. Notification Requirement and Opportunity to Appeal.
725.5014. 85.5014. Renewal Requirements.
725.5015. 85.5015. Procedures for Establishing Proof of Rehabilitation.
725.5016. 85.5016. Invalidation of License.
725.5017. 85.5017. Initial Licensing Fee.
725.5018. 85.5018. Fee for Replacement of a License.
725.5020. 85.5020. Suspension.
725.5021. 85.5021. Probation.
725.5022. 85.5022. Reprimand.

Subchapter JJJ. Court-ordered Social Studies

New Old

- 725.6050. 85.6050. Definitions.
725.6051. 85.6051. Minimum Qualifications.
725.6052. 85.6052. Conducting the Social Study and Writing the Report.

Subchapter NNN. Abuse/Neglect Investigations in Child Care Facilities

New Old

- 725.7001. 85.7001. Facility Responsibility.
725.7002. 85.7002. Required Notifications - Licensing.
725.7003. 85.7003. Required Notifications - Facility.
725.7004. 85.7004. Confidentiality in Releasing Investigation Findings.
725.7005. 85.7005. Definitions.
725.7006. 85.7006. Abuse and the Role of the Caregiver.
725.7007. 85.7007. Noncompliance with Minimum Standards.

Subchapter UUUU. Support Documents

New Old

- 725.9801. 85.9801. Child Care Facility Immunization Requirements.

Chapter 730. Legal Services

Duplication of Rules from 40 TAC Chapter 79. Legal Services

Subchapter B. Rules of Practice Before the State Board of Human Resources

New Old

- 730.101. 79.101. Definitions.
- 730.102. 79.102. Notice of Agenda.
- 730.103. 79.103. Requests for Information.
- 730.104. 79.104. Submittal of Agenda Items.
- 730.105. 79.105. Appearance before Board.

Subchapter C. Procedure for Public Hearings on Proposed Substantive Rules.

New Old

- 730.201. 79.201. Request for Public Hearing.
- 730.202. 79.202. Arrangements for Hearing.
- 730.203. 79.203. Conduct of Hearing.
- 730.204. 79.204. Request for Appearance.
- 730.205. 79.205. Opening Hearing.
- 730.206. 79.206. Speakers' Time Periods.
- 730.207. 79.207. Subject Restriction.
- 730.208. 79.208. Time Limit for Hearing.
- 730.209. 79.209. Record and Report to Board.
- 730.210. 79.210. Response to Public Comments.

Subchapter D. Rulemaking Procedures

New Old

- 730.301. 79.301. Petition for Proposed Rulemaking.
- 730.302. 79.302. Advance Notice.
- 730.303. 79.303. Public Comment on Proposed Rules.
- 730.304. 79.304. Copies of Proposed Rules.
- 730.305. 79.305. Copies of Hearing Tapes.

Subchapter E. Advisory Committees

New Old

- 730.401. 79.401. Definitions.
- 730.402. 79.402. Advisory Committees.
- 730.403. 79.403. Mandated Advisory Committees.
- 730.404. 79.404. Board-established and DHS-established Advisory Committees.
- 730.405. 79.405. Other Committees and Groups.

730.406. 79.406. Regional Advisory Councils.

Subchapter L. Fair Hearings

New Old

730.1101. 79.1101. Rule and Regulation Authority.

730.1102. 79.1102. Definitions.

730.1103. 79.1103. Principles.

730.1104. 79.1104. Requirements.

730.1105. 79.1105. Administrative Review of Fair Hearing Decisions.

Subchapter M. Appeals Process

New Old

730.1201. 79.1201. Group Hearings.

730.1202. 79.1202. Information on Right of Appeal.

730.1203. 79.1203. Hearing Officer.

730.1204. 79.1204. Notice Requirement - Proposed Termination or Reduction
of Assistance.

730.1206. 79.1206. Fair Hearing Request.

730.1207. 79.1207. Time and Place of Hearing.

Subchapter N. Hearing Procedure

New Old

730.1301. 79.1301. Conduct of Fair Hearing.

730.1302. 79.1302. Fair Hearing Proceedings.

730.1303. 79.1303. Private (Ex Parte) Consultations.

730.1304. 79.1304. Confidential Material.

730.1305. 79.1305. Furnishing Medical Information.

730.1306. 79.1306. Interrogatories.

730.1307. 79.1307. Prehearing Conference.

730.1308. 79.1308. Order of Fair Hearings.

730.1309. 79.1309. Action by Hearing Officer.

730.1310. 79.1310. Decisions by Hearing Officer.

730.1311. 79.1311. Public Access to Decisions.

730.1312. 79.1312. Transcripts.

730.1313. 79.1313. Retroactive Payments or Restored Benefits or Services.

730.1314. 79.1314. Recovery of Benefits in 10-day Appeals.

730.1315. 79.1315. Time Limits on Appeals.

730.1317. 79.1317. Time Periods for Dismissals.

Subchapter O. Social Services Appeals

New Old

730.1401. 79.1401. Requirements.

730.1402. 79.1402. Reversals.

Subchapter Q. Contract Appeals

New Old

730.1601. 79.1601. Definitions.

730.1602. 79.1602. Right to a Hearing.

730.1603. 79.1603. Special Requirements.

730.1604. 79.1604. Notice of Adverse Action.

730.1605. 79.1605. Request for a Hearing.

730.1606. 79.1606. Effective Dates of Adverse Actions.

730.1607. 79.1607. Administrative Law Judge.

730.1608. 79.1608. Hearing Guidelines.

730.1609. 79.1609. Withdrawal of Hearing Request and Informal Disposition.

730.1610. 79.1610. Conduct of Hearings - General Requirements.

730.1611. 79.1611. Prehearing Procedure.

730.1612. 79.1612. Evidence and Depositions.

730.1613. 79.1613. Deliberation.

730.1614. 79.1614. Decisions.

Subchapter R. Release Hearings

New Old

730.1701. 79.1701. Definitions.

730.1702. 79.1702. Right to a Hearing.

730.1703. 79.1703. Notice.

730.1704. 79.1704. Emergency Release/Use of Data.

730.1705. 79.1705. Request for a Hearing.

730.1706. 79.1706. Administrative Law Judge.

730.1707. 79.1707. Hearing Guidelines.

730.1708. 79.1708. Venue.

730.1709. 79.1709. Authority.

730.1710. 79.1710. Representation for Petitioner.

730.1711. 79.1711. Withdrawal of Hearing Request and Informal Disposition.

730.1712. 79.1712. Conduct of Hearings - General Requirements.

730.1713. 79.1713. Prehearing Procedure.

730.1714. 79.1714. Evidence and Depositions.

730.1715. 79.1715. Deliberation.

730.1716. 79.1716. Decisions.

Subchapter S. Contracting Ethics

New Old

- 730.1801. 79.1801. Introduction.
- 730.1802. 79.1802. Definitions.
- 730.1803. 79.1803. Prohibition Against Contracts with Certain Former Employees.
- 730.1804. 79.1804. Presumption Against Contract Involving Former Employees, Former Board Members, and Their Relatives.
- 730.1805. 79.1805. Contracts Involving Current Employees.
- 730.1806. 79.1806. Contracts Involving Current Board Members.
- 730.1807. 79.1807. Nongovernmental Contractor Certification.

Subchapter U. Fraud Involving Recipients

New Old

- 730.2001. 79.2001. Terms and General Policy.
- 730.2003. 79.2003. Determination and Disposition of Intentional Program Violations.
- 730.2005. 79.2005. Eligibility during Investigation.
- 730.2007. 79.2007. Appeals.
- 730.2009. 79.2009. Referral of Food Stamp and Aid to Families with Dependent Children (AFDC) Intentional Program Violation Claims to Administrative Disqualification Hearing Officer.
- 730.2011. 79.2011. Collection Action on Food Stamp and Aid to Families with Dependent Children (AFDC) Intentional Program Violation Claims.

Subchapter W. Fraud or Abuse Involving Individual or Major Providers (Except Medical)

New Old

- 730.2201. 79.2201. Responsibilities of the Department in Relation to Provider Fraud.
- 730.2202. 79.2202. Statutory Bases for Prosecution.

Chapter 732. Contracted Services

Duplication of Rules from 40 TAC Chapter 69. Contracted Services

Subchapter L. Contract Administration

New Old

- 732.201. 69.201. Scope and Limitations.
- 732.202. 69.202. Contractors' Records.
- 732.203. 69.203. Methods of Purchase.
- 732.204. 69.204. Duration and Renewal of Contracts.
- 732.205. 69.205. Extent of Competition.
- 732.206. 69.206. Competitive Sealed Bids.
- 732.207. 69.207. Competitive Negotiation.

- 732.209. 69.209. Noncompetitive Negotiation.
- 732.210. 69.210. Cancellation or Suspension of a Solicitation.
- 732.211. 69.211. Development of the Procurement Package.
- 732.212. 69.212. Financial Ability to Perform.
- 732.213. 69.213. Affirmative Action.
- 732.214. 69.214. Advertisement of Solicitation.
- 732.215. 69.215. Procurement Clarifications.
- 732.216. 69.216. Confidentiality of Information.
- 732.217. 69.217. Receipt of Inadequate Number of Offers.
- 732.218. 69.218. Modification or Withdrawals of Offers before the Solicitation Closing Date.
- 732.219. 69.219. Debriefing.
- 732.220. 69.220. Receipt of Offers.
- 732.221. 69.221. Apparent Clerical Mistakes.
- 732.222. 69.222. Minor Irregularities.
- 732.223. 69.223. Mistakes Other than Minor Informalities/Irregularities and Clerical Mistakes.
- 732.224. 69.224. Withdrawal of Offers Due to Mistakes.
- 732.225. 69.225. Evaluation of Offers.
- 732.226. 69.226. Elements of Evaluation.
- 732.227. 69.227. Screening.
- 732.228. 69.228. Validation.
- 732.229. 69.229. Determining the Competitive Range.
- 732.230. 69.230. Negotiation.
- 732.231. 69.231. Notification of the Unsuccessful Offeror.
- 732.232. 69.232. Proposal Changes during Negotiation.
- 732.233. 69.233. Approval of Subcontracts.
- 732.234. 69.234. Requirements of the Competitive Sealed Bid Method.
- 732.235. 69.235. Equal Low Bids.
- 732.236. 69.236. Public Inspection.
- 732.237. 69.237. Certified Local Resources.
- 732.238. 69.238. Advance Payment for Contracted Social Services.
- 732.239. 69.239. Budget Changes.
- 732.240. 69.240. Allowable Costs.
- 732.241. 69.241. Allowable Costs for Cost Reimbursement Contracts and For
Developing Unit Rates.
- 732.242. 69.242. Start-up Costs.
- 732.243. 69.243. Employee Compensation.
- 732.244. 69.244. Consumable Supplies.
- 732.245. 69.245. Food Expenses.
- 732.246. 69.246. Equipment.
- 732.247. 69.247. Depreciation and Use Allowances.
- 732.248. 69.248. Transportation of Clients.

- 732.249. 69.249. Insurance.
- 732.250. 69.250. Rental Costs.
- 732.251. 69.251. Space Rental.
- 732.252. 69.252. Renovations and Remodeling.
- 732.253. 69.253. Janitorial Services.
- 732.254. 69.254. Telephone.
- 732.255. 69.255. Professional Fees.
- 732.256. 69.256. Unallowable Costs.
- 732.257. 69.257. Unit Rates.
- 732.258. 69.258. Financial Interest by Officer/Employee of DHS.
- 732.259. 69.259. Previous State Employment.
- 732.260. 69.260. Consultant Contract Amendments.
- 732.261. 69.261. Application for Enrollment.
- 732.262. 69.262. Records Kept by Contractors.
- 732.263. 69.263. Response to Inquiries.
- 732.265. 69.265. Contract Modifications.
- 732.266. 69.266. Reduction or Nonrenewal of Block Grant Contracts.
- 732.267. 69.267. Status of Payments to Contractor During Disputes.
- 732.268. 69.268. Notice of Termination.
- 732.269. 69.269. Contract Terminations.
- 732.270. 69.270. Fiscal and Financial Settlement Review.
- 732.271. 69.271. Settlement of Subcontract Claims.
- 732.272. 69.272. Notice to Contractor of Determination.
- 732.273. 69.273. Submission of Evidence.
- 732.274. 69.274. Termination for Cause.
- 732.275. 69.275. Abeyance and Removal of Current or Potential Contractual Rights.
- 732.276. 69.276. Causes and Conditions for Removal of Contractual Rights and for Abeyance.
- 732.277. 69.277. Notice Requirements for Removal of Contractual Rights and for Abeyance.
- 732.280. 69.280. Audit Identification Number.
- 732.282. 69.282. Sanctions for Administrative Errors.
- 732.284. 69.284. Time Limit and Options for Responding to DHS.
- 732.286. 69.286. Computing Interest on Unpaid Audit Charges.
- 732.288. 69.288. Audit Appeals Process.
- 732.290. 69.290. Criteria for Installment Payments.

Subchapter M. Auditing

New Old

- 732.301. 69.301. Methods for Auditing Contracts.
- 732.302. 69.302. Contract Compliance Audit Costs.
- 732.303. 69.303. Recoupment of Improper Payments.
- 732.304. 69.304. Secondary Documentation.

Chapter 734. Public Information

Duplication of Rules from 40 TAC Chapter 71. Public Information

Disclosure of Information

New Old

- 734.1. 71.1. Compliance with Public Information Act.
734.2. 71.2. Information about Medical Providers.
734.3. 71.3. General Principles.

Confidentiality of Information

New Old

- 734.11. 71.11. Confidential Nature of the Case Record.
734.12. 71.12. Restrictions on Disclosure of Information.
734.13. 71.13. Inquiries from Internal Revenue Service.
734.14. 71.14. Inquiries from other Agencies.
734.15. 71.15. Confidential Nature of Medical Information.
734.16. 71.16. Requesting Medical Information from Other Agencies.
734.17. 71.17. Furnishing Medical Information to Other Agencies.
734.18. 71.18. Custody of Medical Records.
734.19. 71.19. Procedure for Preventing Disclosures of Information.

Records Management

New Old

- 734.31. 71.31. Retention of Records.

Public Interest Information

New Old

- 734.40. 71.40. Public Interest, Complaints.

Chapter 736. Memoranda of Understanding with Other State Agencies

Previously: Partial Rules from 40 TAC Chapter 72. Memoranda of Understanding with Other State Agencies

Memoranda of Understanding for Coordination of APS Investigations

New Old

- 736.501. 72.501. Memorandum of Understanding with the Texas Department on Aging.
736.502. 72.502. Memorandum of Understanding with the Texas Commission on Alcohol and Drug Abuse.

- 736.503. 72.503. Memorandum of Understanding with the Texas School for the Deaf.
 736.504. 72.504. Memorandum of Understanding with the Texas School for the Blind.
 736.505. 72.505. Memorandum of Understanding with the Texas Department of
 Mental Health and Mental Retardation.
 736.506. 72.506. Memorandum of Understanding with the Texas Department of Health.
 736.507. 72.507. Memorandum of Understanding with the Texas Commission for
 the Blind.

Memorandum of Understanding for Services to Multiproblem Children and Youth
New Old

- 736.701. 72.701. Coordinated Services for Multiproblem Children and Youth.

Memoranda of Understanding for Child Protective Services
New Old

- 736.901. 72.901. Memorandum of Understanding Regarding Service Delivery to
 Dysfunctional Families.
 736.902. 72.902. Memorandum of Understanding on Service Delivery to
 Runaway Children.

Chapter 738. Civil Rights

Duplication of Rules from 40 TAC Chapter 73. Civil Rights

Subchapter A. Civil Rights Administration and Statement of Compliance

New Old

- 738.1. 73.1. Documentation.
 738.2. 73.2. Methods of Recording.
 738.3. 73.3. Office Accessibility.
 738.4. 73.4. Affirmative Action.
 738.5. 73.5. Awareness of Special Needs.
 738.6. 73.6. Cultural Awareness Training.
 738.7. 73.7. Staff Education.
 738.8. 73.8. Public Information.
 738.9. 73.9. Statistical Data.
 738.10. 73.10. Administrative Responsibilities & Referral Procedures.
 738.11. 73.11. Complaint Procedure.
 738.12. 73.12. Compliance by Contractors.

Subchapter V. Use of Department Facilities by Public Employees Organizations

New Old

- 738.2107. 73.2107. Use of Department Facilities by a Public Employee
 Organization or Association.

Subchapter EE. Legal Basis

New Old

- 738.3001. 73.3001. Applicability of Civil Rights Law.
- 738.3002. 73.3002. Discriminatory Practices.
- 738.3003. 73.3003. Administrative Practices.
- 738.3004. 73.3004. Handicapped Individuals.

Subchapter FF. Compliance by Contracted Agents

New Old

- 738.3101. 73.3101. Agreements and Contracts.

Subchapter GG. Dissemination of Information and Training

New Old

- 738.3201. 73.3201. Information Given Clients and Public.
- 738.3202. 73.3202. State and Local Staff.
- 738.3203. 73.3203. Department Policies.
- 738.3204. 73.3204. Title VI and Cultural Awareness Training.

Subchapter HH. Complaints

New Old

- 738.3301. 73.3301. Definition.
- 738.3302. 73.3302. Who May File Complaints.
- 738.3303. 73.3303. Procedure for Filing.
- 738.3304. 73.3304. Handling Complaints.
- 738.3305. 73.3305. Acknowledgment of Complaint and Confidentiality.
- 738.3306. 73.3306. Records.
- 738.3307. 73.3307. Investigation Procedure.
- 738.3308. 73.3308. Report of Investigation of Civil Rights Complaint.
- 738.3309. 73.3309. Complaints Review.
- 738.3310. 73.3310. Action Taken.
- 738.3311. 73.3311. Review by Other Staff.

Subchapter OO. Administrative Fraud Disqualification Hearings

New Old

- 738.4001. 73.4001. Introduction and Legal Basis.
- 738.4005. 73.4005. Designation of Hearing Officer.
- 738.4006. 73.4006. Disqualification of Hearing Officer.
- 738.4008. 73.4008. Hearing Officer's Powers and Duties.
- 738.4010. 73.4010. Scheduling the Hearing.
- 738.4011. 73.4011. Advance Notice of Hearing.

738.4012. 73.4012. Participation while Hearing is Pending.

Subchapter PP. Hearing Procedure

New Old

738.4101. 73.4101. Conduct of Hearing.

738.4102. 73.4102. Attendance at Hearing.

738.4103. 73.4103. Household Member's Rights during Hearing.

738.4104. 73.4104. Consideration of the case by the Hearing Officer.

738.4105. 73.4105. Failure of Household Member To Appear.

738.4106. 73.4106. Postponements.

738.4107. 73.4107. Recessing the Hearing.

738.4108. 73.4108. Findings of the Hearing Officer.

738.4109. 73.4109. The Hearing Record and Decision.

738.4110. 73.4110. Effect of an Administrative Determination of Intentional
Program Violation.

738.4111. 73.4111. Notification of Hearing Decision.

738.4112. 73.4112. Court Actions in Relation to Administrative Disqualification.

738.4113. 73.4113. Presentation of the Department's Case.

738.4114. 73.4114. Effect of Nondetermination of Intentional Program Violation.

738.4115. 73.4115. Consolidation of Administrative Disqualification Hearings and Fair Hearing.

Chapter 740. Investigations

Duplication of Rules from 40 TAC Chapter 75. Investigations

General Procedures

New Old

740.1. 75.1. Licensing Investigations.

740.2. 75.2. Investigation of Unlicensed Operating Facility.

740.3. 75.3. Investigations Requested by Commissioner.

Criminal Conviction Checks of Employees in Certain Facilities Serving the Elderly or Disabled

New Old

740.1001. 75.1001. Basis.

740.1002. 75.1002. Facilities Requirements.

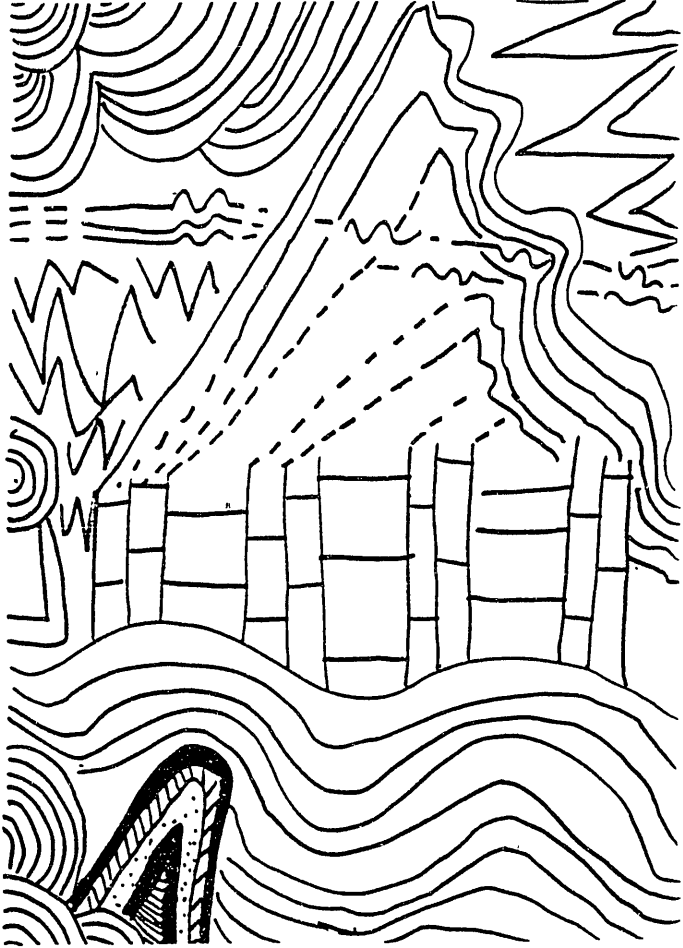
Chapter 742. Continuing Education

Duplication of Rules from 40 TAC Chapter 77. Continuing Education

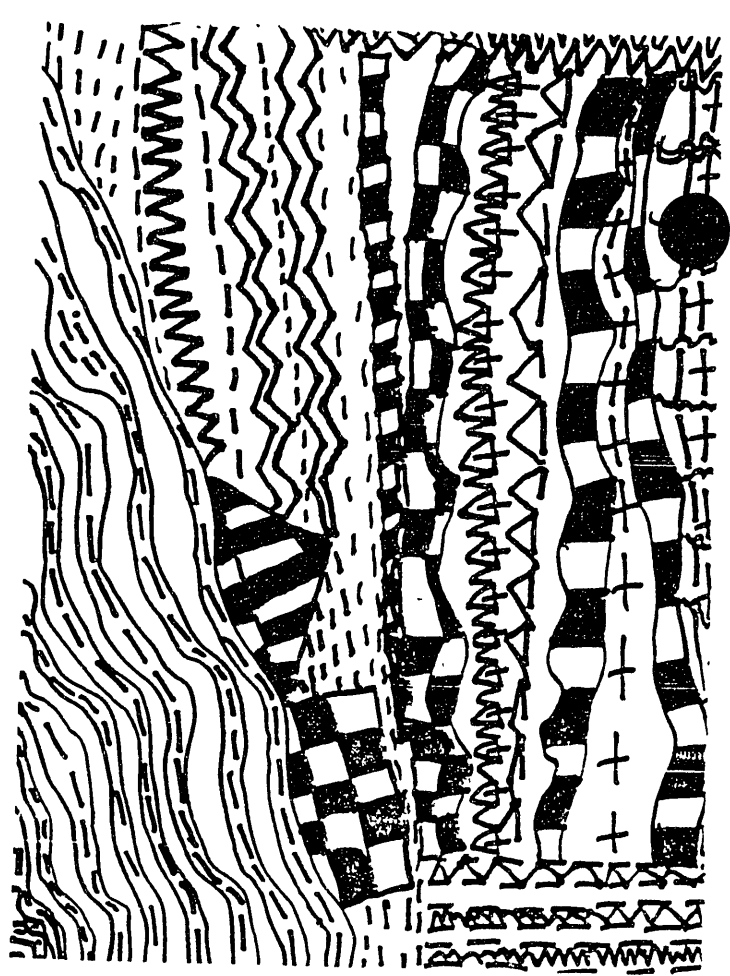
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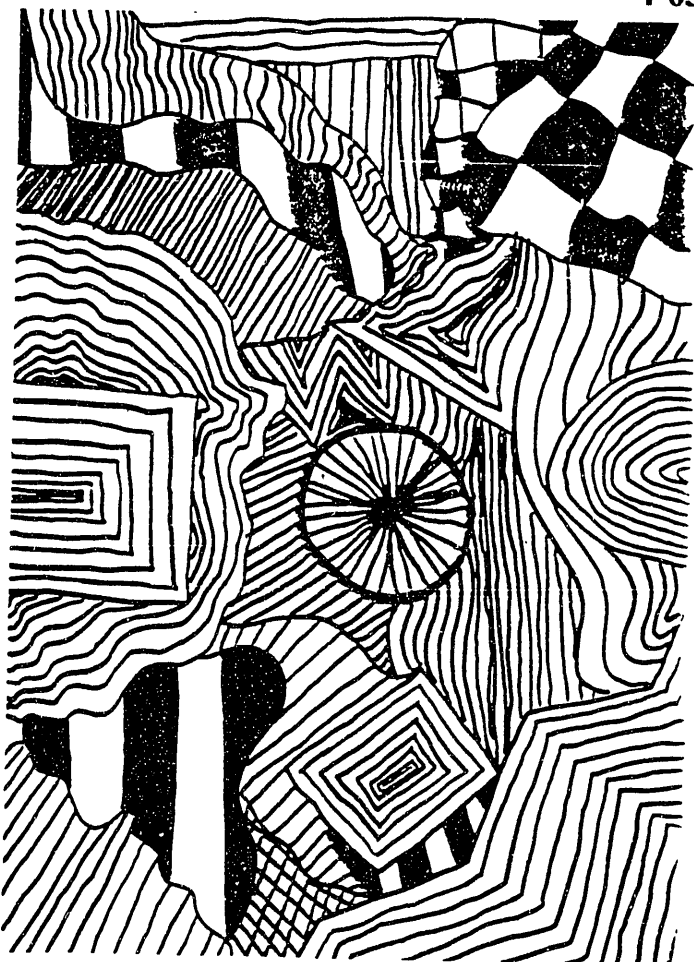
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| 742.1. | 77.1. Legal Base for Educational Contracts. |
| 742.2. | 77.2. Graduate School Contracts. |
| 742.3. | 77.3. Procedures for Establishing a Contract between the School
and the Department. |
| 742.4. | 77.4. Undergraduate School Contracts. |
| 742.5 | 77.5. Field Placement Contracts. |
| 742.9. | 77.9. Financial Assistance to Students. |
| 742.10. | 77.10. Student Selection Criteria and Procedures. |
| 742.11. | 77.11. Agreement to Seek Employment |
| 742.12. | 77.12. Adjustment Procedure. |



4-63

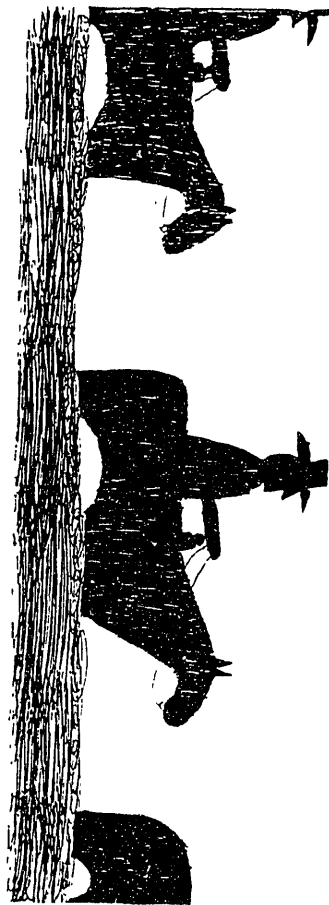


4-64



4-65

4-66



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

Monday, September 14, 1992, 10 a.m.
The Agricultural Resources Protection Authority of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, Stephen F. Austin Building, 1700 North Congress Avenue, Room 924-A, Austin. According to the complete agenda, the authority will discuss approval of the minutes from previous meeting; strategic plan proposal; legislative proposal and budget for FY 94-95; discuss other business; establish date for next meeting; and discuss and act on pending rules.

Contact: Steve Bearden, P.O. Box 12847, Austin, Texas 78711, (512) 463-1093.

Filed: September 3, 1992, 2:16 p.m.

TRD-9212022



Texas Air Control Board

Thursday, September 17, 1992, 9:30 a.m.
The Monitoring and Research Committee of the Texas Air Control Board will meet at Park 35 Technology Center, 12118 North IH-35, Room 201S, Austin. According to the complete agenda, the committee will give a report on future United States Environmental Protection Agency requirements for monitoring to support photochemical modeling; and to determine whether national ambient air quality standards are met.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78752, (512) 908-1451.

Filed: September 8, 1992, 9:29 a.m.

TRD-9212174

Thursday, September 17, 1992, 10 a.m.
The Permits Oversight Committee of the Texas Air Control Board will meet at Park 35 Technology Center, 12118 North IH-35, Room 201S, Austin. According to the complete agenda, the committee will give a report on the Federal Clean Air Act implications for Texas Air Control Board permitting; and consider possible changes in permit processing procedures and policies.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78752, (512) 908-1451.

Filed: September 8, 1992, 9:28 a.m.

TRD-9212173

Thursday, September 17, 1992, 1 p.m.
The Hearings Oversight Committee of the Texas Air Control Board will meet at Park 35 Technology Center, 12118 North IH-35, Room 201S, Austin. According to the complete agenda, the committee will consider and act on procedural rules regarding contested case hearing process.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78752, (512) 908-1451.

Filed: September 8, 1992, 9:29 a.m.

TRD-9212175

Thursday, September 17, 1992, 1:30 p.m.
The Enforcement Committee of the Texas Air Control Board will meet at Park 35 Technology Center, 12118 North IH-35, Room 201S, Austin. According to the complete agenda, the committee will consider and act on penalty and policy task force recommendations; and compliance history task force recommendations, Phase II.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78752, (512) 908-1451.

Filed: September 8, 1992, 9:30 a.m.

TRD-9212176

Thursday, September 17, 1992, 2 p.m.
The Mobile Source Emissions Committee of the Texas Air Control Board will meet at Park 35 Technology Center, 12118 North IH-35, Room 201S, Austin. According to the complete agenda, the committee will consider and act to: adopt proposed revisions to Regulation IV, concerning control of air pollution from motor vehicles, and the State Implementation Plan (SIP) for carbon monoxide in El Paso County regarding oxygenated fuels; approve a contract with Sherman Engineering, Inc. to conduct a study to estimate the number and locations of facilities necessary to support centralized vehicle inspection/maintenance programs in ozone nonattainment areas; receipt of comments and discussion of the issues on proposed revisions to Regulation V, concerning control of air pollution from volatile organic compounds, regarding Stage II vapor recovery at gasoline dispensing facilities.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78752, (512) 908-1451.

Filed: September 8, 1992, 9:32 a.m.

TRD-9212177

Thursday, September 17, 1992, 3 p.m.
The Budget and Finance Committee of the Texas Air Control Board will meet at Park 35 Technology Center, 12118 North IH-35, Room 201S, Austin. According to the complete agenda, the committee will consider and act on submission of budget for fiscal years 1994-1995; to approve a contract with Sherman Engineering, Inc. to conduct a study to estimate the number and locations of facilities necessary to support centralized vehicle inspection/maintenance programs in

ozone nonattainment areas; and action on guidelines for processing and approval of contracts.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78752, (512) 908-1451.

Filed: September 8, 1992, 9:40 a.m.

TRD-9212178

Friday, September 18, 1992, 8 a.m. The Regulation Development Committee of the Texas Air Control Board will meet at Park 35 Technology Center, 12118 North IH-35, Room 201S, Austin. According to the complete agenda, the committee will consider and act to: adopt proposed revisions to Regulation I, concerning Control of air pollution from visible emissions and particulate matter; and Regulation II, concerning control of air pollution for sulfur compounds, regarding requirements for continuous emissions monitoring, federal enforceability, and the reorganization of the undersigned head regarding control of sulfur dioxide; adopt proposed revisions to Regulation IV, concerning control of air pollution from motor vehicles, and the SIP for carbon monoxide in El Paso County regarding oxygenated fuels; for public hearings on proposed revisions to the procedural rules, regarding contested case hearing processes; and of possible need for future revisions to Regulation VI, regarding compliance history review and operations certification.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78752, (512) 908-1451.

Filed: September 8, 1992, 10 a.m.

TRD-9212192

Friday, September 18, 1992, 9 a.m. The Texas Air Control Board will meet at Park 35 Technology Center, 12118 North IH-35, Room 201S, Austin. According to the complete agenda, the board will call the meeting to order; consider and act on approval of the minutes; hear public testimony; service awards; enforcement report; consider and act on agreed enforcement orders; proposed rules and SIP adoption; guidelines for processing and approval of contracts; contract for study of motor vehicle inspection/maintenance station locations; submission of budget for fiscal years 1994-1995; penalty and policy task force recommendations; compliance history task force recommendations, Phase I; state update of equal employment opportunity commission work force analysis; Texas Water Commission/TACB consolidated of information systems; committee meeting reports; board reports; discuss new business; and adjourn.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78752, (512) 908-1451.

Filed: September 8, 1992, 10:01 a.m.

TRD-9212193

Texas Commission on Alcohol and Drug Abuse

Tuesday, September 15, 1992, 8:30 a.m.

The Board of Commissioners of the Texas Commission on Alcohol and Drug Abuse will meet at the Perry Brooks Building, Eighth Floor Conference Room, 720 Brazos Street, Suite 800, Austin. According to the complete agenda, the board will call the meeting to order; discuss approval of the July 14, 1992, minutes; act on appointment of advisory council at-large members; act on election of officers of the board of commissioners; meet in executive session to discuss annual evaluation of executive director; act on final adoption-DWI intervention program rules; adoption of changes to T.C.A.D.A. policy statement regarding commissioners travel and expense reimbursement; approval of agency operating budget for FY93; report on audit exemption information; hear public comments; update of FY 94-95 legislative appropriations request; Criminal Justice update; report on Department of Defense excess property initiative; report on funding for women and children; executive director's report; chairman's report; and adjourn.

Contact: Becky Davis or David Tatum, 720 Brazos Street, Suite 403, Austin, Texas 78701, (512) 867-8700.

Filed: September 4, 1992, 4:14 p.m.

TRD-9212159

Texas Bond Review Board

Friday, September 11, 1992, 10 a.m. The Texas Bond Review Board will hold a staff meeting at Room 204-B, Clements Building, 300 West 15th Street, Austin. According to the complete agenda, the staff will call the meeting to order; discuss agency budget; and adjourn.

Contact: Tom K. Pollard, 300 West 15th Street, Clements Building, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: September 3, 1992, 3:26 p.m.

TRD-9212035

Texas Board of Criminal Justice

Friday, September 11, 1992, 9 a.m. The Texas Board of Criminal Justice will meet at the Gatesville City Complex, Highway 84, East of Highway 36 Bypass, Gatesville. According to the agenda summary, the

board will call the meeting to order; hold regular session; convene Windham School Board; and adjourn.

Contact: Jackee Cox, 816 Congress Avenue, Austin, Texas 78701, (512) 463-9988.

Filed: September 3, 1992, 1:39 p.m.

TRD-9212019

Tuesday, September 15, 1992, 9 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 board will meet in a workshop session to discuss the following topics: pending litigation-ex parte McDaniel and Thebeau versus Kyle, et al, closed pursuant to Article 6252-17, Section 2(e), Texas Revised Civil Statutes Annotated, Subpoenas, Pre-Parole Transfer (PPT), special conditions, parole board structure, parole process, parole rules, special needs and SCR 26.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78756, (512) 405-5408.

Filed: September 4, 1992, 9:23 a.m.

TRD-9212067

Texas Education Agency (TEA)

Monday, September 14, 1992, 9:30 a.m. The Task Force on the Phaseout of Low-Level High School Courses: Meeting the Needs of All Students of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the complete agenda, the task force will review previous activities; discussion with the Commissioner of Education; and work session to develop appropriate plans and recommendations.

Contact: Marvin Veselka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9533.

Filed: September 4, 1992, 3:08 p.m.

TRD-9212144

Friday, September 18, 1992, 9 a.m. The Texas Environmental Education Advisory Committee Executive Committee of the Texas Education Agency will meet at TEA, 1701 North Congress Avenue, Room 5-103, Austin. According to the complete agenda, the committee will review and discuss plan site orientation for selected sites which will be held on Friday, September 23; discuss funding of training, certification and materials to be used; and if time permits, review funding options for TEEAC and review and dissemination of environmental education materials.

Contact: Irene Pickhardt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9566.

Filed: September 6, 1992, 9:23 a.m.

TRD-9212171

Friday, September 18, 1992, 9:30 a.m. The Teachers' Professional Practices Commission of Texas of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the complete agenda, the commission will call the meeting to order; discuss adoption of minutes of June 12, 1992, meeting; consider jurisdictional appeals of pending cases; re-view hearing panels appointed for docketed hearings; hear director's report; set next meeting date; and adjourn.

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

Filed: September 4, 1992, 3:08 p.m.

TRD-9212145

Thursday-Friday, November 5-6, 1992, 8:30 a.m. The Texas Environmental Education Advisory Committee (TEEAC) of the Texas Education Agency will meet at the Keep Texas Beautiful Conference Room, 101 East Ninth Street, Austin. According to the complete agenda, on Thursday, the committee will review funding options; evaluation of site orientation; revision of selection criteria for future sites; discussion of the first annual report to the Governor; subcommittee meetings-finance, communications, curriculum review and standards; and on Friday, reports from subcommittees; discussion of coordination with other agencies; set date for next TEEAC meeting; and set dates for subcommittee meetings.

Contact: Jim Collins, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9556.

Filed: September 8, 1992, 9:23 a.m.

TRD-9212172

Advisory Commission on State Emergency Communications

Thursday, September 10, 1992, 1:30 p.m. The Planning and Implementation Committee of the Advisory Commission on State Emergency Communications held an emergency meeting at the Marriott Bayfront Hotel, Nueces B Room, Corpus Christi. According to the complete agenda, the committee called the meeting to order; heard public comment (individuals were encouraged to provide comment after each agenda item or before committee action); reviewed and discussed Coastal Bend Coun-

cil of Governments' 9-1-1 regional plan cash flow reports; and adjourn. The emergency status was necessary in order to re-view financial report prior to making report to commission.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: September 3, 1992, 11:47 a.m.

TRD-9212017

Thursday, September 10, 1992, 2 p.m. The Advisory Commission on State Emergency Communications held an emergency meeting at the Marriott Bayfront Hotel, Nueces B Room, Corpus Christi. According to the complete agenda, the commission called the meeting to order; recognized guests; reviewed and discussed proposed ACSEC 1992-1998 strategic plan; and adjourned. The emergency status was necessary to allow discussion on document before presentation to commission on September 11, 1992.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: September 4, 1992, 1:04 p.m.

TRD-9212103

Texas Employment Commission

Tuesday, September 15, 1992, 8:30 a.m. The Texas Employment Commission will meet at the TEC Building, 101 East 15th Street, Room 644, Austin. According to the agenda summary, the commission will discuss approval of prior meeting notes; meet in executive session to discuss Administaff, Inc. versus James Kaster, et al; actions, if any, resulting from executive session; discussion and possible authorization to purchase boiler for TEC cafeteria; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 37; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: September 4, 1992, 4:14 p.m.

TRD-9212160

Texas Ethics Commission

Friday, September 11, 1992, 9:30 a.m. The Texas Ethics Commission will meet at the University of Texas at San Antonio, Regents Room, Fourth Floor, John Peace Library, San Antonio. According to the

agenda summary, the commission will call the meeting to order; take roll call; comments by the commissioners and the executive director; hold a public hearing on issues related to studies mandated by Texas Civil Statutes, Article 6252.9(d)(1), §1.301 (campaign finance laws), §1.302 (judicial campaigns), and §1.303 (judicial relationships). Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Margie Castellanos at (512) 463-5800 or (800) 325-8506 at least two days before this meeting so that appropriate arrangements can be made. Please also contact Ms. Castellanos if you need assistance in having English translated into Spanish.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: September 3, 1992, 4:04 p.m.

TRD-9212044

Saturday, September 12, 1992, 9:30 a.m. The Texas Ethics Commission will meet at the Tyler Public Library, 201 South College Street, Tyler. According to the agenda summary, the commission will hold a public hearing conducted by Commissioners George Bayoud, Jr. and Norman Lyons. It will be a public hearing on issues related to studies mandated by Texas Civil Statutes, Article 6252.9(d)(1), §1.301 (campaign finance laws), §1.302 (judicial campaigns), and §1.303 (judicial relationships). Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Margie Castellanos at (512) 463-5800 or (800) 325-8506 at least two days before this meeting so that appropriate arrangements can be made. Please also contact Ms. Castellanos if you need assistance in having English translated into Spanish.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: September 3, 1992, 4:04 p.m.

TRD-9212043

Thursday, September 17, 1992, 9:30 a.m. The Texas Ethics Commission will meet at the University of Texas at Arlington, Rosebud Theater/University Center, 301 West Second Street, Arlington. According to the agenda summary, the commission will call the meeting to order; take roll call; comments by the commissioners and the executive director; commission will have a public hearing on issues relating to studies mandated by Texas Civil Statutes Article 6252.9(d)(1), §1.301 (campaign finance laws), §1.302 (judicial campaigns), and §1.303 (judicial relationships). Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Margie Castellanos

at (512) 463-5800 or (800) 325-8506 at least two days before this meeting so that appropriate arrangements can be made. Please also contact Ms. Castellanos if you need assistance in having English translated into Spanish.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: September 3, 1992, 4:03 p.m.

TRD-9212042

Saturday, September 19, 1992, 9:30 a.m. The Texas Ethics Commission will meet at the Houston City Council Chambers, Second Floor, 901 Bagby, Houston. According to the agenda summary, the commission will call the meeting to order; take roll call; comments by the commissioners and the executive director; commission will have a public hearing on issues relating to studies mandated by Texas Civil Statutes Article 6252.9(d)(1), §1.301 (campaign finance laws), §1.302 (judicial campaigns), and §1.303 (judicial relationships). Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Margie Castellanos at (512) 463-5800 or (800) 325-8506 at least two days before this meeting so that appropriate arrangements can be made. Please also contact Ms. Castellanos if you need assistance in having English translated into Spanish.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: September 3, 1992, 4:03 p.m.

TRD-9212041

Wednesday, September 23, 1992, 9:30 a.m. The Texas Ethics Commission will meet at the University of Texas at El Paso, University Library on Wiggins Road, Blumberg Auditorium, El Paso. According to the agenda summary, the commission will hold a public hearing on comments by the commissioners and the executive director; commission will have a public hearing on issues relating to studies mandated by Texas Civil Statutes Article 6252.9(d)(1), §1.301 (campaign finance laws), §1.302 (judicial campaigns), and §1.303 (judicial relationships). Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Margie Castellanos at (512) 463-5800 or (800) 325-8506 at least two days before this meeting so that appropriate arrangements can be made. Please also contact Ms. Castellanos if you need assistance in having English translated into Spanish.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: September 3, 1992, 4:03 p.m.

TRD-9212040

Saturday, September 26, 1992, 9:30 a.m. The Texas Ethics Commission will meet at Texarkana College, Little Theatre, Campus Drive, Texarkana. According to the agenda summary, the commission will hold a public hearing conducted by Commissioners George Bayoud, Jr. and Norman Lyons. It will be a public hearing on issues related to studies mandated by Texas Civil Statutes, Article 6252.9(d)(1), §1.301 (campaign finance laws), §1.302 (judicial campaigns), and §1.303 (judicial relationships). Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Margie Castellanos at (512) 463-5800 or (800) 325-8506 at least two days before this meeting so that appropriate arrangements can be made. Please also contact Ms. Castellanos if you need assistance in having English translated into Spanish.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: September 3, 1992, 4:03 p.m.

TRD-9212039

Texas General Land Office

Friday, September 11, 1992, 9 a.m. The West 38th Street PUD Site Plan Review Committee of the Texas General Land Office will meet at the Austin State School, Building 727, Staff Room, 2203 West 35th Street, Austin. According to the complete agenda, the committee will review the HEBCO site plan and architectural drawings; and discuss and take action as appropriate.

Contact: Bob Hewgley, West 38th Street, PUD Site Plan Review Committee, Suite 720, Austin, Texas 78751, (512) 463-5013.

Filed: September 3, 1992, 3:35 p.m.

TRD-9212036

Texas Department of Health

Thursday, September 17, 1992, 10 a.m. The Advisory Committee on Nursing Facility Affairs of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Austin. According to the complete agenda, the committee will introduce new members; hear update by Commissioner of Health and bureau chief's report; discuss and possibly act on proposed revisions to licensing rules for long term care facilities; standing subcommittee assignments; requirement coordination subcommittee report; update on Texas

Department of Human Services proposed remedies rules; and hear announcements and comments.

Contact: Janice Caldwell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7709. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: September 3, 1992, 3:25 p.m.

TRD-9212032

Friday, September 18, 1992, 9:30 a.m. The Texas Emergency Medical Services Advisory Council of the Texas Department of Health will meet at the Howard Johnson Plaza Hotel North, 7800 North IH-35, Austin. According to the complete agenda, the council (TEMSAC) will discuss approval of minutes of previous meeting; discuss and possibly act on chairman's report covering appointment of nominating committee and trauma funding; report of chief of Bureau of Emergency Management; legislative forum report; medical director report; education report; interim report on accreditation; and hear announcements and comments.

Contact: Gene Weatherall, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7550. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: September 4, 1992, 4:04 p.m.

TRD-9212150

Wednesday, September 23, 1992, 9 a.m. The Children's Speech, Hearing and Language Screening Advisory Committee of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Austin. According to the complete agenda, the committee will discuss approval of the minutes of May 13, 1992 meeting; discuss and possibly act on subcommittee reports and mission covering hearing, speech and language; objectives/goals being drawn up; report on hearing screening in public schools; Texas Department of Health staff reports concerning hearing screening, speech and language, and Program for Amplification for Children of Texas (PACT); hearing issues on strategies to increase hearing screening referral follow-up rates, recommendations for obtaining help for children with hearing disorders in schools and health departments, moderate to mild hearing loss, and audiometric standards; and hear public comments.

Contact: Doug Ozias, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7420. For ADA assistance, call Richard Butler (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: September 4, 1992, 4:02 p.m.

TRD-9212149

Friday, October 2, 1992, 10 a.m. The Dental Technical Advisory Committee of the Texas Department of Health will meet at the Texas Department of Health, Room T-407, 1100 West 49th Street, Austin. According to the complete agenda, the committee will discuss approval of the minutes of May 8, 1992 meeting; discuss and possibly act on chairman's report/comments; bureau chief's report; transition issues/early periodic screening diagnosis and treatment transfer update; report of subcommittee for minimum standards of care; baby bottle tooth decay initiative; report of joint activities of Bureau of Dental Health Services and Bureau of Maternal and Child Health; fluoridation update; budget review and fiscal year 1994-95 budget request; legislation proposals for next legislative session; and hear announcements and comments.

Contact: N. L. King, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7323. For ADA assistance, call Richard Butler (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

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

TRD-9212031

Texas Department of Insurance

Tuesday, September 15, 1992, 1:30 p.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the agenda summary, the board will discuss personnel; litigation; solvency; commissioner's orders; board orders; staff briefing and request for instruction concerning statistical program and statistical plan for collection of private passenger auto data and market information; consider filings by Farmland Mutual Insurance Company, Nationwide Agribusiness Insurance Company, CUMIS Insurance Society, Inc., and Old Republic Insurance Company; consider proposed new 28 TAC §7.1010 relating to domestic and foreign insurance company examination expenses and assessments; and consider adoption of new 28 TAC §§19.1501-19.1504 relating to fees charged by local recording agents.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: September 3, 1992, 4:09 p.m.

TRD-9212045

Wednesday, September 30, 1992, 9 a.m. The State Board of Insurance of the Texas

Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will hold a public hearing under Docket Number 1933 to consider a rate filing outside statutory limitation filed by Liberty Insurance Corporation pursuant to Article 5.101, Section 3(f). The board will consider Liberty Insurance Corporation's flex rate filing which requests a rate of 45% above the benchmark rate on all liability and physical damage coverages for private passenger auto.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: September 4, 1992, 9:29 a.m.

TRD-9212070

Lamar University System, Board of Regents

Friday, September 4, 1992, 2:30 p.m. The Board of Regents of Lamar University System held an emergency meeting at the John Gray Institute, Office of the Chancellor, 855 Florida Street, Beaumont. According to the agenda summary, the board met in executive session, held under provisions of Vernon's Civil Statutes, Article 6252-17, Section 2, Paragraph 3(e), legal; and (g), personnel. The emergency status was necessary to discuss urgent personnel matter and possible litigation.

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: September 4, 1992, 12:24 p.m.

TRD-9212101

Texas Commission on Law Enforcement Officer Standards and Education

Monday, September 21, 1992, 10 a.m. The Texas Peace Officers Memorial Advisory Committee of the Texas Commission on Law Enforcement Officer Standards and Education will meet at TCLEOSE Headquarters, 1033 LaPosada, Austin. According to the agenda summary, the committee will call the meeting to order; take roll call of members; recognize visitors; discuss approval of the minutes of the June 29, 1992 meeting; introduction of new committee members (if new appointments made); election of vice-chairman and secretary (if necessary); introduction of regional directors present; consider and take final action on a resolution to award the first place, second place, and third place designs for the Texas Peace Officers' Memorial; receive the di-

rector's activity report; consider and take action on the resolution delegating authority to the executive director to approve rules, and sign orders that adopt its rules in final form; public comments on any subject without discussion will be received; and adjourn.

Contact: Edward T. Laine, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: September 4, 1992, 12:23 p.m.

TRD-9212100

Texas Department of Licensing and Regulation

Tuesday, September 15, 1992, 9 a.m. The Personnel Employment Agencies of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 920 Colorado Street, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the assessment of an administrative penalty and denial, suspension or revocation of the respondent's license for Doris M. Kay doing business as K/International Overseas Job, for violation of Statutes, Articles 9100 and 5221a-7.

Contact: Elvis G. Schulze, 920 Colorado Street, Austin, Texas 78711, (512) 463-3128.

Filed: September 4, 1992, 2:45 p.m.

TRD-9212133

Friday, September 18, 1992, 9 a.m. The Air Conditioning and Refrigeration Contractors Advisory Board of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, Room 1012, 920 Colorado Street, Austin. According to the agenda summary, the board will review and discuss welded requirements of boilers, reference: §75.100(a)(1) (2); proposed bill for changes to Article 8861; Article 5.43-2 Insurance Code and Fire Alarm Rules; Federal Clean Air Act, Rule 75.100(C)(1)-piping; Rule 75.20 (c)(16)-duct cleaning, City of Austin Conservation program; new rule proposed by the boiler board; time allowed for exams; review of applicability of refrigeration cycle; proposed rule on insurance deductibles; change of terminology rule change; rewrite of air conditioning rules; and request for review of temporary license rule.

Contact: Jimmy G. Martin, P.O. Box 12157, Austin, Texas 78711, (512) 463-7348.

Filed: September 8, 1992, 9:58 a.m.

TRD-9212190

Texas State Board of Medical Examiners

Friday, September 18, 1992, 9 a.m. The District Review Committee Number One of the Texas State Board of Medical Examiners will meet at the Harris County Medical Society Building, Houston. According to the complete agenda, the committee will call the meeting to order; meet in executive session to review selected investigative files; and adjourn. (Executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 4.05(d), 5.06(s)(1), and Opinion of Attorney General, Number H-484.

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

Filed: September 8, 1992, 9:54 a.m.

TRD-9212183

Board of Nurse Examiners

Tuesday-Wednesday, September 22-23, 1992, 8 a.m. The Board of Nurse Examiners will meet at the Board of Medical Examiners, Meeting Room 203, 1812 Centre Creek Drive, Austin. According to the agenda summary, the board will receive the minutes from the July 21-22, 1992 meeting; consider acceptance of June and July financial statements; consider practice and compliance issues such as ANP petitions; receive reports from the ANP Advisory Committee and the task forces reviewing the standards and conduct and unlicensed personnel rules; consider education and examination issues; receive reports regarding the implementation of Senate Bill 3; consider the publication of several rule changes; hold an open forum at 1:30 p.m. on September 22 to receive input from the public; and consider the ratification of proposed board orders.

Contact: Erlene Fisher, P.O. Box 140466, Austin, Texas 78714, (512) 835-8675.

Filed: September 4, 1992, 9:45 a.m.

TRD-9212073

Texas State Board of Pharmacy

Tuesday-Wednesday, September 15-16, 1992, 9 a.m. (Revised agenda). The Texas State Board of Pharmacy will meet at 1812 Centre Creek, Room 203, Austin. According to the agenda summary, the board has a correction to the time submitted on Wednesday, September 2, 1992. The time was specified as 9 a.m.-1:30 on Wednesday, and should be 9 a.m. until conclusion.

Contact: Fred S. Brinkley, Jr., R.Ph., 8505 Cross Park Drive, Austin, Texas 78754, (512) 832-0661.

Filed: September 3, 1992, 3:22 p.m.

TRD-9212028

Board of Plumbing Examiners

Monday, September 14, 1992, 9 a.m. The Board of Plumbing Examiners will meet at 929 East 45th Street, Austin. According to the complete agenda, the board will take roll call; recognize visitors; discuss approval of the minutes of the July meeting; hear administrator's report; financial report; determination of fee structure and possible adjustments based on FY92-93 requirements; field report; examination report; hardship cases; plumbing inspector continuing education report; plumbing inspector minimum requirements to take examination; septic tanks, water saving fixture, irrigators, A/C contractors and boilers; taps and service from water mains to fire protection systems; legislation; and election of officers.

Contact: Mary Lou Lane, 929 East 45th Street, Austin, Texas 78751, (512) 458-2145.

Filed: September 3, 1992, 3:26 p.m.

TRD-9212034

Texas Department of Protective and Regulatory Services

Friday, September 11, 1992, 2 p.m. The Texas Board of Protective and Regulatory Services of the Texas Department of Protective and Regulatory Services will meet at 4900 North Lamar Boulevard, Room 1410, Austin. According to the complete agenda, the board will call the meeting to order; discuss approval of the minutes of August 21, 1992; panel discussion on minimum standards for child day care; report on front-line survey; remarks from Health and Human Services commissioner; strategic plan and FY 94-95 LAR; update on automation initiative; status report on transition team; board meetings and public hearings schedule; report on CPS issues raised by Fort Worth community; interim executive director's report; hear public testimony; meet in executive session to evaluate and consider the duties of personnel in and potential applicants for exempt positions in the agency. The board will reconvene in open session to take action, if necessary, resulting from discussion in executive session.

Contact: Sherry Wilkins, P.O. Box 149303, Mail Code W-639, Austin, Texas 78714-9030, (512) 450-4890.

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

TRD-9212030

Texas State Board of Examiners of Psychologists

Tuesday-Friday, September 15-18, 1992, 8 a.m. The Texas State Board of Examiners of Psychologists will meet at 9101 Burnet Road, Suite 212, Austin. According to the complete agenda, the board will consider applications; review and discuss complaints; agreed orders; proposed rules; budget; legislative matters; discuss approval of the minutes; opinion letters; hearings, exam issues; reports; planning issues; sunset review; changes in the Psychologists' Certification and Licensing Act; administrative hearings rules; correspondence from Auditor's Office concerning refunds; hear public comments; and supervision guidelines.

Contact: Patricia S. Tweedy, M.P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

Filed: September 3, 1992, 3:23 p.m.

TRD-9212029

Public Utility Commission of Texas

Wednesday, September 9, 1992, 9 a.m. The Public Utility Commission of Texas met at 7800 Shoal Creek Boulevard, CHR, Austin. According to the complete emergency revised agenda, the commissioners will also consider the Motion for Rehearing of Docket Number 10212-petition of GTE Corporation and Contel Corporation for declaratory relief. The emergency status was necessary as prompt commission action was needed to preserve jurisdiction over the subject matter.

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

Filed: September 4, 1992, 4:13 p.m.

TRD-9212158

Thursday, November 5, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11335-General Counsel's inquiry into Southwestern Bell Telephone Company's classification of Hybrid-PBX Systems.

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

Filed: September 3, 1992, 2:53 p.m.

TRD-9212025

Monday, November 16, 1992, 10 a.m. (Rescheduled from September 21, 1992). 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 10127-application of Southwestern Bell Telephone Company to revise Section 2 of its intrastate access service tariff.

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

Filed: September 4, 1992, 4:11 p.m.

TRD-9212155

Wednesday, November 18, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 11371-petition of Central Power and Light Company for authority to implement an economic development rider.

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

Filed: September 4, 1992, 4:10 p.m.

TRD-9212153

Thursday, January 7, 1993, 2 p.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 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: September 3, 1992, 2:54 p.m.

TRD-9212026

Monday, February 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 10762-complaint of Network Billing and Collections, Inc. doing business as NBC Telecommunications, Inc. against Southwestern Bell Telephone Company.

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

Filed: September 4, 1992, 4:12 p.m.

TRD-9212157

Railroad Commission of Texas

Monday, September 14, 1992, 9:30 a.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room 12-126, Austin. Agendas follow.

The commission will consider and/or decide various applications and other matters within the jurisdiction of the agency including oral argument at the time specified. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6921.

Filed: September 4, 1992, 11:10 a.m.

TRD-9212086

The commission will consider and act on the Division Director's report on budget and personnel matters related to organization of the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: September 4, 1992, 11:13 a.m.

TRD-9212096

The commission will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, equipment acquisition and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7251.

Filed: September 4, 1992, 11:11 a.m.

TRD-9212087

The commission will consider and act on the Administrative Services Division Director's report on division administration, budget, procedures and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: September 4, 1992, 11:11 a.m.

TRD-9212088

The commission will consider and act on the Surface Mining and Reclamation Divi-

sion Director's report on division administration, budget, procedures, and personnel matters. The commission will consider and act on a federally approved Abandoned Mine Land Construction Grant.

Contact: Melvin B. Hodgkiss, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6901.

Filed: September 4, 1992, 11:11 a.m.

TRD-9212089

The commission will consider and act on the Office of Information Services Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6710.

Filed: September 4, 1992, 11:11 a.m.

TRD-9212090

The commission will consider category determination under Sections 102(c)(1) (B), 102(c)(1)(C), 103, 107 and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6755.

Filed: September 4, 1992, 11:12 a.m.

TRD-9212091

The commission will consider and act on the Office of the Executive Director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. The commission will discuss the implementation of individual operating budgets for each individual commissioner's office. The commission will discuss a proposed training agreement for the Gas Utility Section of the Legal Division. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel, and pending litigation; and consideration of a contract for public information services.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: September 4, 1992, 11:12 a.m.

TRD-9212092

The commission will consider and act on the Personnel Division Director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7187.

Filed: September 4, 1992, 11:12 a.m.

TRD-9212093

The commission will consider and act on the Investigation Division Director's report on division administration, investigations, budget, and personnel matters.

Contact: Marcelo Montemayor, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6828.

Filed: September 4, 1992, 11:12 a.m.

TRD-9212094

Friday, September 18, 1992, 4 p.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room 12-126, Austin. According to the agenda summary, the commission will hold its monthly statewide hearing on oil and gas to determine the lawful market demand for oil and gas and to consider and/or take action on matters listed on the agenda posted with the Secretary of State's Office.

Contact: Paula Middleton, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6729.

Filed: September 4, 1992, 11:13 a.m.

TRD-9212095

Texas Municipal Retirement System

Friday, September 25, 1992, 9 a.m. The Board of Trustees of the Texas Municipal Retirement System will meet at 8212 Barton Club Drive, Austin. According to the complete agenda, the board will hold a workshop to discuss goals, objectives and strategies for the system.

Contact: Gary W. Anderson, 1200 North IH-35, Austin, Texas 78701, (512) 476-7577.

Filed: September 4, 1992, 2:55 p.m.

TRD-9212137

Saturday, September 26, 1992, 9 a.m. The Board of Trustees of the Texas Municipal Retirement System will meet at 8212 Barton Club Drive, Austin. According to the complete agenda, the board will hear and discuss approval of the minutes of the June 13, 1992 regular meeting and July 31, 1992 special meeting; review and approve service retirements; disability retirements; review and approve supplemental death benefits payments; consider extended supplemental death benefits; review and act on financial statements; accept resignation and consider appointment of member to the medical board; review proposals and consider appointment of auditor for December 31, 1992 audit; consider proposed legislation for 1992 regular session; report of legal

counsel; report by the director; and any other business to come before the board.

Contact: Gary W. Anderson, 1200 North IH-35, Austin, Texas 78701, (512) 476-7577.

Filed: September 4, 1992, 2:55 p.m.

TRD-9212138

School Land Board

Tuesday, September 15, 1992, 10 a.m. The School Land Board will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 831, Austin. According to the complete agenda, the board will discuss approval of previous board meeting minutes; pooling applications, Lassater (Travis Peak), Marion County; Giddings (Austin Chalk-3), Fayette County; Wildcat Field, Duval County; Wildcat Field, Calhoun County; Wildcat Field, Brazoria County; Pita Island, Nueces County; Wildcat Field, Zapata County; consideration of oil and condensate bid sale; coastal public lands, commercial lease applications, Corpus Christi Bay, Nueces County; Galveston Bay, chambers County; Lower Laguna Madre, Cameron County; Chocolate Bay, Calhoun County; Trinity Bay, Chambers County; commercial easement renewals, Nassau Bay, Harris County; Lower Laguna Madre, Cameron County; commercial easement amendments, Sabine Pass Channel, Jefferson County; Lower Laguna Madre, Cameron County; and meet in executive session to discuss pending and proposed litigation.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: September 4, 1992, 4:32 p.m.

TRD-9212162

Texas State Soil and Water Conservation Board

Wednesday, September 16, 1992, 8 a.m. The Texas State Soil and Water Conservation Board will meet at 311 North Fifth Street, Conference Room, Temple. According to the complete agenda, the board will review and take appropriate action on the following: discuss approval of the minutes from the August 13, 1992 board meeting; district director appointments; Erath County Pilot Project; August 21, 1992 meeting of Legislative Natural Resources Board; Texas Water Commission Clean Water Council and Ag Advisory Committee; NPS Management Program status report; EPA Wetland Conservation Program; EPA proposed rules for NPDES permitting of CAFO's; Gulf of Mexico program; Galveston Bay National

Estuary Program; draft recommendations for Texas Water Plan; coastal zone management program; Public Law 83-566 watershed program; reports from agencies and guests; 1992 annual statewide meeting of Soil and Water Conservation district directors; public information/education program; expenditure report-12 months ending August 31, 1992; travel policy and procedure; FY 94-95 legislative appropriation requests; district audit status; board member travel; next regular board meeting-November 18, 1992; and resource conservation and development program.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250, TEX-AN 820-1250.

Filed: September 4, 1992, 1:57 p.m.

TRD-9212105

Teacher Retirement System of Texas

Friday, September 11, 1992, 9 a.m. The Board of Trustees of the Teacher Retirement System of Texas will meet at 1000 Red River Street, Fifth Floor Board Room, Austin. According to the agenda summary, the board will give report of nominations committee; discuss approval of the minutes; consideration of discussion and recommendation of Retirees Advisory Committee; report of Texas Public School Retired Employees Group Insurance Program; certification to the Legislative Budget Board and the Governor's Office of estimate of state contributions for the retired school employees group insurance fund for the 1994-95 biennium; review of investments for quarter and year ending August 31, 1992; review and consideration of discussion and recommendations of Investment Advisory Committee; report of Real Estate Committee; report on Texas Growth Fund; report on activity within investment related bank accounts; certification to State Comptroller of estimate of state contributions for the 1994-1995 biennium; report of audit committee; consideration of award of contract for fiduciary liability and directors and officers liability insurance for board members and employees; review of Sunset Commission activities and TRS responses to speaker charges to Committee on Retirement and Aging; report of member benefits division; discuss litigation; consider appointments to board committees; report of executive secretary; inquiries and comments by board members; and consider suggested future agenda items.

Contact: Mary Godzik, 1000 Red River Street, Austin, Texas 78701-2698, (512) 397-6400.

Filed: September 3, 1992, 3:08 p.m.

TRD-9212027

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

Friday-Saturday, September 11-12, 1992, 1 p.m. and 10:30 a.m. respectively. The Board of Regents and its Committees of the Texas A&M University System will hold a telephonic meeting on September 11 at Room 208, Administration Building, Tarleton State University, Stephenville, and on September 12, Board of Regents Meeting Room, College Station. According to the agenda summary, the committees will review and discuss initiation of construction projects; authorization for name change of West Texas State University; acceptance of annual report under Texas Education Opportunity Plan; degree programs; construction matters for the system parts; selection of architects/engineers; license agreements; establishment of institutes; resolutions; confirmation of contracts; easements and right-of-way easements; ratification of oil and gas leases; discuss approval of minutes; financial disclosure statements; report of equity interests; authorization to refund bonds; PUF variable rate notes; appropriation of funds; modification to matching gift guidelines; establish revolving funds; appointment of deans; appointment of Deputy Chancellor for Agriculture; and disposition and acquisition of real estate.

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

Filed: September 8, 1992, 7:20 a.m.

TRD-9212164

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Texas Southern University

Tuesday, September 8, 1992, 3 p.m. The Personnel and Academic Affairs Committee of the Board of Regents of Texas Southern University met at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider reports on progress of academic activities and programs; and personnel actions.

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

Filed: September 4, 1992, 1:57 p.m.

TRD-9212106

**Texas Woman's University,
Board of Regents**

Friday, September 11, 1992, 9 a.m. The Committee on Institutional Advancement of the Board of Regents of the Texas Woman's University will meet at the 14th Floor Administration and Conference Tower, Denton. According to the complete agenda, the committee will consider approval of the minutes of the meeting of June 24, 1992; report on alumnae relations, development, and public information activities of the Office of Institutional Advancement; and hear report of the committee chair.

Contact: Shirley S. Chater, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: September 4, 1992, 2:10 p.m.

TRD-9212126

Friday, September 11, 1992, 9:20 a.m. The Student Affairs Committee of the Board of Regents of Texas Woman's University will meet at the 14th Floor Administration and Conference Tower, Denton. According to the complete agenda, the committee will consider approval of the minutes of the meeting of June 24, 1992; presentation of new TWU Student Handbook; report on Student Center renovation; food service contract; human relations program; and committee chair.

Contact: Shirley S. Chater, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: September 4, 1992, 2:10 p.m.

TRD-9212127

Friday, September 11, 1992, 9:40 a.m. The Academic Affairs Committee of the Board of Regents of Texas Woman's University will meet at the 14th Floor Administration and Conference Tower, Denton. According to the complete agenda, the committee will consider approval of the minutes of the meeting of June 24, 1992; consider recommending approval of the Small Class Report for 1992 summer session (Exhibit B); consider recommending phasing out the degree programs in interior design (Exhibit C); annual report on progress under the Texas Educational Opportunity Plan (Exhibit D); and report of the committee chair.

Contact: Shirley S. Chater, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: September 4, 1992, 2:13 p.m.

TRD-9212128

Friday, September 11, 1992, 10:30 a.m. The Finance Committee of the Board of Regents of Texas Woman's University will meet at the 14th Floor Administration and Conference Tower, Denton. According to

the agenda summary, the committee will consider approval of the minutes of the meeting of June 24, 1992; consider recommending approval of personnel additions and changes; gifts and grants; contracts and agreements; allocations of federal funds, insurance, sale of surplus property; certificates of substantial completion; authorization for the waiver of the tuition minimum and certain fees for resident students enrolled for thesis or dissertation credit only, effective fall 1992; 1991-92 internal audit annual report; 1991-92 internal audit plan, fiscal 1992 operating budget; discussion of 1993-94 budget submissions; and report of the committee chair.

Contact: Shirley S. Chater, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: September 4, 1992, 2:13 p.m.

TRD-9212129

Friday, September 11, 1992, 1:30 p.m. The Board of Regents of Texas Woman's University will meet at the 16th Floor Administration and Conference Tower, Denton. According to the agenda summary, the board will meet in executive session; consider approval of minutes of meeting of June 24, 1992; discuss Small Class Report for 1992 summer session, phasing out degree programs in interior design; personnel additions and changes; gifts and grants; contracts and agreements; allocations of federal funds; insurance; sale of surplus property; certificates of substantial completion; authorization for waiver of tuition minimum and certain fees for resident students enrolled for thesis or dissertation credit only effective fall 1992; 1991-92 internal audit report; 1992-93 internal audit plan; fiscal 1992 operating budget; hear annual report on progress under the Texas Educational Opportunity Plan and reports of Committee Chairs; and report from the president.

Contact: Shirley S. Chater, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: September 4, 1992, 2:13 p.m.

TRD-9212130

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**Toxic Substances Coordinating
Committee**

Thursday, September 17, 1992, 9 a.m. The Toxic Substances Coordinating Committee will meet at the Texas Department of Health, 1100 West 49th Street, Room G-107, Austin. According to the complete agenda, the committee will discuss approval of minutes of May 1992, meeting; discuss and possibly act on public health consultation at East Austin Tank Farm; Environmental Protection Agency/Health and Human Services efforts on border

environmental health; and health effects/study subcommittee.

Contact: Dennis Ferrotta, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7268. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: September 3, 1992, 3:25 p.m.

TRD-9212033

Texas Turnpike Authority

Tuesday, September 15, 1992, 10 a.m. The Board of Directors of the Texas Turnpike Authority will meet at the Holiday Inn, Hobby Airport, 9100 Gulf Freeway, Houston. According to the complete agenda, the board will take roll call of directors; introduce guests; consider matters relating to the Houston Ship Channel Bridge and future action to be taken in that regard including the pending Texas Turnpike Authority refinancing plan and review of a proposal from Harris County, possible action; meet in executive session, pursuant to Article 6252-17, Vernon's Annotated Civil Statutes concerning potential litigation regarding Houston Ship Channel Bridge; hear executive director's report; and adjourn.

Contact: Harry Kabler, 3015 Raleigh Street, Dallas, Texas 75219, (214) 522-6200.

Filed: September 4, 1992, 4:38 p.m.

TRD-9212163

University of North Texas/Texas College of Osteopathic Medicine

Saturday, September 12, 1992, 8 a.m. The Board of Regents of the Texas College of Osteopathic Medicine of the University of North Texas will meet at the Gladoaks Ranch, Regent Lupe Murchison's Home, Athens. According to the complete agenda, the board will meet in executive session (employee briefing); critical planning issues for TCOM and UNT; reconvene in open meeting to discuss critical planning issues for UNT; plan for future advancement efforts; and for TCOM: critical planning issues; University of North Health Science Center in Fort Worth.

Contact: Jan Dobbs, P.O. Box 13737, NT Station, Denton, Texas 76203, (512) 565-2904.

Filed: September 4, 1992, 2:14 p.m.

TRD-9212131

Texas Water Commission

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

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

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

TRD-9210040

Friday, September 11, 1992, 9:30 a.m. The Water Well Drillers' Advisory Council of the Texas Water Commission will meet at 105 West 15th Street, John H. Reagan Building, Room 106, Austin. According to the agenda summary, the council will meet in an emergency meeting to elect its officers for fiscal year 1993; consider the certification of applicants for registration; consider recommended operating procedures for settlement conference and staff reports. The emergency meeting is necessary to consider consumer complaints, evidentiary hearings, etc.

Contact: Kathy Keils, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: September 4, 1992, 3:39 p.m.

TRD-9212148

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

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

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

TRD-9210041

Tuesday, September 22-23, 1992, 7 p.m. and 10 a.m. respectively The Office of Hearings Examiner of the Texas Water Commission will meet at the Sheraton Denton Hotel and Conference Center, 2211 IH 35 East North, Denton. According to the agenda summary, the examiner will conduct a public hearing on SENTRY ENVIRONMENTAL, L.P. for a municipal solid waste permit (Proposed Permit Number

MSW2171) to authorize a Type I municipal solid waste management facility. The site is to be on a 352.68-acre site east of Justin, 1.9 miles west of the intersection of IH 35 West and Farm Road 407, 1.5 miles east of Farm Road 156, southeast corner of the intersection of Farm Road 407 and Florence Road in Denton County.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: September 4, 1992, 9:45 a.m.

TRD-9212072

Texas Water Development Board

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

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

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

TRD-9209800

Regional Meetings

Meetings Filed September 3, 1992

The Capital Area Planning Council Executive Committee will meet at 2520 IH 35 South, Suite 100, Austin, September 16, 1992, at 1:30 p.m. Information may be obtained from Richard G. Bean, 2520 IH 35 South, Suite 100, Austin, Texas 78704, (512) 443-7653. TRD-9212038.

The Dallas Central Appraisal District Board of Directors met at 2949 North Stemmons Freeway, 2nd Floor, Dallas, September 9, 1992, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9212024.

The El Oso Water Supply Corporation Board of Directors met at the Office, Farm Road 99, Karnes City, September 8, 1992, at 8 p.m. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (512) 780-3539. TRD-9212014.

The Galveston County Education District Board of Trustees met at the Education

Center, Board Room of Clear Creek ISD, 2425 East Main Street, League City, September 9, 1992, at 7 p.m. Information may be obtained from Ted L. Thomas, P.O. Box 321, Friendswood, Texas 77546, (713) 482-2205. TRD-9212048.

The Hays County Appraisal District Appraisal Review Board met at 632 A East Hopkins, Municipal Building, San Marcos, September 10, 1992, at 9 a. m. Information may be obtained from Lynnell Sedlar, 632 A East Hopkins, San Marcos, Texas 78666, (512) 754-7400. TRD-9212020.

The Hays County Appraisal District Board of Directors met at 632 A East Hopkins, Municipal Building, San Marcos, September 10, 1992, at 3:30 p. m. Information may be obtained from Lynnell Sedlar, 632 A East Hopkins, San Marcos, Texas 78666, (512) 754-7400. TRD-9212021.

The Hickory Underground Water Conservation District Number 1 Board and Advisors met at 2023 South Bridge Street, Brady, September 10, 1992, at 7 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9212046.

The North Central Texas Council of Governments Regional Transportation Council met at Centerpoint Two, 616 Six Flags Drive, Suite 200, Arlington, September 10, 1992, at 9 a.m. Information may be obtained from Michael Morris, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9212015.

The Palo Pinto County Education District met at the Palo Pinto County Court House, Palo Pinto, September 9, 1992, at 6:45 p.m. Information may be obtained from Ron Munday, 102 Northwest 6th Avenue, Mineral Wells, Texas 76067. (817) 325-6404. TRD-9212037.

The Sulphur-Cypress Soil and Water Conservation District Number 419 met at 1809 Ferguson Road, Suite B, Mt. Pleasant, September 9, 1992, at 8:30 a.m. Information may be obtained from Beverly Amerson, 1809 Ferguson Road, Mt. Pleasant, Texas 75455, (903) 572-5411. TRD-9212023.

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**Meetings Filed September 4,
1992**

The Appraisal District of Jones County Board of Directors will meet at the District's Office, 1137 East Court Plaza, Anson, September 17, 1992, at 8:30 a.m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422. TRD-9212063.

The Austin Travis County MHMR Center Board of Trustees, Personnel Committee

met at 1430 Collier Street, Board Room, Austin, September 8, 1992, at 6 p.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764, (512) 440-4031. TRD-9212146.

The Bosque Central Appraisal District Appraisal Review Board met at the Bosque Central Appraisal District Office, 104 West Morgan Street, Meridian, September 11, 1992, at 9 a.m. Information may be obtained from Billye L. McGehee, P.O. Box 393, Meridian, Texas 76665, (817) 435-2304. TRD-9212132.

The Coleman County Water Supply Corporation Board of Directors met at the Corporation Office, 214 Santa Anna Avenue, Coleman, September 9, 1992, at 1:30 p.m. Information may be obtained from Davey Thweatt, 214 Santa Anna Avenue, Coleman, Texas 76834, (915) 625-2133. TRD-9212069.

The County Education District Number 14 County Education District Number 14 met at the Pampa Middle School Library, 2401 Charles Street, Pampa, September 9, 1992, at 7 p.m. Information may be obtained from Dawson Orr, 321 West Albert, Pampa, Texas 79065, (806) 669-4700. TRD-9212064.

The Dallas Area Rapid Transit Rail Planning and Development Committee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, September 8, 1992, at 11:30 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9212142.

The Dallas Area Rapid Transit Mobility Impaired Committee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, September 8, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9212141.

The Dallas Area Rapid Transit Governmental Relations Committee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, September 8, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9212140.

The Dallas Area Rapid Transit Bus Planning and Development Committee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, September 8, 1992, at 2:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9212143.

The Dallas Area Rapid Transit Board of Directors met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, September 8, 1992, at 4 p.m. Information may

be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9212139.

The Golden Crescent Regional Planning Commission General Assembly will meet at the Holiday Inn, Victoria, September 12, 1992, at 7:30 p. m. Information may be obtained from Patrick Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9212071.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul Street, Gonzales, September 10, 1992, at 6 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9212152.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul Street, Gonzales, September 10, 1992, at 6:30 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9212151

The Grand Parkway Association met at 5757 Woodway, Suite 140 East Wing, Houston, September 9, 1992, at 8:15 a.m. Information may be obtained from Jerry L. Coffman, 5757 Woodway, 140 East Wing, Houston, Texas 77057, (713) 782-9330. TRD-9212061.

The Heart of Texas Region MHMR Center Board of Trustees met at 110 South 12th Street, Waco, September 10, 1992, at 11:45 a.m. Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (817) 752-3451. TRD-9212099.

The Hunt County Appraisal District Board of Directors met at the Hunt County Appraisal District Board Room, 4801 King Street, Greenville, September 10, 1992, at 6 p.m. Information may be obtained from Shirley Smith, 4801 King Street, Greenville, Texas 75401, (903) 454-3510. TRD-9212161.

The Jasper County Appraisal District Appraisal Review Board met at 137 North Main Street, Jasper, September 9-10, 1992, at 9 a.m. Information may be obtained from David W. Luther, 137 North Main Street, Jasper, Texas 75951, (409) 384-2544. TRD-9212097.

The Jasper County Appraisal District Jasper CAD Board of Directors met at the Kirbyville CISD Administration Building, 206 East Main, Kirbyville, September 10, 1992, at 7 p.m. Information may be obtained from David W. Luther, 137 North Main, Jasper, Texas 75951, (409) 384-2544. TRD-9212098.

The Jasper County Appraisal District Board of Directors will meet at the District's Office, 1137 East Court Plaza, Anson, September 17, 1992, at 8:30 a.m.

Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422. TRD-9212062.

The Manville Water Supply Corporation Board of Directors met at the Manville Water Supply Corporation Office, Spur 277, Coupland, September 10, 1992, at 7 p.m. Information may be obtained from LaVerne Rohlack, P.O. Box 248, Coupland, Texas 78615, (512) 272-4044. TRD-9212068.

The South Texas Development Council Personnel and Finance Committee met at the Zapata Commissioners Courtroom, Zapata, September 10, 1992, at 10 a.m. Information may be obtained from Amando Garza, Jr., P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995. TRD-9212109.

The South Texas Development Council Board of Directors met at the Commissioners Courtroom, Courthouse Annex, Zapata, September 10, 1992, at 11 a.m. Information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995. TRD-9212107.

The STED Corporation Board of Trustees met at the Zapata Commissioners Courtroom, Zapata, September 10, 1992, at 9 a.m. Information may be obtained from Robert Mendiola, P.O. Box 1287, Laredo, Texas 78044-2187, (512) 722-3995. TRD-9212108.

The Texas Municipal Power Agency ("TMPA") Texas Municipal Personnel Committee met at the Firewheel Golf Park-Pavilion, 600 West Blackburn Road, Garland, September 10, 1992, at 3:30 p.m. Information may be obtained from Carl J. Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9212147.

The Texas Municipal Power Agency ("TMPA") Board of Directors met at the Firewheel Golf Park-Pavilion, 600 West Blackburn Road, Garland, September 10, 1992, at 4:30 p.m. Information may be obtained from Carl J. Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9212111.

The Texas Municipal Power Agency ("TMPA") Board of Directors met at the Firewheel Golf Park-Pavilion, 600 West Blackburn Road, Garland, September 10, 1992, at 6:30 p.m. Information may be obtained from Carl J. Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9212114.

The Upshur County Appraisal District Board of Directors will meet at the Upshur County Appraisal District Office, Warren and Trinity Street, Gilmer, September 14, 1992, at 1 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9212065.

The West Central Texas Council of Governments Regional Solid Waste Management Planning Task Force will meet at 1025 E. N. 10th Street, Abilene, September 22, 1992, at 3 p.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9212136.

The Wise County Appraisal District Board of Directors will meet at 206 South State, Appraisal District Board Room, Decatur, September 15, 1992, at 7:30 p.m. Information may be obtained from Brenda Jones, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9212110.

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Meetings Filed September 8,
1992

The Elm Creek Water Supply Corporation Board will meet at the Willow Grove Baptist Church, Moody, September 14, 1992, at 7 a.m. Information may be obtained from Paulette Richardson, Route 1 Box 538, Moody, Texas. TRD-9212186.

The Garza County Appraisal District Board of Directors will meet at the Appraisal District Office, 124 East Main, Post, September 17, 1992, at 9 a.m. Information may be obtained from Billie Y. Windham, P.O. Drawer F, Post, Texas 79356, (806) 495-3518. TRD-9212188.

The Nortex Regional Planning Commission General Membership Committee will meet at the Offices of Nortex Regional Planning Commission, Conference Room, 4309 Jacksboro Highway, Wichita Falls, September 17, 1992, at Noon. Information may be obtained from Dennis Wilde, 4309 Jacksboro Highway, Wichita Falls, Texas 76302, (817) 322-5281. TRD-9212182.

The Palo Pinto Appraisal District Board of Directors will meet at the Palo Pinto County Courthouse, Palo Pinto, September 16, 1992, at 3 p.m. Information may be

obtained from Jackie F. Samford, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1234. TRD-9212189.

The Rio Grande Valley Municipal Water Authority Board will meet at the Public Utilities Board, 1425 Robinhood Drive, Brownsville, September 28, 1992, at 4:30 p.m. Information may be obtained from John S. Bruciak, 1425 Robinhood Drive, Brownsville, Texas 78520, (512) 982-6218. TRD-9212185.

The San Antonio River Authority S.B. 818 San Antonio River Basin Steering Committee will meet at the SARA General Office, 2nd Floor Conference Room, 100 East Guenther Street, Bexar County, San Antonio, September 14, 1992, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (512) 227-1373. TRD-9212181.

The San Antonio River Authority Audit Committee will meet at the SARA General Office, 2nd Floor Conference Room, 100 East Guenther Street, Bexar County, San Antonio, September 16, 1992, at 1:30 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (512) 227-1373. TRD-9212180.

The San Antonio River Authority Board of Director will meet at the SARA General Office, 2nd Floor Conference Room, 100 East Guenther Street, Bexar County, San Antonio, September 16, 1992, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (512) 227-1373. TRD-9212179.

The South Texas Private Industry Council, Inc. will meet at Highway 83 and 7th Street, Zapata, September 24, 1992, at 4 p.m. Information may be obtained from Myrna V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (512) 722-0546. TRD-9212167.

The Tax Appraisal District of Bell County Board of Directors will meet at the Tax Appraisal District Building, 411 East Central Avenue, Belton, September 16, 1992, at 7 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, ext. 29. TRD-9212187.

In Addition

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

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

Texas Antiquities Committee

Correction of Error

The Texas Antiquities Committee proposed amendments to 13 TAC §41.21, concerning application for archeological permit. The rule was published in the August 28, 1992, *Texas Register* (17 TexReg 5930). Due to a typographical error by the *Texas Register* the word "one" was misspelled as "on" in paragraph (b)(4). The paragraph should read as follows.

"(4) Principal investigators and co-principal investigators holding one or more defaulted permits are not eligible to apply for additional permits until all terms and conditions of defaulted permits are met."

Comptroller of Public Accounts

Lottery Drawing Broadcast Services

Notice of Request for Proposals: Pursuant to the State Lottery Act, the Lottery Division of the Comptroller of Public Accounts announces its request for proposals (RFP) for lottery drawing broadcast services. The purpose of the RFP is for the Lottery to obtain proposals from television stations in each of the 19 areas of dominant influence (ADI) to provide for the live broadcast of lottery drawings. This notice supplants all previous notices of solicitation for proposals for lottery drawing broadcast services.

Contact: Parties interested in submitting a proposal should contact the General Counsel's Office, Comptroller of Public Accounts, 111 East 17th Street, Room 113, Austin, Texas 78774, (512) 475-0252, for a complete copy of the RFP. The RFP will be available for pickup at the previously mentioned address on Friday, September 11, 1992, between 1 p.m. and 5 p.m. central daylight time (CDT), and during normal business hours thereafter.

Closing Date: Proposals must be received in the General Counsel's office no later than 4 p.m. (CDT), on October 16, 1992. Proposals received after this date and time will not be considered.

Award Procedure: All proposals will be subject to evaluation by a committee based on the evaluation criteria set forth in the RFP. The committee will determine which proposal for each ADI best meets these criteria and will make a recommendation to the director, who will make the final decision. A proposer may be asked to clarify its proposal, which may include making an oral presentation or site visit, prior to final selection.

The Lottery Division reserves the right to accept or reject any or all proposals submitted. The Lottery Division is under no legal or other requirements to execute a resulting contract on the basis of this notice or the distribution of the RFP. Neither this notice nor the RFP commits the

Lottery Division to pay for any costs incurred prior to the execution of a contract.

The anticipated schedule of events is as follows: RFP available—September 11, 1992; Letter of Intent to Propose due—September 21, 1992; Proposals due—October 16, 1992, by 4 p.m.; Announcement of Apparent Successful Proposer(s)—October 23, 1992.

Issued in Austin, Texas, on September 4, 1992.

TRD-9212081 Martin E. Cherry
Chief, General Law Section
Comptroller of Public Accounts

Filed: September 4, 1992

Texas Department of Health

Correction of Error

The Texas Department of Health adopted an amendment to 25 TAC §289.120, concerning Texas regulations for the control of radiation. The rule was printed in the July 7, 1992, *Texas Register* (17 TexReg 4887). Due to an error in the department's submission, the section heading "Adoption by Reference" is incorrect. The heading should read "Radiation Safety Requirements for Well Logging Service Operations and Tracer Studies."

Correction of Error

The Texas Department of Health withdrew an emergency amendment to 25 TAC §313.6, concerning athletic trainers. Due to an error in the department's submission the effective date for the withdrawal of August 6, 1992, was incorrect. The effective date for the withdrawal should have been August 27, 1992.

Emergency Impoundment Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Bee-Line Services, Inc. (licensee-L03436) of Corsicana to surrender to the bureau for impoundment all abandoned and unauthorized radioactive materials and sources in its possession. The order was issued because the licensee had abandoned radioactive materials in an uncontrolled area and stored radioactive material at an unauthorized location.

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

Issued in Austin, Texas, on September 2, 1992.

Filed: September 2, 1992

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Notice of Availability of Funds for Fiscal Year 1993 Grants to Support HIV Education, Prevention and Risk Reduction Projects Among Minority Women

The Texas Department of Health (TDH) requests proposals from minority community-based organizations, government, public and private non-profit entities located within the state of Texas. Proposals are requested to develop and implement effective health education, prevention, and risk-reduction strategies directed toward minority women in Texas for the prevention of infection and reduction of transmission of the Human Immunodeficiency Virus (HIV), the virus which causes Acquired Immunodeficiency Syndrome (AIDS). Successful projects will be comprehensive, cost effective, collaborative, innovative, and coordinated with other community efforts. Proposals for projects must demonstrate, with current letters of support that indicate familiarity with the proposal and its objectives, the ability to work with and complement existing HIV education programs in the community.

A project funded with a grant under this program shall provide information and education materials that are accurate, comprehensive, and consistent with the current findings and recommendations of the United States Public Health Service. Information and education materials developed with funds awarded under this announcement must contain information and be presented in a manner that is specifically directed to the group for which the materials are intended.

Projects should be developed based on an assessment of community needs and identification of existing gaps in services. Local projects should be designed to expand the base of health education and risk reduction efforts that are being conducted at the local level, address needs that are not met by other sources of funding, prevent unnecessary duplication of services within a community, and encourage cooperation and interdependence between public health officials and community-based organizations providing services in order to maximize impact and effectiveness of these limited resources.

Purpose of grant. The objective of this program is to provide for the establishment of education, prevention and risk-reduction projects to prevent and reduce transmission of HIV among minority women in Texas. Strategies will include reduction or elimination of high-risk behaviors, change in community norms to discourage high-risk behaviors, support of low/reduced/no-risk behaviors, and building support for prevention activities. The application should demonstrate the potential for delivery of effective and culturally appropriate, age-specific risk reduction/prevention messages and interventions to target populations on a local or regional level in order to reduce or eliminate behaviors associated with the transmission of HIV; specific, detailed, and measurable culturally appropriate strategies and techniques for disseminating HIV/AIDS health education, prevention, and risk reduction messages to targeted populations; close coordination with existing

HIV/AIDS education/prevention resources including city and/or county health departments, community-based organizations, and other agencies involved in HIV/AIDS education and prevention efforts; experience and credibility of the organization in providing services to the target population on a local or regional level; and an effective evaluation and monitoring plan to determine the success of the project after the one year duration.

Target population. A target population is the population for whom the proposed project is directed. Proposals will be considered which address HIV/AIDS education, prevention, and risk reduction activities for any minority women at risk included in the following groups: women, especially of childbearing age, whose behavior may place them at increased risk for infection for HIV (e.g., crack/cocaine and/or intravenous (IV) drug users, women who exchange sex for drugs or money, and the sex and/or needle-sharing partners of those listed above); women with multiple sex partners; HIV-infected women and their sex, and/or needle-sharing partners to prevent further transmission, including perinatal transmission; women who are hearing-impaired, visually-impaired, mobility-impaired, and/or developmentally disabled who may be at risk; women with a history of sexually transmitted diseases; and out-of-school female adolescents and young female adults under 18 years of age who may be at risk.

Availability of funds. Funding of these grants has been authorized by the HIV Services Act, Health and Safety Code, Chapter 85, (Chapter 1195, Acts of the 71st Legislature, Regular Session, 1989 (Senate Bill Number 959)). TDH intends to fund four to five projects in the range of \$50,000 to \$65,000 each for a ten-month period beginning November 1, 1992, to September 31, 1993. These funds are special funds to be used for this pilot project only.

Eligible applicants. Eligible applicants for this program include city or county health departments or districts, minority community-based organizations, minority organizations serving out-of-school youth, statewide community-based organizations, and consortia of organizations within a community. Individuals are not eligible to apply. Organizations currently receiving federal funds through the TDH for HIV/AIDS education/prevention among ethnic/racial minorities are not eligible to apply unless their objectives and workplan do not duplicate services provided under their existing TDH contract. Funds awarded under this proposal will not supplant mandated Health Education Risk Reduction (HERR) programs, or programs funded by other sources to reach the minority women populations (e.g., direct funding from CDC).

The applications for funding through this project must be received by TDH no later than 5 p.m. (CST), October 5, 1992. For additional information or to obtain a grant application packet, please contact Anne Williamson, Education Section Manager, at (512) 458-7304, Texas Department of Health, HIV Division, 1100 West 49th Street, Austin, Texas 78756.

Issued in Austin, Texas, on September 3, 1992.

TRD-9212047

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

Filed: September 3, 1992

Notice of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered David D. Reisman, M.D., P.A. (registrant-R11773) of Dallas, doing business as Dallas Urology Associates, to cease and desist using the Picker x-ray unit (Model Number KM200) in his possession until the entrance exposure limits for an abdomen procedure for this x-ray unit have been reduced to within regulatory limits. The bureau determined that the continued use of this source of radiation at the facility constitutes a threat to public health and safety. The registrant is further required to provide written evidence satisfactory to the bureau regarding the actions to correct this violation and others noted during a recent inspection, and the methods to prevent their recurrence.

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

Issued in Austin, Texas, on September 2, 1992.

TRD-9212007 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: September 2, 1992

Notice of Intent to Revoke Certificates of Registration

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: Farmersville Medical Clinic, Farmersville, R13853; Bellaire West Veterinary Clinic, Houston, R01092; C. Salazar, D.D.S., San Antonio, R10337; Leticia S. Garcia, D.D.S., Nederland, R13931; E.V. Dimazana, M.D., Corpus Christi, R15539; Kenneth Hoffman, D.C., Pearland, R15717; Allen Bradley Company, El Paso, R16156; Laser Fantasy, Inc., Bellevue, Washington, Z00605.

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

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificates of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, the Exchange Building,

8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on September 2, 1992.

TRD-9212004 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: September 2, 1992

Notice of Intent to Revoke Radioactive Material Licenses

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following licensees: University of Saint Thomas, Houston, L00460; C & W Wireline Services, Inc., Pearland, L04145; Bissendorf Biosciences, Inc., Richardson, L04243.

The department intends to revoke the radioactive material licenses; order the licensees to cease and desist use of such radioactive materials; order the licensees to divest themselves of the radioactive material; and order the licensees to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

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

Issued in Austin, Texas, on September 2, 1992.

TRD-9212002 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: September 2, 1992

Notice of Revocation of Certificates of Registration

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 TAC §289.112), has revoked the following certificates of registration: Permian Emergency Clinic, Midland, R13426, August 21, 1992; Matthews Chiropractic Clinic, Fort Worth, R16142, August 21, 1992; Kirbyville Community Hospital, Kirbyville, R04825, August 21, 1992; J.D. Smith, D.D.S., Waco, R04063, August 21, 1992; James B. Duffey, D.D.S., Dallas, R16888, August 21, 1992; Leon County Hospital Incorporated, Buffalo, R00316, August 21, 1992; Lone Star Imaging, Hous-

ton, R16485, August 21, 1992; Advanced X-Ray Sales and Service, Inc., Arlington, R16718, August 21, 1992; AMS of Houston, Houston, R16768, August 21, 1992; Jim Taylor, D.D.S., Hawkins, R13746, August 21, 1992; Douglas V. Burleson, Lewisville, R06819, August 21, 1992; Imre Kocsis, D.O., South Padre Island, R11472, August 21, 1992; Philip M. Strickland, D.D.S., Helotes, R12793, August 21, 1992; TFI Corporation, West Haven, Connecticut, R06672, August 25, 1992.

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

Issued in Austin, Texas, on September 2, 1992.

TRD-9212003 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: September 2, 1992

Notice of Revocation of Radioactive Material Licenses

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 TAC §289.112), has revoked the following radioactive material licenses: West Plains Medical Center, Muleshoe, L03239, August 21, 1992; Highway Materials, Inc., Bryan, L04055, August 21, 1992.

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

Issued in Austin, Texas, on September 2, 1992.

TRD-9212005 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: September 2, 1992

Houston-Galveston Area Council Consultant Proposal Request

As required by Texas Civil Statutes, Article 6252-11c.

The Houston-Galveston Area Council (H-GAC) is requesting proposals for an audit of all grants, programs, and general operations as required under the Single Audit Act 1984 and OMB Circular A-128. This audit is for the period beginning January 1, 1992, and ending December 31, 1992.

The audit must be conducted under the guidelines of generally accepted auditing standards and other guidelines as highlighted in the council's request for proposal. The proposals will be reviewed by the Houston-Galveston Area Council and a contract will be awarded on the basis of the firm's experience in governmental auditing, the firm's knowledge of the work to be performed, the proposed audit cost, and the firm's size. Firm's submitting proposals must be members of the quality assurance program (peer review) to be considered.

Request for proposal packages may be obtained by contacting Ruth A. Luker, Controller for Houston-Galveston

Area Council, P.O. Box 22777, Houston, Texas 77227-2777, (713) 627-3200. All proposals must be received no later than 5 p.m. on September 30, 1992.

Issued in Houston, Texas, on August 31, 1992.

TRD-9211944 Jack Steele
Executive Director
Houston-Galveston Area Council

Filed: September 2, 1992

Texas Parks and Wildlife Department Notice of Public Comment Hearings

Notice is hereby given that the Seminole Pipeline Company, whose address is P.O. Box 60210, San Angelo, Texas 76906, on June 10, 1992, filed an amended application with the Texas Parks and Wildlife Department for a permit: to remove 21 cubic yards of marl from the San Saba River to allow for the installation of a 14" natural gas liquids pipeline, approximately 12 miles southwest of San Saba, adjacent to the properties of Alice Amanda Mayhew Pearsall and Emmitt Byrd.

This permit is requested under the authority granted to the Texas Parks and Wildlife Commission in the Parks and Wildlife Code, Chapter 86 and will not authorize the crossing of any private property.

The hearing to receive public comment on this application will be conducted at: October 8, 1992, 8 a.m., Room A-200, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, at which time all interested persons may appear and be heard. Comments may be mailed to the department at the following address, or presented orally or in writing at the hearing.

In addition, any person who can demonstrate a justiciable interest may request a formal contested case hearing pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252.13a, §18(a). Any person wishing to request such a hearing should submit a written request to Catherine Livingston at the following address. Such a request should include a short statement of the nature of any objections to the requested permit and a description of the potential adverse impact that may be suffered by the requestor. Requests for formal contested case hearings must be received by the department no later than 30 days after the date of issuance of this notice listed as follows.

Further information concerning any aspect of the application or hearing may be obtained by contacting Catherine Livingston, SBN 12437375, Environmental Counsel, Legal Services Division, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4585, FAX (512) 389-4482.

Issued in Austin, Texas on September 3, 1992.

TRD-9212074 Paul M. Shinkawa
General Counsel
Texas Parks and Wildlife Department

Filed: September 4, 1992

Notice is hereby given that the Texas-New Mexico Pipe Line Company, whose address is P.O. Box 60028, San Angelo, Texas 76906, on May 18, 1992, filed an amended application with the Texas Parks and Wildlife Department for a permit: to remove 50 cubic yards of sand and 50

cubic yards of gravel/rock per month by means of a trackhoe from the wet stream bed of the Pecos River in Crockett and Pecos Counties. The location is approximately 1.5 miles southeast of Iraan, adjoining the properties of the Thompson Ranch and Yates Estate.

This permit is requested under the authority granted to the Texas Parks and Wildlife Commission in the Parks and Wildlife Code, Chapter 86.

The hearing to receive public comment on this application will be conducted at: October 8, 1992, 8 a.m., Room A-200, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, at which time all interested persons may appear and be heard. Comments may be mailed to the department at the following address, or presented orally or in writing at the hearing.

In addition, any person who can demonstrate a justiciable interest may request a formal contested case hearing pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252.13a, §18(a). Any person wishing to request such a hearing should submit a written request to Catherine Livingston at the following address. Such a request should include a short statement of the nature of any objections to the requested permit and a description of the potential adverse impact that may be suffered by the requestor. Requests for formal contested case hearings must be received by the department no later than 30 days after the date of issuance of this notice listed as follows.

Further information concerning any aspect of the application or hearing may be obtained by contacting Catherine Livingston, SBN 12437375, Environmental Counsel, Legal Services Division, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4585, FAX (512) 389-4482.

Issued in Austin, Texas on September 3, 1992.

TRD-9212075 Paul M. Shinkawa
General Counsel
Texas Parks and Wildlife Department

Filed: September 4, 1992

◆ ◆ ◆
Texas State Board of Pharmacy
Correction of Errors

The Texas State Board of Pharmacy proposed amendments to 22 TAC §§291.31-291.36, which were published in the August 25, 1992, *Texas Register* (17 TexReg 5782). The published text contained typographical errors which are corrected as follows.

On page 5783 §291.32(b)(2)(H), the word "and" at the end of the new language should be deleted. In §291.32(b)(2)(I), the word "and" should be added as new language at the end of this paragraph.

On page 5784 §291.33(c)(1)(F), the subparagraph should show the word "[institutions]" as deleted language following the new word "facilities".

On page 5787 §291.36(d)(3)(A)(iv)(I)(-a)-(-b-), the language in items (-a-) and (-b-) should be shown in brackets as deleted text rather than indicated as "(No Change)". In §291.36(d)(3)(A)(iv)(I), the numeral "(II)" should be shown in brackets as deleted text before the phrase "So that a patient will have access..."

On page 5787 §291.36(d)(7), the paragraph should be titled "Patient medication records (PMR)".

◆ ◆ ◆
Public Utility Commission of Texas
Notice of Intent to File Pursuant to PUC
Substantive Rule 23.28

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to PUC Substantive Rule 23.28 for approval of a 60-day promotion for GTE Telephone's business line 800 service.

Tariff Title and Number. Application of GTE Telephone for approval of a 60-day promotion for business line 800 service pursuant to PUC Substantive Rule 23.28. Tariff Control Number 11397.

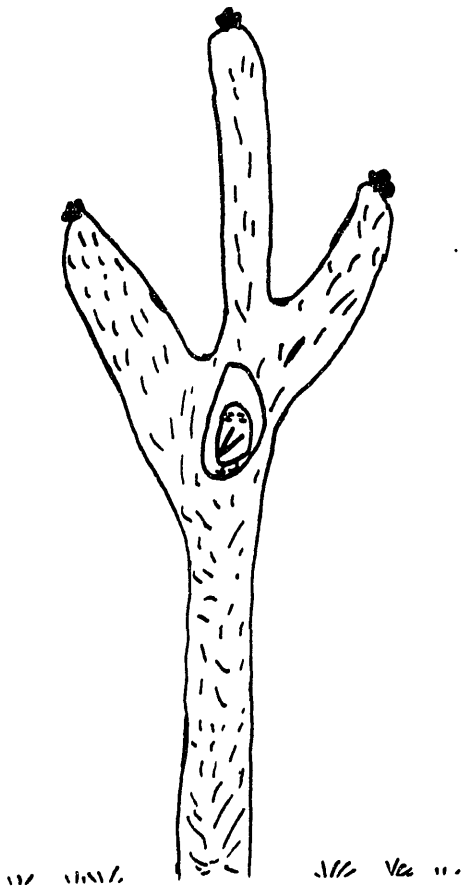
GTE Telephone is requesting approval of its request to offer a 60-day waiver of the \$65 nonrecurring installation charge for its business line 800 service. This promotion, if approved, will run from October 1, 1992, to November 30, 1992.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on September 1, 1992.

TRD-9211964 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

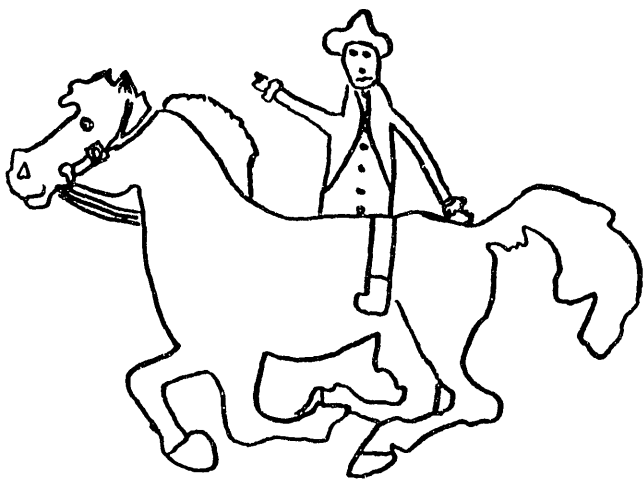
Filed: September 2, 1992



4-67

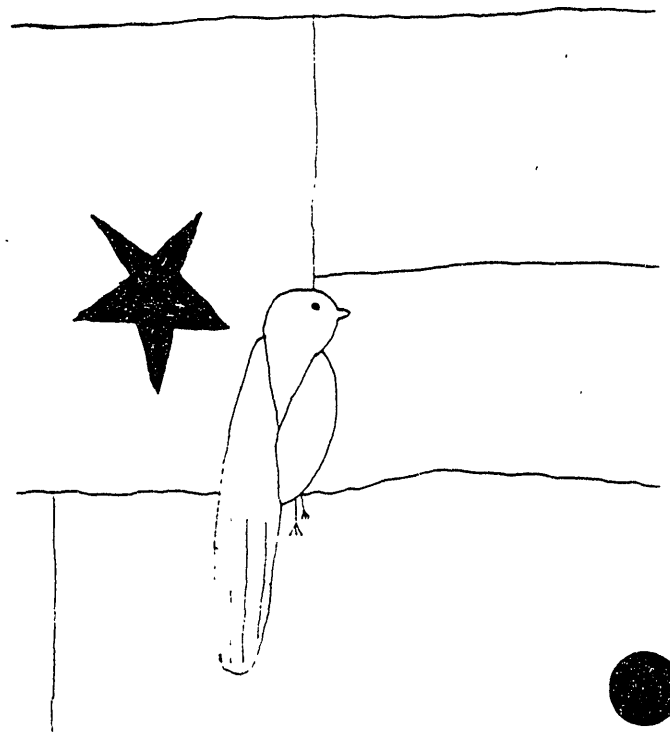


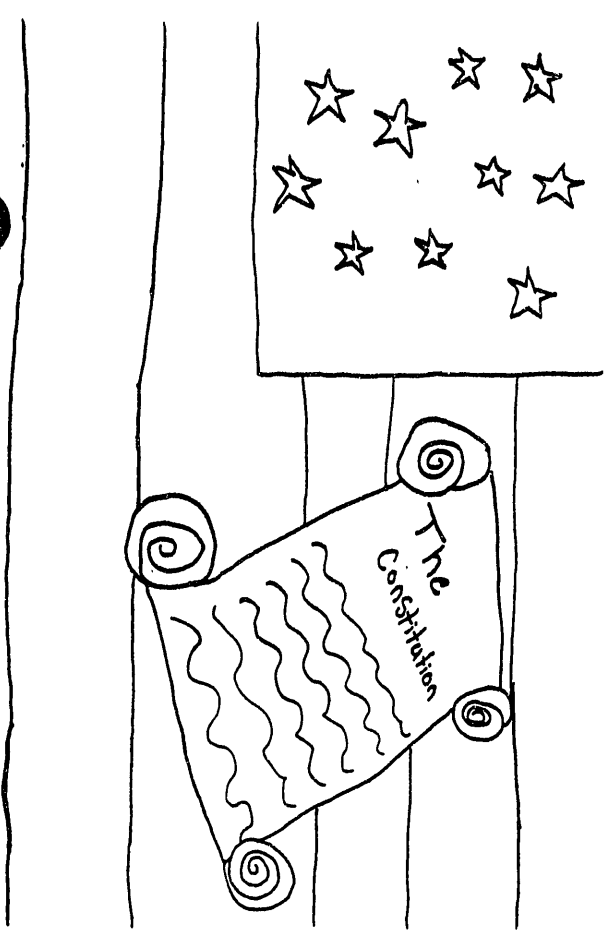
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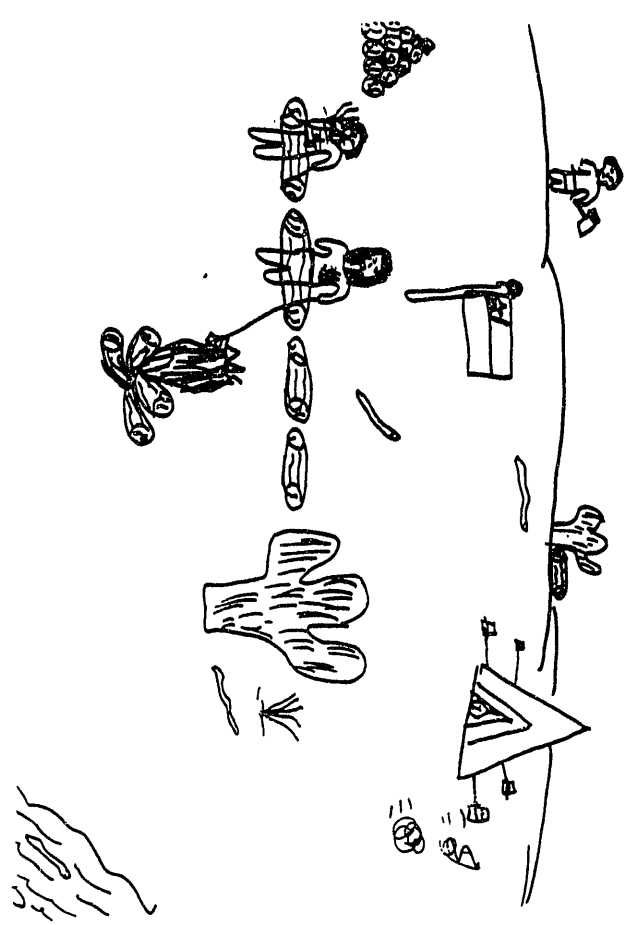
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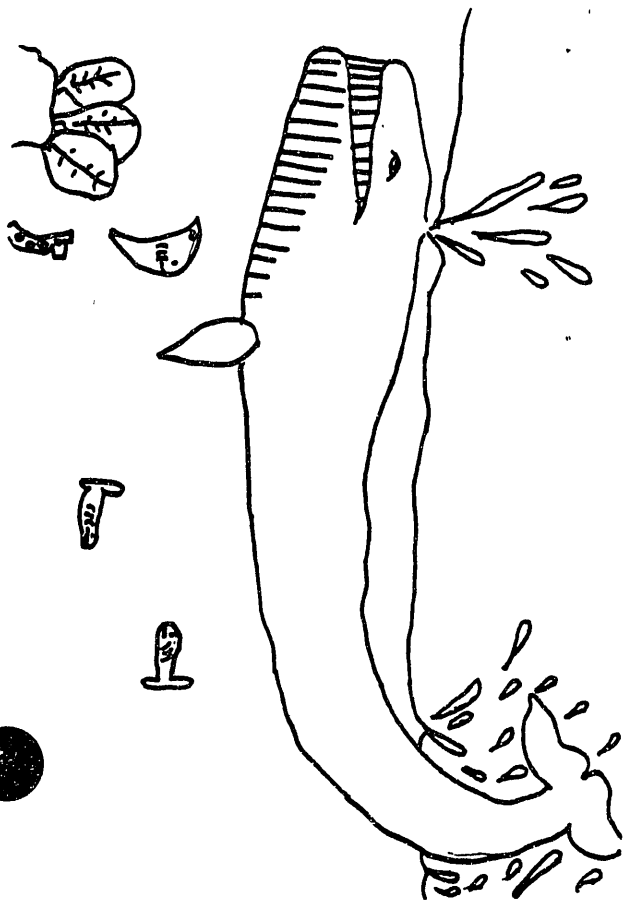




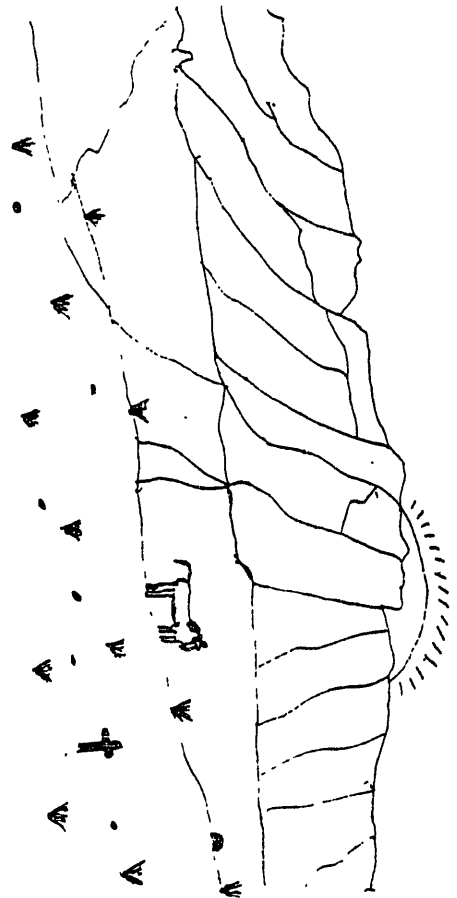
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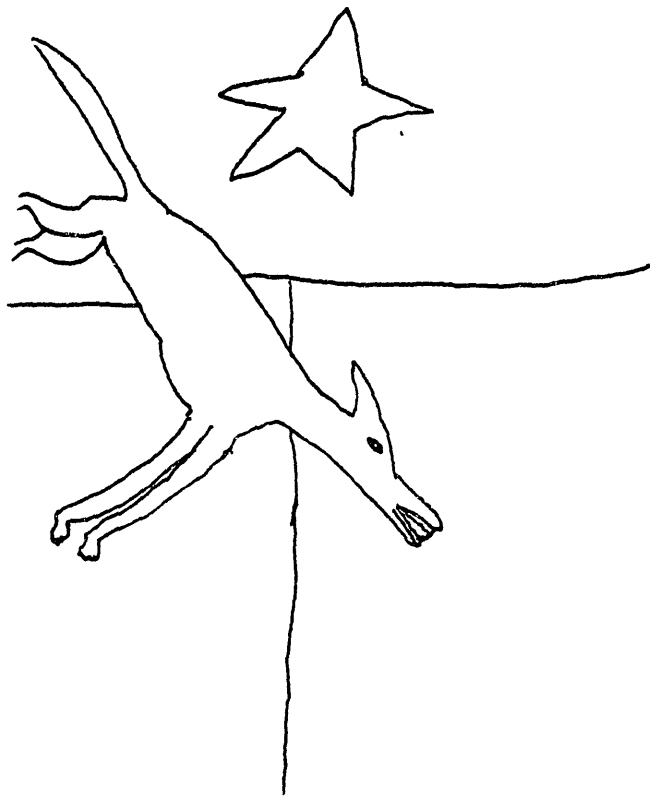
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4-73



4-74

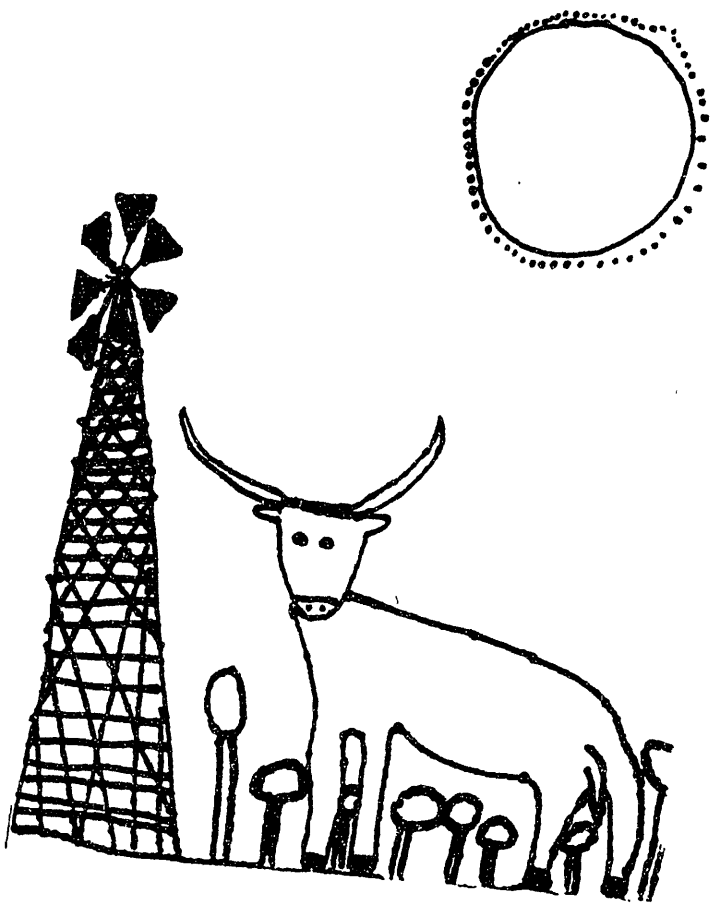


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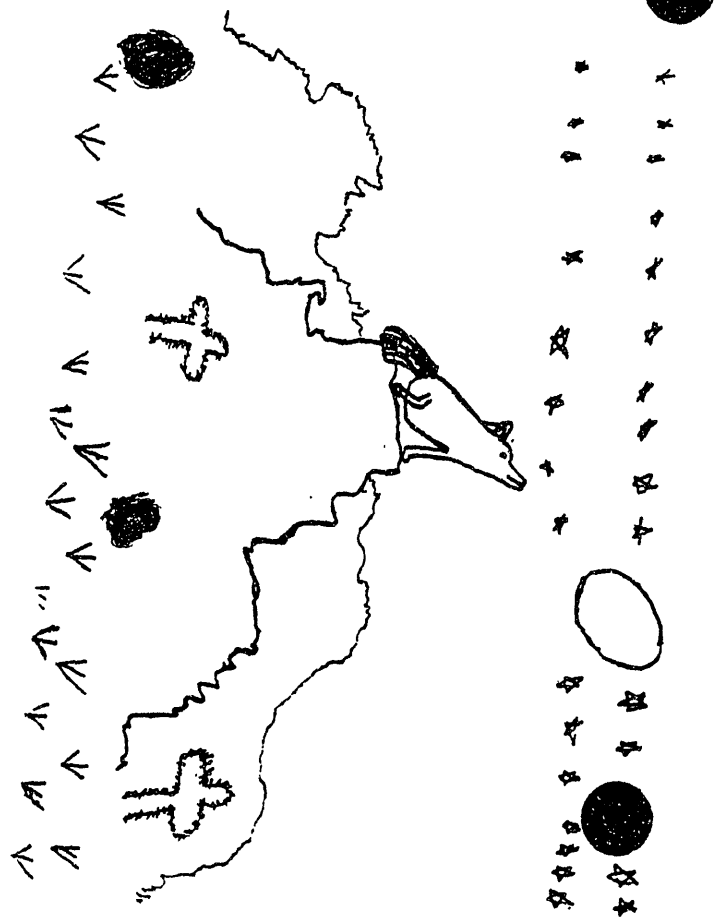


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4-77



4-78



1992 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1992 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on February 28, November 6, December 1, and December 29. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 *Friday, January 3	Friday, December 27	Tuesday, December 31
2 *Tuesday, January 7	Tuesday, December 31	Thursday, January 2
3 Friday, January 10	Monday, January 6	Tuesday, January 7
4 Tuesday, January 14	Wednesday, January 8	Thursday, January 9
5 Friday, January 17	Monday, January 13	Tuesday, January 14
6 Tuesday, January 21	Wednesday, January 15	Thursday, January 16
Friday, January 24	1991 ANNUAL INDEX	
7 Tuesday, January 28	Wednesday, January 22	Thursday, January 23
8 Friday, January 31	Monday, January 27	Tuesday, January 28
9 Tuesday, February 4	Wednesday, January 29	Thursday, January 30
10 Friday, February 7	Monday, February 3	Tuesday, February 4
11 Tuesday, February 11	Wednesday, February 5	Thursday, February 6
12 Friday, February 14	Monday, February 10	Tuesday, February 11
13 Tuesday, February 18	Wednesday, February 12	Thursday, February 13
14 *Friday, February 21	Friday, February 14	Tuesday, February 18
15 Tuesday, February 25	Wednesday, February 19	Thursday, February 20
Friday, February 28	NO ISSUE PUBLISHED	
16 Tuesday, March 3	Wednesday, February 26	Thursday, February 27
17 Friday, March 6	Monday, March 2	Tuesday, March 3
18 Tuesday, March 10	Wednesday, March 4	Thursday, March 5
19 Friday, March 13	Monday, March 9	Tuesday, March 10
20 Tuesday, March 17	Wednesday, March 11	Thursday, March 12
21 Friday, March 20	Monday, March 16	Tuesday, March 17
22 Tuesday, March 24	Wednesday, March 18	Thursday, March 19
23 Friday, March 27	Monday, March 23	Tuesday, March 24
24 Tuesday, March 31	Wednesday, March 25	Thursday, March 26
25 Friday, April 3	Monday, March 30	Tuesday, March 31
26 Tuesday, April 7	Wednesday, April 1	Thursday, April 2
27 Friday, April 10	Monday, April 6	Tuesday, April 7
Tuesday, April 14	FIRST QUARTERLY INDEX	
28 Friday, April 17	Monday, April 13	Tuesday, April 14
29 Tuesday, April 21	Wednesday, April 15	Thursday, April 16

30 Friday, April 24	Monday, April 20	Tuesday, April 21
31 Tuesday, April 28	Wednesday, April 22	Thursday, April 23
32 Friday, May 1	Monday, April 27	Tuesday, April 28
33 Tuesday, May 5	Wednesday, April 29	Thursday, April 30
34 Friday, May 8	Monday, May 4	Tuesday, May 5
35 Tuesday, May 12	Wednesday, May 6	Thursday, May 7
36 Friday, May 15	Monday, May 11	Tuesday, May 12
37 Tuesday, May 19	Wednesday, May 13	Thursday, May 14
38 Friday, May 22	Monday, May 18	Tuesday, May 19
39 Tuesday, May 26	Wednesday, May 20	Thursday, May 21
40 *Friday, May 29	Friday, May 22	Tuesday, May 26
41 Tuesday, June 2	Wednesday, May 27	Thursday, May 28
42 Friday, June 5	Monday, June 1	Tuesday, June 2
43 Tuesday, June 9	Wednesday, June 3	Thursday, June 4
44 Friday, June 12	Monday, June 8	Tuesday, June 9
45 Tuesday, June 16	Wednesday, June 10	Thursday, June 11
46 Friday, June 19	Monday, June 15	Tuesday, June 16
47 Tuesday, June 23	Wednesday, June 17	Thursday, June 18
48 Friday, June 26	Monday, June 22	Tuesday, June 23
49 Tuesday, June 30	Wednesday, June 24	Thursday, June 25
50 Friday, July 3	Monday, June 29	Tuesday, June 30
51 Tuesday, July 7	Wednesday, July 1	Thursday, July 2
52 Friday, July 10	Monday, July 6	Tuesday, July 7
Tuesday, July 14	SECOND QUARTERLY INDEX	
53 Friday, July 17	Monday, July 13	Tuesday, July 14
54 Tuesday, July 21	Wednesday, July 15	Thursday, July 16
55 Friday, July 24	Monday, July 20	Tuesday, July 21
56 Tuesday, July 28	Wednesday, July 22	Thursday, July 23
57 Friday, July 31	Monday, July 27	Tuesday, July 28
58 Tuesday, August 4	Wednesday, July 29	Thursday, July 30
59 Friday, August 7	Monday, August 3	Tuesday, August 4
60 Tuesday, August 11	Wednesday, August 5	Thursday, August 6
61 Friday, August 14	Monday, August 10	Tuesday, August 11
62 Tuesday, August 18	Wednesday, August 12	Thursday, August 13
63 Friday, August 21	Monday, August 17	Tuesday, August 18
64 Tuesday, August 25	Wednesday, August 19	Thursday, August 20
65 Friday, August 28	Monday, August 24	Tuesday, August 25
66 Tuesday, September 1	Wednesday, August 26	Thursday, August 27
67 Friday, September 4	Monday, August 31	Tuesday, September 1
68 Tuesday, September 8	Wednesday, September 2	Thursday, September 3
69 *Friday, September 11	Friday, September 4	Tuesday, September 8

70 Tuesday, September 15	Wednesday, September 9	Thursday, September 10
71 Friday, September 18	Monday, September 14	Tuesday, September 15
72 Tuesday, September 22	Wednesday, September 16	Thursday, September 17
73 Friday, September 25	Monday, September 21	Tuesday, September 22
74 Tuesday, September 29	Wednesday, September 23	Thursday, September 24
75 Friday, October 2	Monday, September 28	Tuesday, September 29
76 Tuesday, October 6	Wednesday, September 30	Thursday, October 1
77 Friday, October 9	Monday, October 5	Tuesday, October 6
Tuesday, October 13	THIRD QUARTERLY INDEX	
78 Friday, October 16	Monday, October 12	Tuesday, October 13
79 Tuesday, October 20	Wednesday, October 14	Thursday, October 15
80 Friday, October 23	Monday, October 19	Tuesday, October 20
81 Tuesday, October 27	Wednesday, October 21	Thursday, October 22
82 Friday, October 30	Monday, October 26	Tuesday, October 27
83 Tuesday, November 3	Wednesday, October 28	Thursday, October 29
Friday, November 6	NO ISSUE PUBLISHED	
84 Tuesday, November 10	Wednesday, November 4	Thursday, November 5
85 Friday, November 13	Monday, November 9	Tuesday, November 10
*86 Tuesday, November 17	Tuesday, November 10	Thursday, November 12
87 Friday, November 20	Monday, November 16	Tuesday, November 17
88 Tuesday, November 24	Wednesday, November 18	Thursday, November 19
89 Friday, November 27	Monday, November 23	Tuesday, November 24
Tuesday, December 1	NO ISSUE PUBLISHED	
90 Friday, December 4	Monday, November 30	Tuesday, December 1
91 Tuesday, December 8	Wednesday, December 2	Thursday, December 3
92 Friday, December 11	Monday, December 7	Tuesday, December 8
93 Tuesday, December 15	Wednesday, December 9	Thursday, December 10
94 Friday, December 18	Monday, December 14	Tuesday, December 15
95 Tuesday, December 22	Wednesday, December 16	Thursday, December 17
96 Friday, December 25	Monday, December 21	Tuesday, December 22
Tuesday, December 29	NO ISSUE PUBLISHED	
1 (1993) Friday, January 1	Monday, December 28	Tuesday, December 29

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