

Texas Register

Volume 17, Number 70, September 15, 1992

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- Governor** - Appointments, executive orders, and proclamations
- Attorney General** - summaries of requests for opinions, opinions, and open records decisions
- Secretary of State** - opinions based on the election laws
- Texas Ethics Commission** - summaries of requests for opinions and opinions
- Emergency Sections** - sections adopted by state agencies on an emergency basis
- Proposed Sections** - sections proposed for adoption
- Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Sections** - sections adopted following a 30-day public comment period
- Open Meetings** - notices of open meetings
- In Addition** - miscellaneous information required to be published by statute or provided as a public service

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

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In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "17 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 17 TexReg 3"

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

Texas Administrative Code

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

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

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

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

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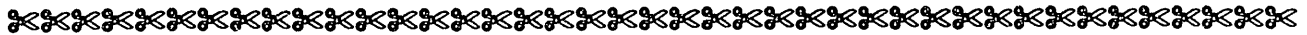
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*The Texas Register Readers Choice Award
continues with this issue!*

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.

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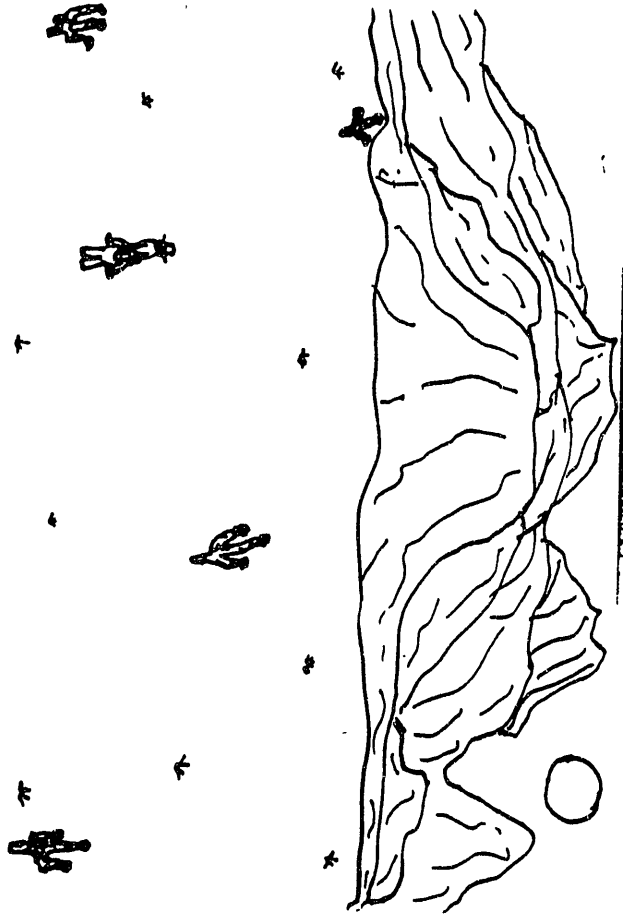
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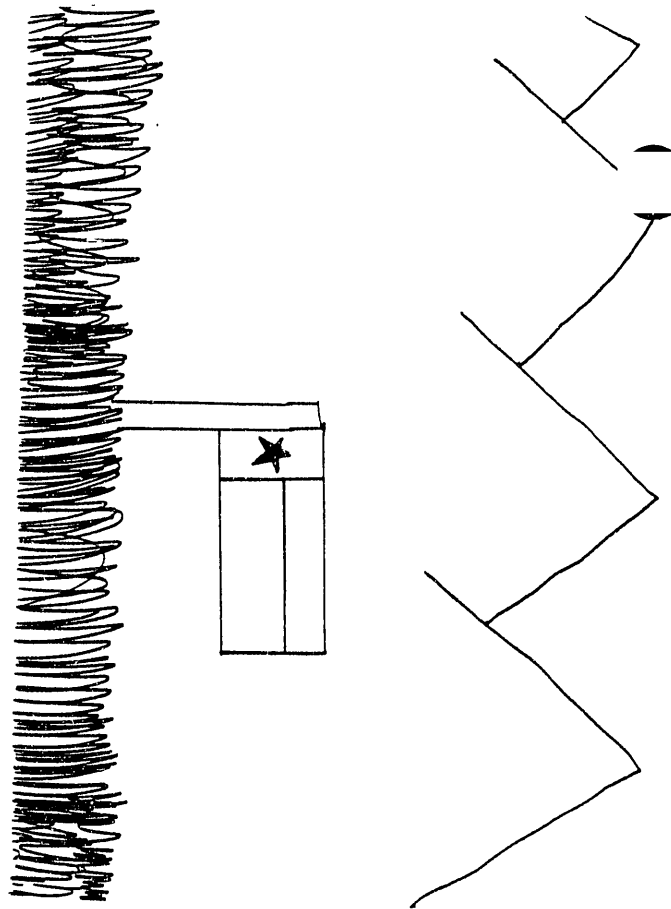
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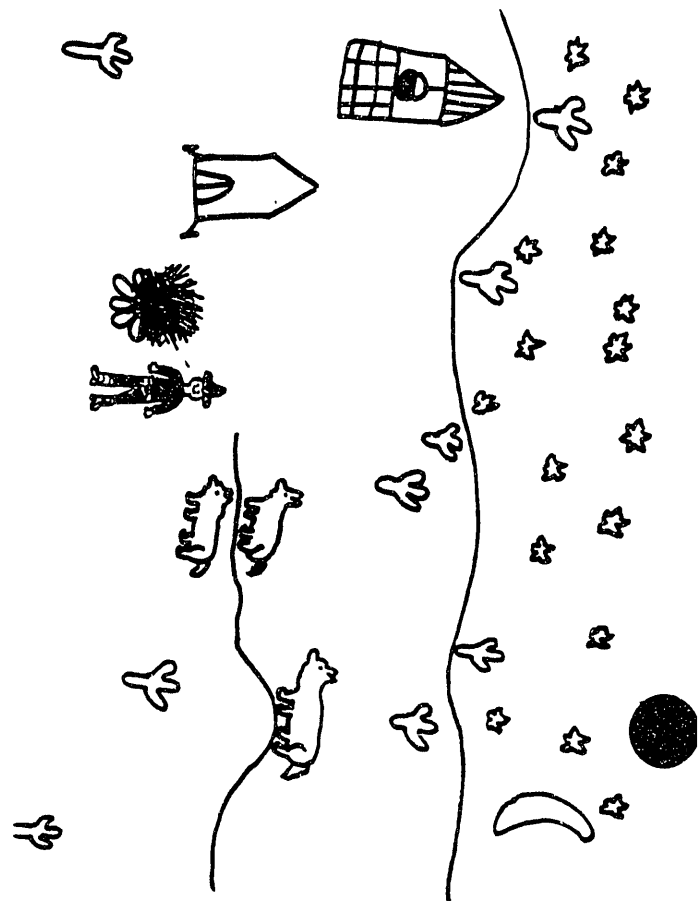
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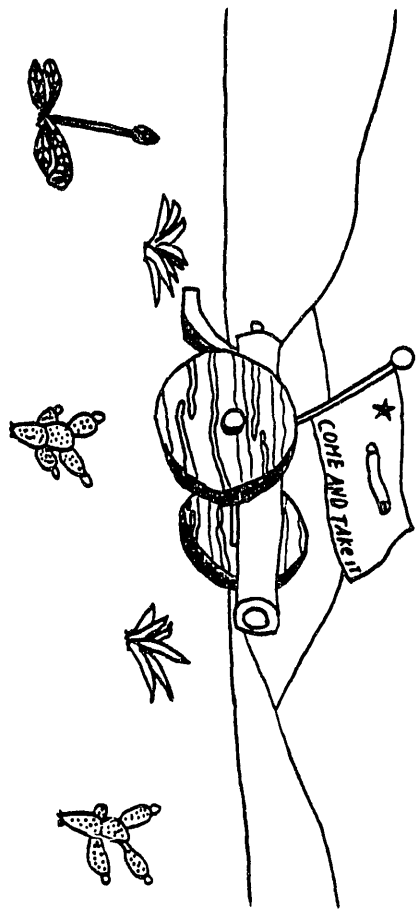
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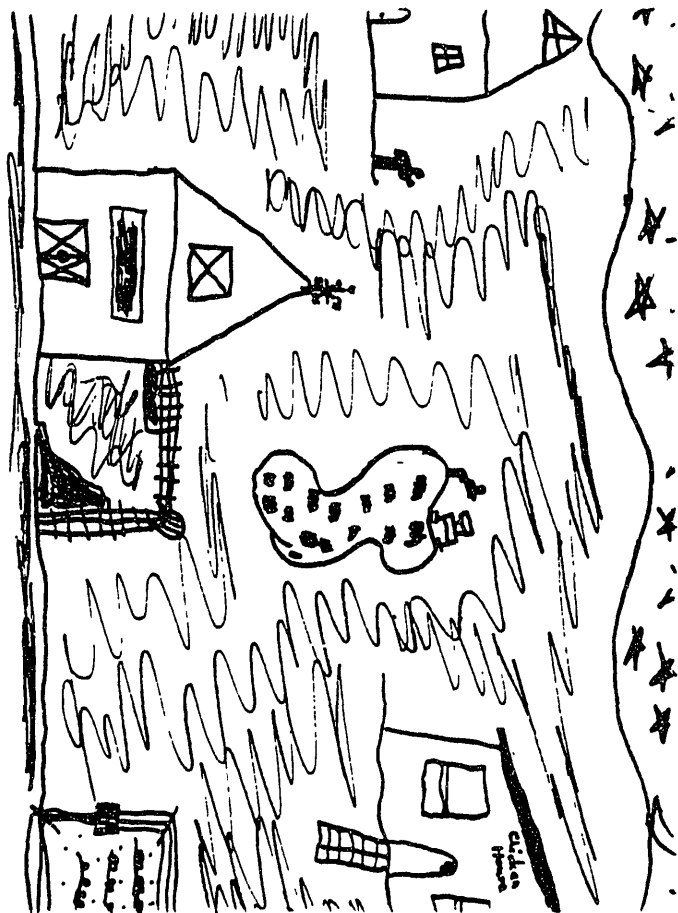
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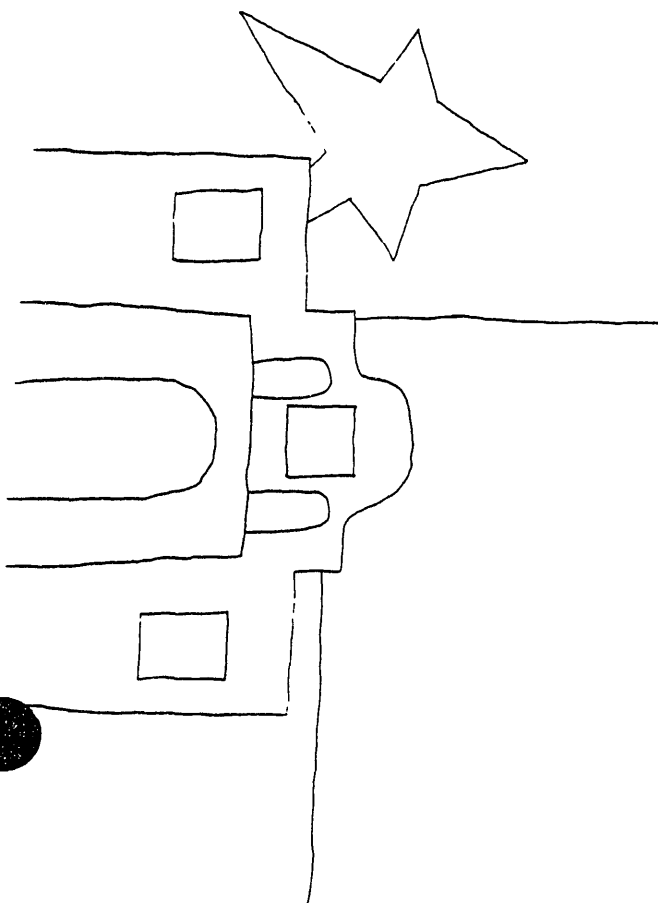
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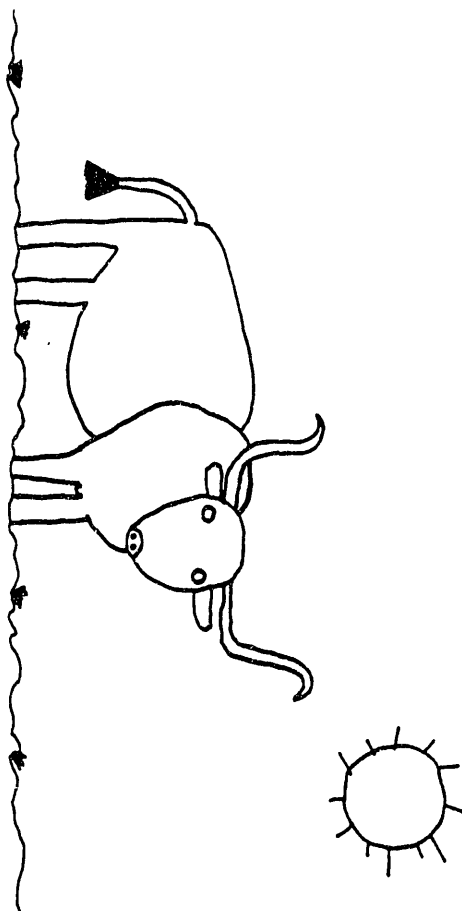
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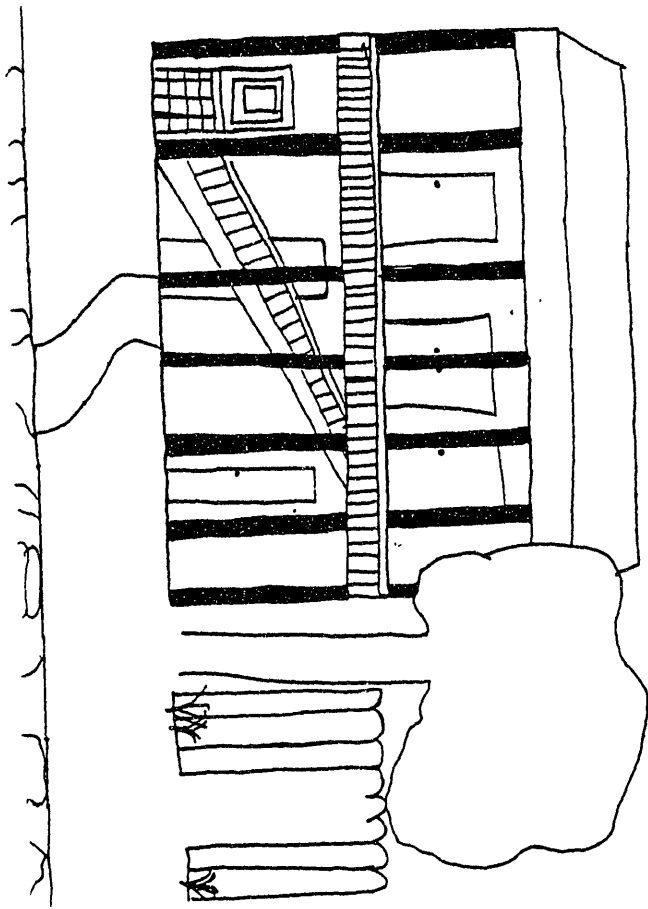
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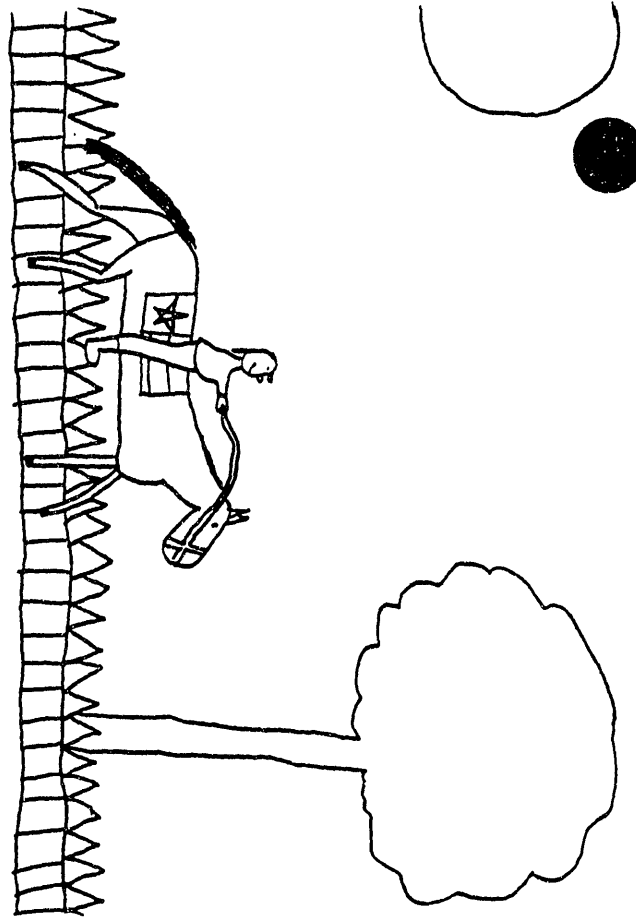
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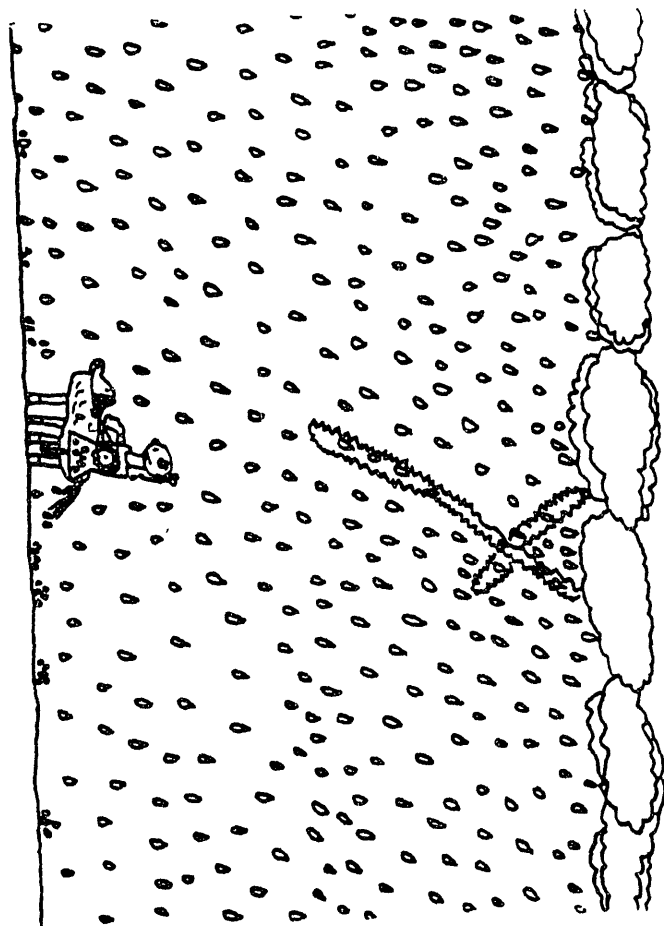
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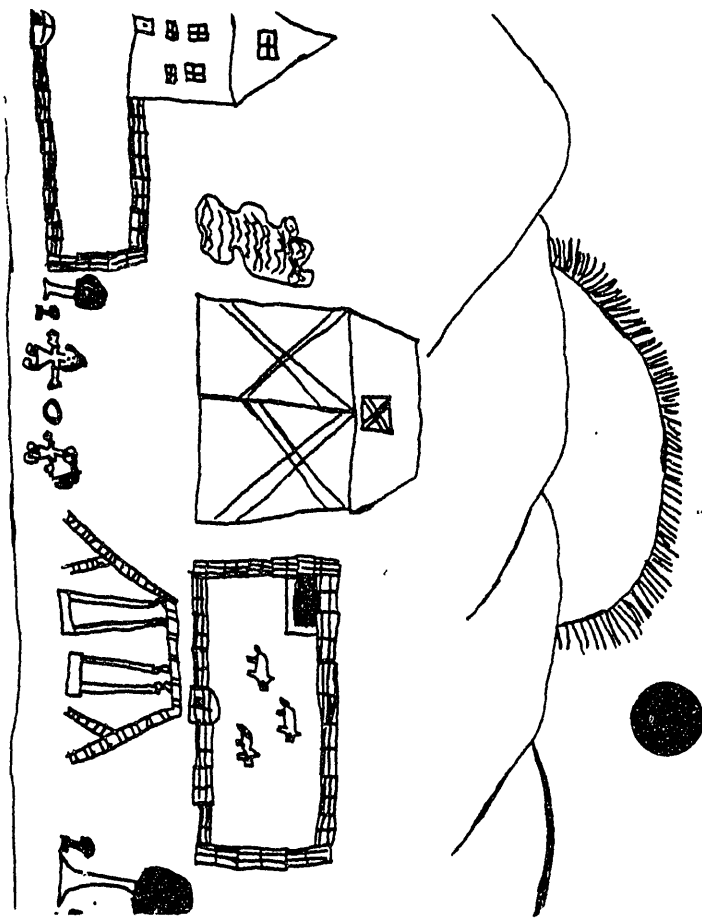
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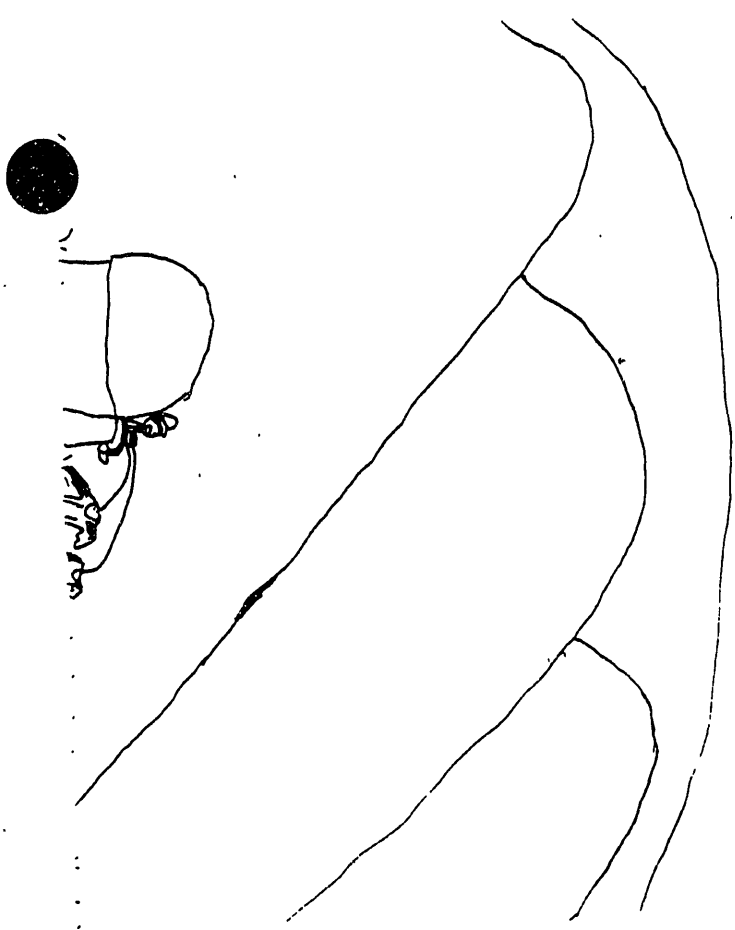
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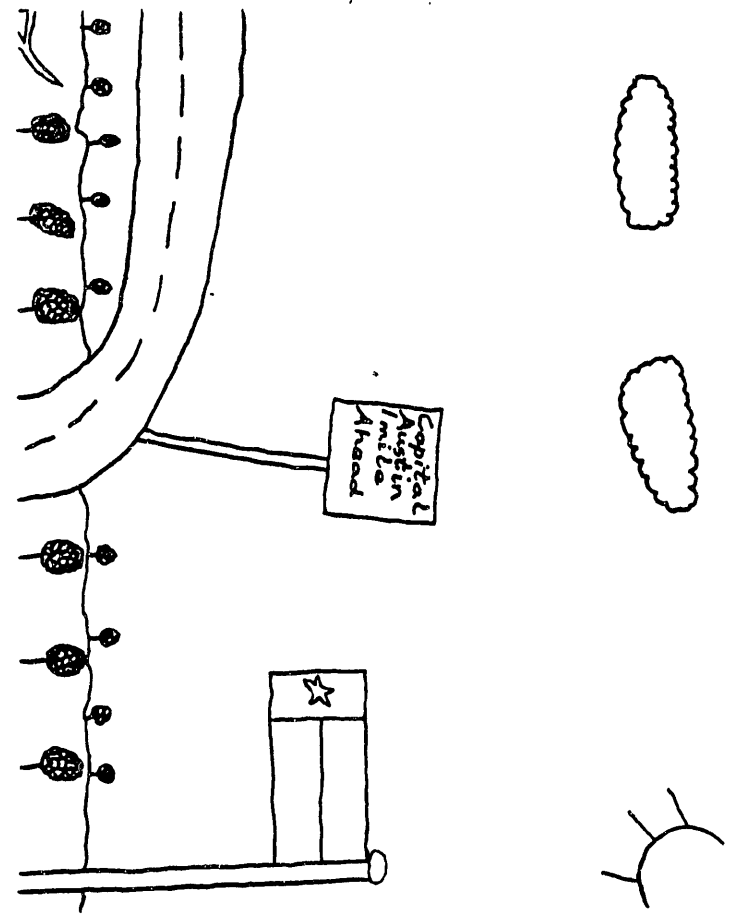
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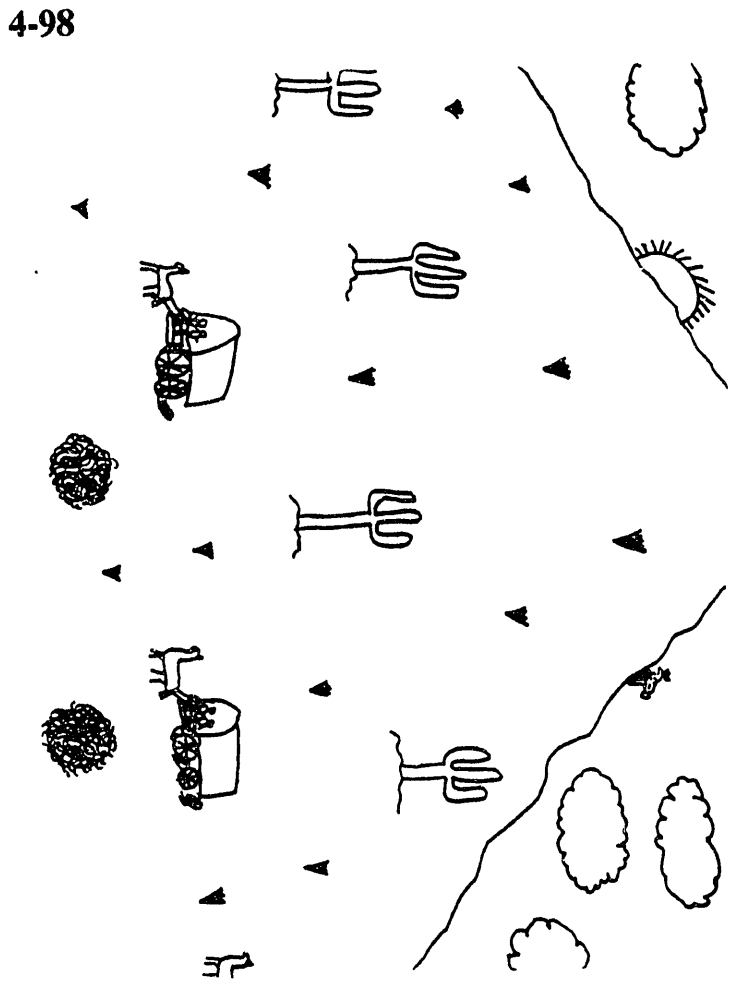
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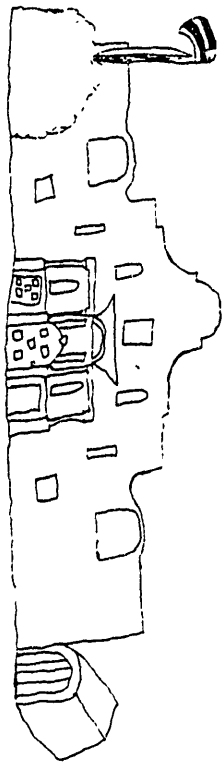
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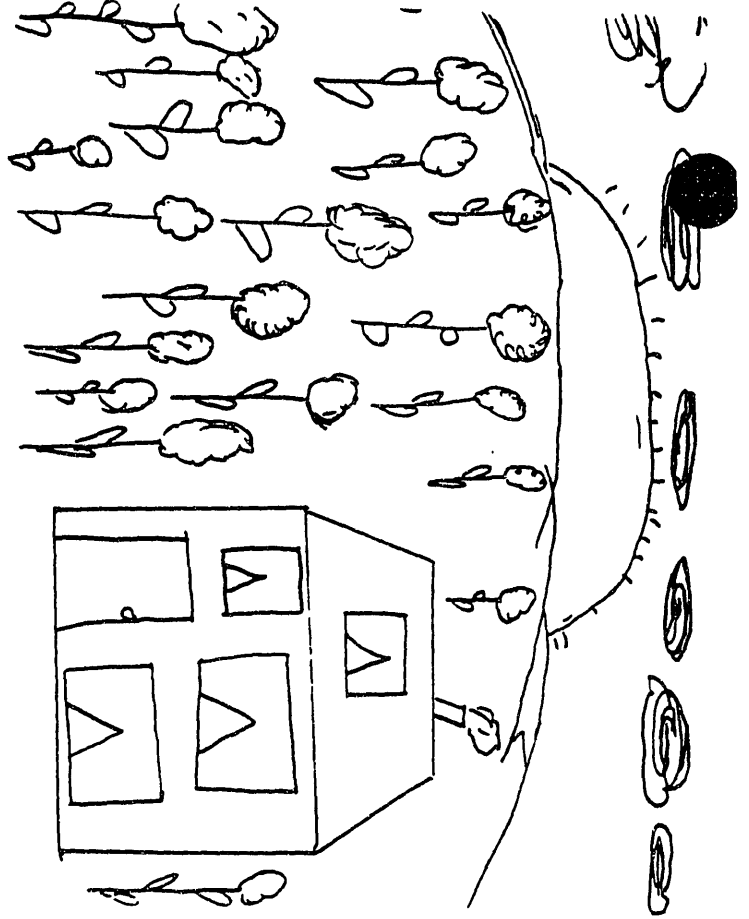
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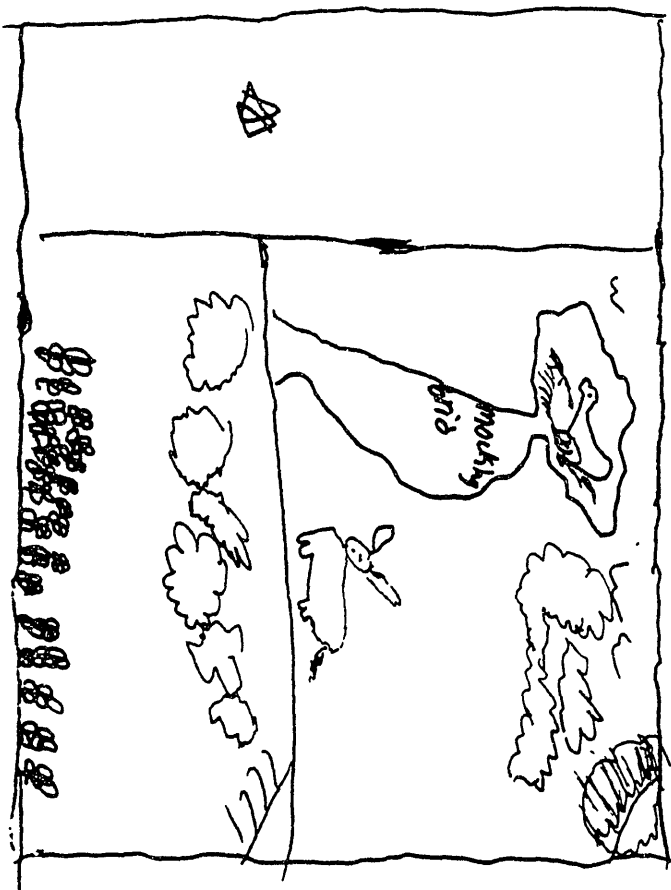


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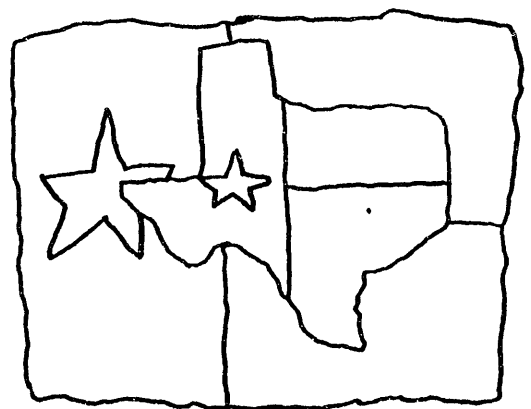
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Texas, Our Texas



Proposed Sections

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

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

TITLE 1. ADMINISTRATION

Part III. Office of the Attorney General

Chapter 59. Collections

• 1 TAC §59.2, §59.3

The Office of the Attorney General proposes new §59.2 and §59.3 establishing guidelines relating to the process by which state agencies collect delinquent obligations owed to the agencies, and how those obligations are reported to the Attorney General. The power to adopt this section is conferred on the Attorney General by Texas Civil Statutes, Article 6252-5e, which was added to Title 110A, Revised Statutes, by Acts, 72nd Legislature, First Called Session, Chapter 4, §6.01. In addition, House Bill Number 1, 72nd Legislature, First Called Session, Article 5, §74, provides that the Office of the Attorney General may develop a uniform reporting procedure for state agencies and institutions to report uncollected debts and judgments to the Attorney General's Office for further collection efforts. Section 59.2 is intended to develop collection strategies in agencies with in-house collection groups, and to foster the referral of collection matters to the Attorney General where these relationships do not currently exist. Section 59.2 is not intended to supplant or interfere with existing procedures with certain state agencies and the Attorney General where collection procedures already have a high degree of formality and sophistication, especially where these relationships are premised on existing statutory mandates, such as the certification of delinquent tax accounts for collection. Where these relationships exist, the rule is to be considered advisory only.

The Attorney General recognizes that delinquent obligations owed to agencies differ by a wide variety of accounts, debt type, amount and number of individual accounts, that collection of certain debts are facilitated by statutory and legal presumptions, and that many agencies have in-house attorneys and staff to handle specific types of legal proceedings. Agencies may apply to the Attorney General for recognition of a variance from the specific requirements imposed by this section, and for authorization to use in-house counsel in accordance with subsection (c)(1)(A) herein. Finally, the Attorney General recognizes that these guidelines are, by definition, general in nature, and that modifications with particular agencies may be appropriate. The rule also seeks to quantify and evaluate the type, degree, and effectiveness of outside counsel

representation in state agency collection matters to enable the Attorney General to determine whether to undertake representation of the agency in the collection matter as authorized by Texas Civil Statutes, Article 6252-5e(4). This rule was initially promulgated on an emergency basis, effective May 20, 1992. Section 59.3 states requirements pertaining to the form and content of agency reports on delinquent obligations owed to the agency as well as when these reports are required.

Mr. David Randell, assistant attorney general, collections division, has determined that for each year of the first five years the sections as proposed will be in effect, there will be no fiscal implications to the state or local governments as a result of enforcing or administering these sections.

Mr. Randell also has determined that for each year of the first five years the sections are in effect there is public benefit anticipated as a result of enforcing the sections. Section 59.2 will result in more efficient debt collection procedures and more competition between the Office of the Attorney General and private attorneys for collection of state obligations, both factors resulting in cost efficiencies for the state. Section 59.3 will result in more information on delinquent state obligations being available in future legislative sessions. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Any comment on the proposed rules should be addressed to David Randell, Section Chief, Collections Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548.

§59.2. Collection Process: Uniform Guidelines and Referral of Delinquent Collections.

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

(1) Attorney General—The Office of the Attorney General of Texas, acting through the Collections Division of the agency.

(2) Debtor—Any person or entity liable or potentially liable for an obligation owed to a state agency or against whom a claim or demand for payment has been made.

(3) Delinquent—Payment is past due by law or by customary business practice, and all conditions precedent to payment have occurred or been performed.

(4) Make demand—To deliver or cause to be delivered by U. S. Mail, first class, a writing setting forth the nature and amount of the obligation owed to the agency. A writing making demand is a "demand letter"

(5) Obligation—A debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant.

(6) Security—Any right to have property owned by an entity with an obligation to a state agency sold or forfeited in satisfaction of the obligation; and any instrument granting a cause of action in favor of the State of Texas and/or the agency against another entity and/or that entity's property, such as a bond, letter of credit, or other collateral that has been pledged to the agency to secure an obligation.

(7) State agency—Any agency, board, commission, institution, or other unit of state government.

(b) Uniform guidelines for state agencies in collecting delinquent obligations.

(1) A state agency shall adopt procedures to establish and determine the liability of each person responsible for the obligation, whether that liability can be established by statutory or common law. Agency records shall contain and reflect the identity of all persons liable on the obligation or any part thereof. All agency collection procedures shall apply to every debtor, subject to reasonable tolerances established by the agency. (See paragraph 8 of this subsection).

(2) A state agency shall adopt procedures to ensure that agency records reflect the correct physical address of the debtor's place of business, and, where applicable, the debtor's residence. Where a fiduciary or trust relationship exists between the agency (or the state) as principal and the debtor as trustee, an accurate physical address shall be maintained. A post office box address should not be used. Agency records may reflect a post office box where it is impractical to obtain a physical address, or

where the post office box address is in addition to a correct physical address maintained on the agency's books and records.

(3) All demand letters should be mailed in an envelope bearing the notation "address correction requested" in conformity with 39 Code of Federal Regulations §265(d). If an address correction is provided by the United States Postal Service, the demand letter should be re-sent to that address prior to the referral procedures described herein. Demand should be made upon every debtor prior to referral of the account to the Attorney General. The final demand letter should include a notation, where practical, that a copy is being sent to the Attorney General.

(4) Where state law gives the agency the right to record a lien securing the obligation, the agency shall cause to be filed a lien in the appropriate records of the county where the debtor's principal place of business, or, where appropriate, the debtor's residence, is located. The lien shall be filed as soon as the obligation becomes delinquent or as soon as is practicable. After referral, any lien securing the indebtedness may not be released, except on full payment of the obligation, without the approval of the attorney representing the agency in the matter.

(5) Where practicable, agencies shall maintain individual collection histories of each account in order to document attempted contacts with the debtor, the substance of communications with the debtor, efforts to locate the debtor and his assets, and other information pertinent to collection of the delinquent account.

(6) Prior to referral of the obligation to the Attorney General, the agency shall:

(A) verify the debtor's address and telephone number;

(B) transmit no more than two demand letters to the debtor at the debtor's verified address. The first demand letter should be sent no later than 30 days after the obligation becomes delinquent. The second demand letter should be sent no sooner than 30 days, but not more than 60 days, after the first demand letter. Where agency procedures, statutory mandates, or the requirements of this section indicate that a lawsuit on the account may be filed by the Attorney General, the demand letters shall so indicate;

(C) verify that the obligation is not uncollectible. Agencies shall adopt procedures to ensure that referred obligations are not uncollectible. By way of example, the following illustrations apply.

(i) **Bankruptcy.** Agencies should prepare and timely file a proof of claim in the bankruptcy case of each debtor, subject to reasonable tolerances adopted by the agency. Copies of all such proofs of claims filed should be sent to the Attorney General absent the granting of a variance. Agencies shall maintain records of notices of bankruptcy filings, dismissals and discharge orders received from the United States bankruptcy courts to enable the agency to ascertain whether the collection of the claim is subject to the automatic stay provisions of the bankruptcy code or whether the debt has been discharged. Agencies may seek the assistance of the Attorney General in bankruptcy collection matters where necessary, including the filing of a notice of appearance and preparation of a proof of claim.

(ii) **Limitations.** If the obligation is subject to an applicable limitations provision that would prevent collection as a matter of law, the obligation should not be referred unless circumstances indicate that limitations has been tolled or is otherwise inapplicable.

(iii) **Corporations.** If a corporation has been dissolved, is in liquidation under Chapter 7 of the United States Bankruptcy Code, has forfeited its corporate privileges or charter, or, in the case of a foreign corporation, had its Certificate of Authority revoked, the obligation should not be referred unless circumstances indicate that the account is nonetheless collectible.

(iv) **Out-of-state debtors.** If the debtor is an individual and is located out-of-state, or outside the United States, the matter should not be referred unless a determination is made that the domestication of a Texas judgment in the foreign forum would more likely than not result in collection of the obligation, or that the expenditure of agency funds to retain foreign counsel to domesticate the judgment and proceed with collection attempts is justified.

(v) **Deceased debtors.** If the debtor is deceased, agencies should file a claim in each probate proceeding administering the decedent's estate. If such probate proceeding has concluded and there are no remaining assets of the decedent available for distribution, the delinquent obligation should be classified as uncollectible and not be referred. In cases where a probate administration is pending, or where no administration has been opened, all referred obligations should include an explanation of any circumstances indicating that the decedent has assets available to apply toward satisfaction of the obligation.

(vi) **Indicia of inability to pay.** Where circumstances demonstrate a permanent inability of a debtor to pay or

make payments toward the obligation, the obligations should not be referred.

(7) Not later than the 30th day after the date a state agency determines that normal agency collection procedures for an obligation owed to the agency have failed, the agency shall report the uncollected and delinquent obligation to the Attorney General for further collection efforts as hereinafter provided.

(8) Agencies shall adopt reasonable tolerances, subject to review by the Attorney General, below which an obligation shall not be referred. Factors to be considered in establishing tolerances include the size of the debt; the existence of any security; the likelihood of collection through passive means such as the filing of a lien where applicable; expense to the agency and to the Attorney General in attempting to collect the obligation; and the availability of resources both within the agency and within the Office of the Attorney General to devote to the collection of the obligation.

(9) **Warrant hold.** An agency should utilize the "warrant hold" procedures of the Comptroller of Public Accounts authorized by the Texas Government Code, §403.055, to ensure that no treasury warrants are issued to debtors until the debt is paid.

(c) **Referral to attorneys.**

(1) **Suit on the obligation by in-house attorneys.**

(A) Agencies seeking to use in-house attorneys to collect delinquent obligations through court proceedings must submit a written request to the Attorney General. Upon the written approval of the Attorney General, a state agency may bring suit upon a delinquent obligation through an attorney serving as a full-time employee of the agency. Where circumstances make it impractical to secure Attorney General approval for every delinquent obligation upon which a lawsuit is to be filed, a state agency may apply to the Attorney General for an authorization to bring suit on particular types of obligations through attorneys employed full-time by the agency. Such authorization, if given, must be renewed at the beginning of each fiscal year. A state agency shall comply with reporting requirements that the Attorney General may adopt pursuant to Texas Civil Statutes, Article 6252-5e.

(B) After an obligation is referred to agency attorneys employed as in-house counsel, the obligation shall be reduced to judgment against all entities legally responsible for the obligation where: the lawsuit and judgment will make collection of the obligation more likely; and the

expenditure of agency resources in recovering judgment on the obligation is justified.

(C) Where authorized by law, the agency shall plead for and recover attorney's fees, investigative costs, and court costs in addition to the obligation.

(D) Every judgment taken on a delinquent obligation should be abstracted and recorded by the agency in every county where the debtor: owns real property; operates an active business; is likely to inherit real property; owns any mineral interest; or has maintained a residence for more than one year.

(2) Referral to the Attorney General.

(A) Bulk accounts. Agencies are encouraged to explore the exchange of accounts with the Attorney General by computer tape or other electronic data transfer and to discuss any variances as may be appropriate. The agency and the Attorney General may agree upon an exchange of certain minimum account information necessary for collection efforts by the Attorney General.

(B) Individual accounts. Agencies may refer individual accounts to the Attorney General after the procedures set forth in Subsection (a)(6)-(8) of this section. Individual accounts referred to the Attorney General should include the following:

(i) copies of all correspondence between the agency and the debtor;

(ii) a log sheet (see Subsection (a)(5) of this section) documenting all attempted contacts with the debtor and the result of such attempts;

(iii) a record of all payments made by the debtor and, where practicable, copies of all checks tendered as payment;

(iv) any information pertaining to the debtor's residence and his assets; and

(v) copies of any permit application, security, or instrument giving rise to the obligation.

(C) Bonds/security. Delinquent accounts upon which a bond or other security is held shall be referred to the Attorney General no later than 60 days after becoming delinquent. All such accounts where the principal has filed for relief under federal bankruptcy laws shall be referred immediately, since collection of the security

may obviate the need to file a claim or to appear in the bankruptcy case

(D) Obligation. The Attorney General may decide that a particular obligation or class of obligations may be assigned after referral to the appropriate division within the Office of the Attorney General.

(3) Referral to collection firms or private attorneys.

(A) Prior approval of attorney general. No agency may contract with, retain, or employ any person other than a full time employee of the agency to collect a delinquent obligation without prior written approval of the Attorney General. Any existing arrangements must receive the written approval of the Attorney General to be renewed or extended in any fashion.

(i) Prior to contracting with, retaining, or employing a person other than a full-time employee of the agency to collect a delinquent obligation, an agency must submit a proposal to the Attorney General requesting the Attorney General to collect the obligation(s). Any agency contracting with any person other than a full-time employee of the agency for the collection of a delinquent obligation must submit the proposed contract to the Attorney General for written approval. The proposal must disclose any fee that the agency proposes to pay the private collection firm or attorney. The Attorney General may elect to undertake representation of the agency on the same or similar terms as contained in the proposed contract. If the Attorney General declines or is unable to perform the services requested, the Attorney General may approve the contract. If the Attorney General decides that the agency has not complied with this subsection, the Attorney General may:

(I) decline to approve the contract; or

(II) require the agency to submit or resubmit a proposal to the Attorney General for collection of the obligation in accordance with this subsection.

(ii) If the Attorney General fails to act as set forth in subsection (a) of this section within 60 days of receipt of the proposed contract or receipt of additional information requested, the Attorney General is deemed to have approved the contract in accordance with this rule.

(B) Requirements of proposed contracts with private persons presented for Attorney General approval. All contracts for collection of delinquent obli-

gations must contain or be supported by a proposal containing the following:

(i) a description of the obligations to be collected sufficient to enable the Attorney General to determine what measures are necessary to attempt to collect the obligation(s);

(ii) explicit terms of the basis of any fee or payment for the collection of the obligation(s);

(iii) a description of the individual accounts to be collected in the following respects:

(I) the total number of delinquent accounts;

(II) the dollar range;

(III) the total dollar amount;

(IV) a summary of the collection efforts previously made by the agency; and

(V) the legal basis of the delinquent obligations to be collected.

§59.3. Reporting Delinquent Obligations Owed To The State.

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

(1) Attorney General—The Office of the Attorney General of Texas, acting through the Collections Division of the agency.

(2) Debt—The dollar amount of all delinquent monetary obligations claimed by a state agency to be owed, regardless of any legal disability or defense of the debtor.

(3) Debtor—Any person or entity liable for a delinquent obligation owed to a state agency. Use of the singular does not exclude other persons or entities additionally liable.

(3) Delinquent—That payment is past due by law or by customary business practice, and that all conditions precedent to payment have occurred or been performed.

(4) Judgment—A valid and subsisting judgment of a court of law that is not on appeal, nor void or stale.

(5) Security:

(A) Any right to have property owned by a person or entity with an obligation to a state agency sold in satisfaction of the obligation; and

(B) Any instrument granting a cause of action in favor of the State of Texas and/or the agency against another person or entity and/or that person or entity's property.

(6) State agency—Any agency, board, commission, institution, or other unit of state government.

(7) Uncollectible—As it refers to delinquent obligations means that circumstances indicate a permanent inability of a debtor to make payments toward the obligation; the debtor has been legally relieved of the obligation; or the debt is legally unenforceable. Such circumstances include, but are not limited to, bankruptcy discharge, the death of the debtor, of the charter of a debtor corporation without assets, etc.

(b) Annual delinquent obligations report required. State agencies shall submit an annual report to the Attorney General of all outstanding delinquent obligations. The report shall be in summary form only. Specific accounts and obligations shall not be reported unless they constitute all, or substantially all, of the agency's outstanding debt.

(1) Due date. The report is due within 90 days of the end of each fiscal year, and shall reflect the financial status of the agency's accounts receivable as of the end of the preceding fiscal year.

(2) Report of no debt required. If an agency is not owed any debt, that fact shall be reported as required herein.

(c) Required contents of report. The following total figures are required to be reported.

(1) Total debt. The dollar amount of all delinquent obligations to be identified into collectible and uncollectible categories.

(2) Total accounts. The numerical sum of all individual accounts maintained by the agency. It includes all accounts, whether or not certain account debtors are liable for the same agency obligation.

(3) Loans. The numerical sum of all accounts which are evidenced by a promissory note, and the sum of all such accounts where the agency according to its collections procedures has deemed the debtor to be in default.

(4) Accounts in bankruptcy. The total number of all individual accounts where the debtor has filed for relief under the United States Bankruptcy Code, along with the total dollar amount of all such accounts.

(5) Judgments. The amount of all accounts reduced to judgment, including amounts for attorney's fees and court costs.

(d) Optional contents of report. Many agencies already file and continue to file annual reports with the Office of the Attorney General pursuant to the requirements set forth in the Attorney General's Section of the General Appropriation Bill, Texas House Bill 1, 72nd Legislative, 1st Called Session, Article V, §74, 1991 Texas Session Law Service 1036, and its predecessors. Some agencies produce computer-generated reports containing more detailed information regarding the agency's debt. To the extent these reports are computer generated and in summary form, the fact that reports contain additional information beyond that contemplated by this rule is inconsequential. The Attorney General encourages agencies to provide as much detail in summary form as is practicable in complying with the requirements of this rule. The Attorney General recognizes that state agencies have varying needs and capabilities with regard to the maintenance of financial information. By way of example and not by limitation, such additional information in the annual debt report may include:

(1) bad checks. The amount of all checks returned to the agency by financial institutions drawn on closed accounts, or on insufficient funds;

(2) total accounts receivable;

(3) the average debt per account;

(4) the dollar amount of debt determined to be uncollectible;

(5) the number of uncollectible accounts;

(6) the various types of debt, e.g. unpaid fees, administrative penalties, etc;

(7) total security held on debt.

(e) Variances. Agencies may apply to the Attorney General for recognition of a variance from the specific requirements imposed by this section if the agency can demonstrate that compliance is unreasonably burdensome or inconvenient.

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 8, 1992.

TRD-9212240

Jerry Benedict
Assistant Attorney General
Office of the Attorney
General

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 463-2009

TITLE 16. ECONOMIC REGULATION Part VIII. Texas Racing Commission

Chapter 303. General Provisions

Subchapter A. Organization of the Commission

• 16 TAC §303.4

The Texas Racing Commission proposes an amendment to §303.4, concerning meetings. The amendment establishes the procedure for placing an item on the agenda for commission meetings.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that the commission operates efficiently and effectively. 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 on or before October 15, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and Texas Civil Statutes, Article 6252-13a, §4, which authorize the commission to adopt rules of practice for all formal and informal procedures.

§303.4. Meetings.

(a) Except as otherwise provided by state law, commission and section meetings are subject to the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17.

(b) The commission shall hold at least six regular meetings each year on dates set by the commission. The chair [chairman] or any four members of the commission may call a special meeting of the commission.

(c) Except as otherwise provided by state law or by a rule of the commission, Robert's Rules of Order (Revised 1981) govern the proceedings of the commission.

(d) The executive secretary shall prepare the agenda for each commission meeting, subject to the approval of the chair of the commission. At the request

of any two commissioners the executive secretary shall place an item on the agenda. If only one commissioner requests that an item be placed on the agenda, the chair shall review the request and, after consulting with the vice-chair, determine whether to place the item on the agenda.

(e) A licensee of the commission or a member of the public may request that an item be placed on the agenda by filing a written request not later than 14 days before the date of the meeting. The party making the request must include with the request an original and eight copies of all information, data, or other supporting materials relating to the request. After receiving a request under this subsection, the chair shall review the request and, after consulting with the vice-chair, determine whether to place the item on the agenda.

(f) All individuals wishing to address the commission must sign a registration form and make their remarks under oath. All individuals addressing the commission are subject to questioning by the commission and the commission staff.

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 28, 1992.

TRD-9212115 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 794-8461

Subchapter B. Powers and Duties of the Commission

• 16 TAC §303.43

The Texas Racing Commission proposes new §303.43, allocation of live race dates for Class 1 racetracks. The new section provides that the commission will not grant overlapping race dates for Class 1 racetracks for the same breed of horse. The section also provides a minimum number of weeks of live horse racing at Class 1 racetracks if there are less than three Class 1 racetracks holding final and non-appealable licenses.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section. The restriction of live horse racing to one Class 1 racetrack at a time may result in a decrease in the amount of total live handle. This decrease is expected to be offset, however, by the in-

crease in dollars wagered on the simulcasts of the live races at the other Class 1 racetracks. It is the commission's belief that a circuit of nonoverlapping race dates among the Class 1 racetracks will maximize profits to the state, as well as the economic benefits to the racetracks and the horsemen.

Ms. Carter 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 assurance that the economic benefits from pari-mutuel racing are maximized. The effect on Class 1 racetracks (small businesses) is that the economic benefits from pari-mutuel racing to the racetracks will be maximized. 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 on or before October 15, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The new section is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §8.01, which authorize the commission to allocate race dates to horse racetracks.

§303.43. Allocation of Live Race Dates For Class 1 Racetracks.

(a) The commission may not grant overlapping live race dates for the same breed of horse at Class 1 racetracks unless the overlapping is agreed to in writing by the affected Class 1 racetracks.

(b) For any year in which there are less than three Class 1 racetracks in Texas holding final non-appealable licenses, the commission shall allocate to each such racetrack:

(1) at least 17 consecutive weeks of live thoroughbred racing; and

(2) at least 10 consecutive weeks of live quarter horse racing.

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 28, 1992.

TRD-9212120 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 794-8461

Chapter 309. Operation of Racetracks

Subchapter B. Horse Racetracks

Facilities for Horses

• 16 TAC §309.149

The Texas Racing Commission proposes an amendment to §309.149, concerning pre-race holding area. The amendment deletes the requirement that the pre-race holding area at a racetrack be located adjacent to the paddock.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter 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 assurance that pari-mutuel racing is safe for the participants and is of utmost integrity. 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 on or before October 15, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §6.06, which authorize the commission to adopt rules relating to the operation of racetracks.

§309.149. Pre-Race Holding Area.

(a) An association shall provide a pre-race holding area that is adjacent to the commission veterinarian's office [and the paddock].

(b)-(d) (No change.)

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

Issued in Austin, Texas, on August 28, 1992.

TRD-9212121 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 794-8461

Facilities for Horses

• 16 TAC §309.151

The Texas Racing Commission proposes an amendment to §309.151, concerning test barn. The amendment deletes the requirement that the test barn be located adjacent to the paddock.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter 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 assurance that pari-mutuel racing is safe for the participants and is of utmost integrity. 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 on or before October 15, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §6.06, which authorize the commission to adopt rules relating to the operation of race-tracks.

§309.151. Test Barn.

(a) An association shall provide a test barn for taking specimens for testing. The barn must be adjacent to the commission veterinarian's office [and the paddock].

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

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

Issued in Austin, Texas, on August 28, 1992.

TRD-9212122 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 794-8461

Facilities for Employees

• 16 TAC §309.181

The Texas Racing Commission proposes an amendment to §309.181, concerning commission veterinarian's office. The amendment deletes the requirement that the commission veterinarian's office be adjacent to the paddock.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter 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 assurance that pari-mutuel racing is safe for the participants and is of utmost integrity. 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 on or before October 15, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §6.06, which authorize the commission to adopt rules relating to the operation of race-tracks.

§309.181. Commission Veterinarian's Office.

(a) (No change.)

(b) The office must be adjacent to the test barn and [.] the pre-race holding area[, and the paddock].

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

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

Issued in Austin, Texas, on August 28, 1992.

TRD-9212123 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 794-8461

Chapter 313. Officials and Rules of Horse Racing

Subchapter A. Officials

Duties of Stewards

• 16 TAC §313.21

The Texas Racing Commission proposes an amendment to §313.21, concerning eligibility for appointment. The amendment clarifies the vision requirements to serve as a steward.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the

section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter 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 assurance that the officials supervising pari-mutuel racing are highly qualified. 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 on or before October 15, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §3.07, which authorize the commission to adopt rules relating to the examination of stewards.

§313.21. Eligibility For Appointment.

(a) Except as otherwise provided by this section, to be appointed to serve as a steward, an individual must:

(1) (No change.)

(2) satisfactorily pass an optical examination conducted not more than 90 days before the appointment, indicating at least 20/20 vision, corrected, and the ability to distinguish colors;

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

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

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

Issued in Austin, Texas, on August 28, 1992.

TRD-9212124 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 794-8461

Chapter 319. Veterinary Practices and Drug Testing

Subchapter A. General Provisions

• 16 TAC §319.14

The Texas Racing Commission proposes an amendment to §319.14, concerning possession of controlled substances. The amendment changes the statutory citation to the Texas Controlled Substances Act.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter 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 assurance that the commission's rules are consistent with the appropriate statutes. 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 on or before October 15, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §14.03, which authorize the commission to adopt rules prohibiting the illegal influencing of a race

§319.14. Possession of Controlled Substances.

(a) A veterinarian may not possess on association grounds a controlled substance, as defined by the Texas Controlled Substances Act, Health and Safety Code, Chapter 481 [Texas Civil Statutes, Article 4476-15], without the written approval of the chief veterinarian for the commission on a form prescribed by the commission.

(b)-(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 August 28, 1992.

TRD-9212116 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 794-8461

Chapter 321. Pari-mutuel Wagering

Subchapter B. Distribution of Pari-mutuel Pools

• 16 TAC §321.117

The Texas Racing Commission proposes an amendment to §321.117, concerning tri-superfecta. The amendment authorizes racetracks to offer a tri-superfecta wager on two nonconsecutive races.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter 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 assurance that pari-mutuel wagering is conducted in a manner that is of the utmost integrity and is profitable for the state. 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 on or before October 15, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §11.01, which authorize the commission to adopt rules to regulate pari-mutuel wagering.

§321.117. Tri-Superfecta.

(a) (No change.)

(b) A person purchasing a tri-superfecta ticket shall select, in the same order of finish as officially posted, the three animals that will finish first, second, and third in the first race of the two [consecutive] races which comprise the tri-superfecta. The association may select a distinctive name for the tri-superfecta, with the prior approval of the executive secretary. The association may not sell a tri-superfecta ticket in a denomination of less than \$2.00; however, the association may offer \$1.00 tri-superfecta wagers such as box, wheel, or key, provided each transaction has a minimum value of \$2.00.

(c)-(o) (No change.)

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

Issued in Austin, Texas, on August 28, 1992.

TRD-9212117 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 794-8461

Subchapter C. Simulcast Wagering

Simulcasting at Horse Race-tracks

• 16 TAC §321.235

The Texas Racing Commission proposes an amendment to §321.235, concerning priority of signals. The amendment authorizes a Class 1 or 2 racetrack to receive a simulcast signal from any Class 1 racetrack in Texas that is conducting live races.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter 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 assurance that high-quality wagering opportunities are available throughout the state at all times. The effect on racetracks (small businesses) will be an increase in revenue due to the ready availability of simulcast signals. 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 on or before October 15, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §11.011, which authorize the commission to adopt rules regulating pari-mutuel wagering on simulcast races.

§321.235. Priority of Signals.

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

(d) At any time that a Class 1 racetrack is conducting live races, any other Class 1 or 2 racetrack may receive the simulcast signal from the Class 1 racetrack conducting live races and conduct pari-mutuel wagering on the simulcast races, subject to the provisions of §321.205 of this title (relating to simulcasting Contract) and §321.232 of this title (relating to Negotiation with Horsemen).

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 28, 1992.

TRD-9212125 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 794-8461

◆ ◆ ◆
TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 15. Planning Division

Procedure for Hearings, Management Plan for the Texas Coast

• 31 TAC §§15.1-15.14

(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 General Land Office or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The General Land Office proposes the repeal of §§15.1-15.14, concerning procedure for hearings and a management plan for the Texas coast.

The General Land Office proposes the repeal of these sections in order to further its policy of reorganizing administrative rules into a more accessible and logical structure by repealing obsolete sections. In addition, the General Land Office does not anticipate a need for separate rules governing hearings on the management plan for the Texas coast.

Mr. Spencer Reid, deputy commissioner, has determined that for the first five-year period the repeals are in effect there will be no effect on state or local government.

Mr. Reid 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 increased governmental and administrative efficiency due to the repeal of obsolete rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals.

Comments on the proposal may be submitted to Ashley K. Wadick, General Land Office, Legal Services Division, 1700 North Congress Avenue, Room 630, Austin, Texas 78701, (512) 463-5019.

The repeals are proposed under the Natural Resources Code, §31.051, which provides the commissioner with the authority to make and enforce rules consistent with the law.

§15.1. Scope.

§15.2. Notice of Hearings.

§15.3. Contents of Notice.

§15.4. Material Available for Inspection.

§15.5. Mailing of Notice.

§15.6. Place and Nature of Hearing.

§15.7. Presiding Officer.

§15.8. Petition for Adoption of Rules.

§15.9. Form of Petition.

§15.10. Procedure for Submission, Consideration, and Disposition of Petition.

§15.11. Filing of Documents.

§15.12. Hearings Pursuant to Request.

§15.13. Written Reasons.

§15.14. Parties.

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 2, 1992.

TRD-9212083

Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 463-5019

◆ ◆ ◆
Hearings Under the Texas Deepwater Port Procedures Act

• 31 TAC §§15.21-15.30

(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 General Land Office or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The General Land Office proposes the repeal of §§15.21-15.30, concerning hearings under the Texas Deepwater Port Procedures Act.

The General Land Office proposes the repeal of these sections in order to further its policy of reorganizing administrative rules into a more accessible and logical structure by repealing obsolete sections.

Mr. Spencer Reid, deputy commissioner, 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.

Mr. Reid 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 increased governmental and administrative efficiency due to the repeal of obsolete rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals.

Comments on the proposal may be submitted to Ashley K. Wadick, General Land Office, Legal Services Division, 1700 North Congress Avenue, Room 630, Austin, Texas 78701, (512) 463-5019.

The repeals are proposed under the Natural Resources Code, §31.051, which provides the commissioner with the authority to make and enforce rules consistent with the law.

§15.21. Scope.

§15.22. Notice of Hearings.

§15.23. Contents of Notice.

§15.24. Material Available for Inspection.

§15.25. Mailing of Notice.

§15.26. Place and Nature of Hearing.

§15.27. Presiding Office.

§15.28. Parties.

§15.29. Consolidation of Hearings.

§15.30. Conclusion Time.

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 2, 1992.

TRD-9212082

Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 463-5019

◆ ◆ ◆
Critical Dune Areas

• 31 TAC §§15.41-15.46

(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 General Land Office or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The General Land Office proposes the repeal of §§15.41-15.46, concerning critical dune areas.

The General Land Office proposes the repeal of these sections in order to further its policy of reorganizing the administrative rules into a more accessible and logical structure. The subject matter of these rules will be included in new Chapter 15 of this title (relating to management of the beach/dune system).

Mr. Spencer Reid, deputy commissioner, 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. There will be no effect on state or local government for the first five-year period the repeal will be in effect and no cost of compliance for small businesses.

Mr. Reid 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 increased governmental and administrative efficiency due to the repeal of obsolete rules. 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 Ashley K. Wadick, General Land Office, Legal Services Division, 1700 North Congress Avenue, Room 630, Austin, Texas 78701, (512) 463-5019.

The repeals are proposed under the Natural Resources Code, §31.051 which provides the commissioner with the authority to make and enforce rules consistent with the law.

§15.41. Findings and Declarations; Scope of Rules, Definitions.

§15.42. Criteria for Identification of Critical Dune Areas.

§15.43. Identification Procedure.

§15.44. Management Guidelines for Assessment of Critical Dune Area Activities.

§15.45. Notice to and Comments of Commissioner on Permits.

§15.46. Appeal by Commissioner.

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

Issued in Austin, Texas, on September 2, 1992.

TRD-9212084

Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 463-5019

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 29. Purchased Health Services

Subchapter D. Medicaid Home Health Program

• 40 TAC §29.304

The Texas Department of Human Services (DHS) proposes an amendment to §29.304, concerning limitations on home health services, in its Purchased Health Services rules. Section 29.304 is being amended to allow home health visits beyond the 50-visit limitation when the additional visits have been determined to be medically necessary and have received prior approval.

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

Mr. Raiford also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be that clients requiring more than 50 home health visits will be able to receive the additional visits and reduce the need for care in the institutional setting. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed amendment.

Questions about the content of the proposal may be directed to Genie DeKneef at (512) 338-6509 in DHS's Purchased Health Services Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-213, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

§29.304. Limitations on Home Health Services. Home health services are limited to:

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

(3) Visits by either a nurse or a home health aide may not exceed an aggregate of 50 visits per eligible recipient per benefit period as defined under this category, unless additional visits have been

determined to be medically necessary and prior authorized. Benefit period for purposes of this rule means the 12 successive months beginning with the first date an eligible recipient receives an authorized home health visit. These visits are computed or counted on the same basis as such visits are computed or counted under Part B of Medicare.

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

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

Issued in Austin, Texas, on September 9, 1992.

TRD-9212248

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

Proposed date of adoption: December 1, 1992

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

Part IX. Texas Department on Aging

Chapter 255. State Delivery Systems

• 40 TAC §255.36

The Texas Department on Aging proposes an amendment to §255.36, concerning operation an area agency on aging to establish rules for uniform logo, telephone listings, and listing the department as the primary funding source for area agencies on aging for all public information purposes.

Charles Hubbard, director of finance and administration, has determined that for the first five-year period the section is in effect there will be no fiscal implications as a result of enforcing or administering the section.

James Grabbs, director of public information resources, advocacy, training, and education, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide a uniform symbol of identification for area agencies on aging for increased public awareness and access to aging services under the Older Americans Act. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to James Grabbs, P.O. Box 12786, Austin, Texas, 78711.

The amendment is proposed under Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operations of this department.

§255.36. *Operating an Area Agency on Aging.*

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

(d) Uniform logo for area agencies on aging. Each area agency on aging will use the logo designed by the department to assure a uniform, statewide symbol for area agencies on Aging

designation for public information purposes. The following logo will be used. [insert logo here]



(1) The logo will be used for at least the following:

- (A) public service announcements;
- (B) pamphlets;
- (C) brochures;
- (D) signs;
- (E) newsletters;
- (F) business cards;
- (G) stationery;
- (H) displays;
- (I) reports;
- (J) other means of public communication media whenever possible.

(2) Failure to physically demonstrate adherence to this policy will be considered noncompliance with this rule.

(3) Use of the department's logo is required for all area agencies on aging designated under Title III of the Older Americans Act, as amended, no later than December, 1993.

(e) Uniform telephone listings. The telephone number of each area agency on aging, the area agency on aging's information and assistance toll-free or collect number, and the area agency on aging's nursing home ombudsman

toll-free or collect number will appear in each telephone directory that is published by the provider of local telephone service, for residents in any geographical area that lies in whole or in part in the planning and service area served by the area agency on aging.

(1) The listings will appear in the unclassified sections and government sections under the listing "SENIOR CITIZENS SERVICES," "AGING," "SOCIAL SERVICES," or other appropriate sections of the phone book if these listings are not available.

(2) The listings will appear in the classified section of the telephone directories of the major metropolitan area of the area agency on aging, and to the extent possible, in other areas of the area agency on aging's service area.

(3) The listing in the unclassified section and classified section is to begin with the words: Area Agency on Aging to position it at or near the top of each heading. The listing will appear in boldface type, as follows: Area Agency on Aging of (name of area) Business Office area code and telephone number Information and Assistance toll-free or collect number Nursing Home Ombudsman toll-free or collect number.

(4) These listings are to be completed by no later than the next printing cycle of the telephone directory of each provider of local telephone service.

(5) These listings will be used in all other service directories, public service announcements, pamphlets, brochures, reports, newsletters, stationery, and other means of public communication media whenever possible.

(6) Failure to physically demonstrate adherence to this policy will be considered noncompliance with this rule.

(f) Listing of the Texas Department on Aging as primary funding source by area agencies on Aging. All area agencies on aging designated under Title III of the Older Americans Act, as amended, will cite the Texas Department on Aging as its primary funding source.

(1) The phrase "Funded by the Texas Department on Aging" will appear in all news releases, public service announcements, pamphlets, displays, signs, brochures, reports, stationery, and other means of public communication media.

(2) Use of this phrase in all public communication media is effective upon adoption of this rule. Existing stocks of information items may be expended, and once expended, reorders will fall under this requirement. Existing non-expendable items such as signs and displays will be required to adhere to this requirement no later than December 1993.

(3) Failure to physically demonstrate adherence to this policy will be considered noncompliance with this rule.

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 8, 1992.

TRD-9212169

Mary Sapp
Executive Director
Texas Department on
Aging

Earliest possible date of adoption: October 16, 1992

For further information, please call: (512) 444-2727



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 on October 16, 1992, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider a petition filed by the staff of the Texas Department of Insurance proposing amendments to Rule IX E-Employee Leasing Arrangements of the Texas Basic Manual of Rules, Classifications and Rates for Workers' Compensation and Employers' Liability Insurance and Employee Leasing Forms EL-1 and EL-1A. The rule and form changes were proposed in a petition (Reference Number W-0992-57-I), filed by staff on September 9, 1992.

These proposed modifications to the rule address a concern that the current Rule IX E-Employee Leasing Arrangements adopted by the State Board of Insurance on July 23, 1992, might be interpreted overbroadly. To address this concern, the definitions of employee leasing firm, employee leasing arrangement, and leased worker are being proposed to be changed. Additional changes are being proposed so the text will be consistent with the definitional changes. Also, some employers have argued that if their experience modifier is higher than their client company's experience modifier, then Rule IX E-Employee Leasing Arrangements adopted by the State Board of Insurance on July 23, 1992, should not be applicable to them. Therefore, a new Section 3d is being proposed to provide an option to use the higher modifier if that is, in fact, the case.

The definition of an employee leasing firm is being proposed to mean "an entity whose

principal business is providing workers, as distinct from non-personnel services, to another entity to perform activities in furtherance of the business, trade or profession of the other entity at the business premises of or at locations designated by the other entity."

The proposed definition of leased worker is "a worker provided by an employee leasing firm: 1) who is or was considered to be an employee or co-employee of a client company for any purpose; or 2) who, during the policy period of the employee leasing firm, is provided to a client company for more than six (6) months by any employee leasing firm."

The proposed definition of employee leasing arrangement is "an arrangement under lease, contract or other agreement made orally or in writing whereby an employee leasing firm provides leased workers to a client company and, for purposes of workers' compensation insurance, claims the leased workers are employees or co-employees of it and the client company, or claims to be the employer or co-employer with the client company of the leased workers."

Additional minor textual modifications are being proposed as a result of these definitional changes. These proposed changes include modifying the definition of client company to "mean an entity that obtains one or more workers from an employee leasing firm" and changing the phrase "leased its workers" in Sections 3b and 3c to "obtained leased workers."

The proposed language for the new Section 3d provides the following. "As long as the experience modifier of the employee leasing firm is higher than the experience modifier most recently issued to a client company by the Department before it entered into any employee leasing arrangement, then at the option if the employee leasing firm, premium for leased workers of that client company may be calculated based on the higher experience modifier of the employee leasing firm. An Employee Leasing/Client Company Endorsement will not be required for client companies for which this option is chosen."

Two changes to the employee leasing forms are being proposed to effectuate this option set forth in Section 3d the previous paragraph. Paragraph 7 of the Employee Leasing Form EL-1 and Paragraph 7 of the Employee Leasing Form EL-1A are proposed to read:

"7(a). The name and address of each client company."

" 7(b). State the name of any client companies listed in subsection 7(a) for which the employee leasing firm has chosen to use its

higher experience modifier and provide the experience modifier, most recently issued to the client company by the Department before it entered into any employee leasing arrangement."

The first phrase of subsection 8 of Employee Leasing Form EL-1A is proposed to be amended to read: "For each client company identified in the preceding subsection 7(a) and not listed in subsection 7(b).

There is also a proposed change to the preamble of the rule which removes part of the last sentence of the preamble thereby proposing that the end of the first paragraph of the preamble will read as follows.

"This rule provides a method to calculate more accurately the proper workers' compensation insurance premium attributable to leased workers. This is done by requiring the use of the client company's experience modifier for two years and by attributing experience for leased workers to the employee leasing firm. After two (2) years, the time necessary for experience to be reflected in an experience modifier, the employee leasing firm can use its own experience modifier."

A copy of the petition containing the full text of this proposed amendment to Rule IX E-Employee Leasing Arrangements of the Texas Basic Manual of Rules, Classifications and Rates for Workers' Compensation and Employers' Liability Insurance and Employee Leasing Forms EL-1 and EL-1A 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 W-0992-57-I).

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedures 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.

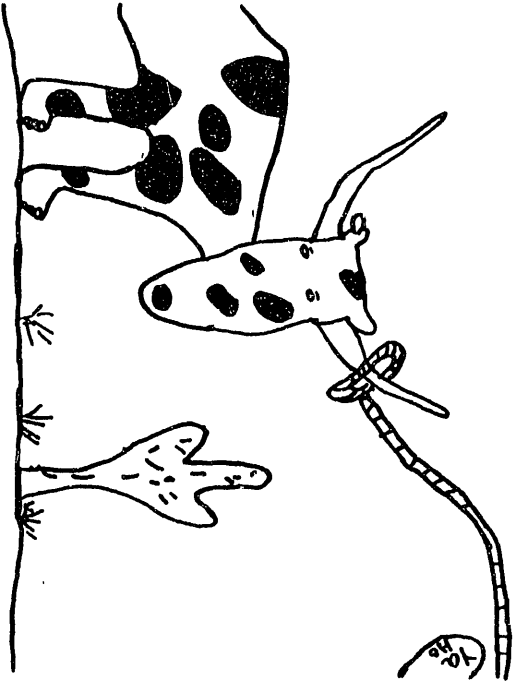
Issued in Austin, Texas, on September 9, 1992.

TRD-9212257 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of
Insurance

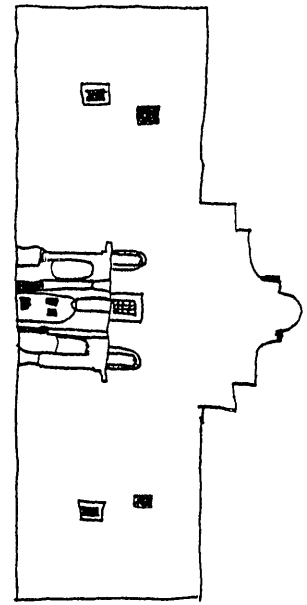
Filed: September 9, 1992

For further information, please call. (512) 463-6328

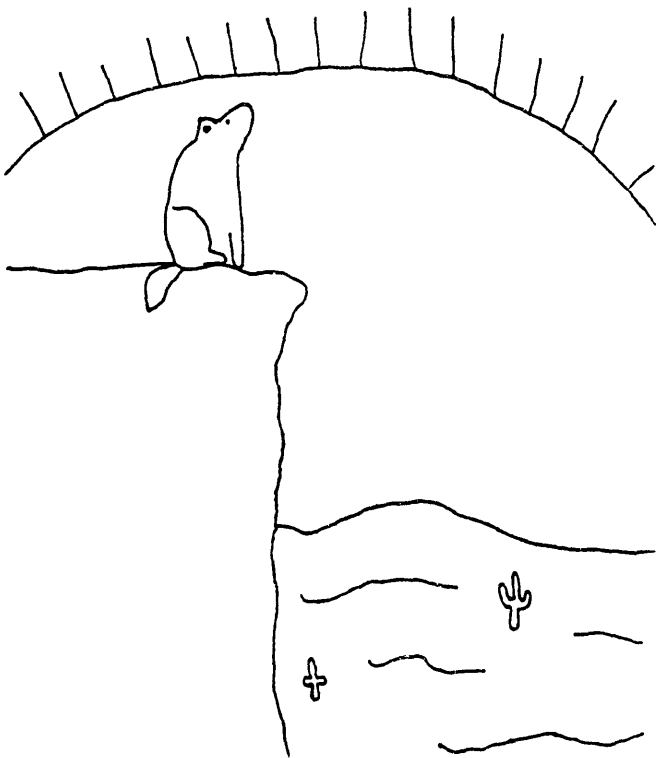




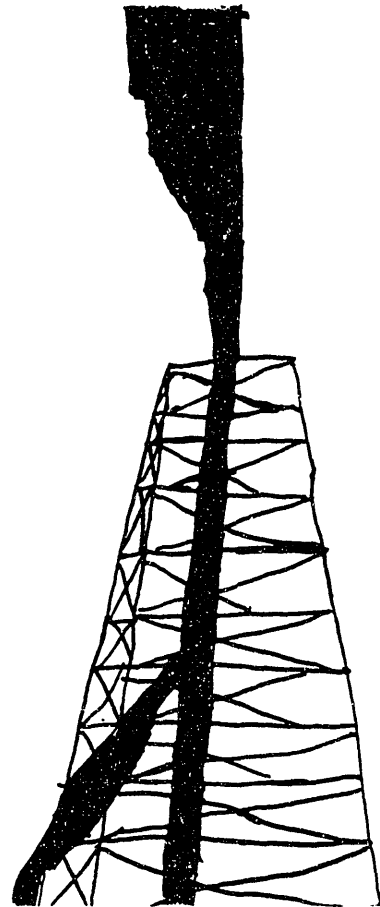
4-103



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4-106

Adopted Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Licensing and Regulation

Chapter 60. Texas Commission of Licensing and Regulation

Subchapter C. Fees

• 16 TAC §60.64, §60.66

The Texas Department of Licensing and Regulation adopts new §60.64, and 60.66, without changes to the proposed text as published in the August 4, 1992, issue of the *Texas Register* (17 TexReg 5407).

The new sections set registration/license fees for the Registration of Property Tax Consultants and Employers of Certain Temporary Common Workers programs.

The method of collecting fees will remain the same.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 9100, which provide the Department of Licensing and Regulation with the authority to set fees to cover the cost of administering programs regulated by the department.

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 4, 1992.

TRD-9212134

Jack W. Garrison
Acting Executive Director
Texas Department of
Licensing and
Regulations

Effective date: September 25, 1992

Proposal publication date: August 24, 1992

For further information, please call: (512) 463-3127

Chapter 61. Boxing

• 16 TAC §61.109

The Texas Department of Licensing and Regulation adopts an amendment to §61.109, concerning technical requirements-boxer, without changes to the proposed text as pub-

lished in the August 7, 1992, issue of the *Texas Register* (17 TexReg 5499).

The amendment deletes the HIV test requirement and changes the requirement for EEG for a boxer's first Texas license from mandatory to as may be required.

The amendment updates and clarifies the requirements for boxers.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8501-1, which provide the Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules to assure compliance with the Act.

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

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

TRD-9212191

Jack W. Garrison
Acting Executive Director
Texas Department of
Licensing and
Regulations

Effective date: September 29, 1992

Proposal publication date: August 7, 1992

For further information, please call: (512) 463-3127

Chapter 75. Air Conditioning and Refrigeration Contractor License Law

• 16 TAC §§75.20, 75.80, 75.90

The Texas Department of Licensing and Regulation adopts amendments to §§75.20, 75.80, and 75.90 without changes to the proposed text as published in the July 24, 1992, issue of the *Texas Register* (17 TexReg 5182).

The amendment clarify existing rule and make department processing more efficient.

Section 75.20 and §75.80 have changes in terminology to make automation of services possible. Section 75.90 has been amended to reflect state law in the Administrative Procedure and Texas Register Act.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 8861, which provide the

Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take all action necessary to assure compliance with the intent and purposes of the Act.

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

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

TRD-9212135

Jack W. Garrison
Acting Executive Director
Texas Department of
Licensing and
Regulation

Effective date: September 25, 1992

Proposal publication date: July 24, 1992

For further information, please call: (512) 463-3127

Part VIII. Texas Racing Commission

Chapter 309. Operation of Racetracks

Subchapter B. Horse Race-tracks

Operations

• 16 TAC §309.200

The Texas Racing Commission adopts an amendment to §309.200, concerning stakes and other prepayment races, with changes to the proposed text as published in the June 16, 1992, issue of the *Texas Register* (17 TexReg 4326).

The amendment is adopted to ensure that the pari-mutuel racing will be conducted with the highest integrity and that the participants in pari-mutuel racing are protected.

The amendment clarifies the requirements for conducting stakes and prepayment races at a pari-mutuel racetrack. The changes from the proposed text include an effective date and reduce the number of signatures required for withdrawals from the nominations account.

The Texas Quarter Horse Association filed written comments regarding the proposal. The TQHA requested clarification about the proposal's effective date and suggested the number of signatures required for withdrawals be reduced from three to two. The commission agreed with the comments and the appropriate changes were incorporated.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; under §6.06, which authorize the commission to adopt rules relating to the operation of racetracks.

§309.200. Stakes and Other Prepayment Races.

(a) An association shall file with the commission, for approval, a copy of the race conditions and the nomination blank for all stakes or other prepayment races at least 30 days before distributing the conditions to the public.

(b) The nomination blank must state all conditions of the race, including:

- (1) the payment schedule;
- (2) the dates and conditions for the race and any trials;
- (3) the source and amount of any added money;
- (4) the distribution of all funds paid into the race, including the percentages allocated for advertising, administration, and other expenses;

(5) terms for obtaining refunds, if any; and

(6) all other conditions pertaining to the race.

(c) The association shall ensure all funds paid into the race are maintained in escrow in an FDIC secured financial institution, except as otherwise authorized by the commission. The escrow account must require, for all withdrawals, the signatures of the sponsor of the race and either the horsemen's bookkeeper or general manager of the racetrack.

(d) Not later than five business days after receiving a request by the commission, the association shall provide to the commission a list of all horses nominated for the race, distinguishing which horses remain eligible as of the date of the request and the names of all owners of each horse remaining eligible.

(e) Not later than five business days after receiving a request by the commission, the association shall provide a written report to the commission regarding the activity and status of the escrow account in which the race funds are maintained. The report must include the name of the financial institution in which the account is held, the dates and amounts of deposits into the account by each nominator or sponsor, the dates and amounts of all withdrawals or deductions from the account, and for what purpose each withdrawal or deduction was made.

(f) Not later than 15 days after the purse from the race is released for payment

by the commission, the association shall provide to the commission the final report for the escrow account. The final report must include all information required in subsection (e) of this section and a certification by the association that the purse has been distributed. The certification must state how the purse was distributed to each purse winner, including the address to which a check was mailed or the date on which winnings were deposited in the appropriate horsemen's account.

(g) An association may not conduct a stakes or other prepayment race sponsored by a person or organization other than the association unless the person or organization agrees in writing to comply with this section. The failure of an association to ensure compliance with this section is grounds for disciplinary action against the association.

(h) This section applies to stakes or other prepayment races scheduled to be conducted on or after January 1, 1993.

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

Issued in Austin, Texas, on August 28, 1992.

TRD-9212118 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: October 1, 1992

Proposal publication date: June 16, 1992

For further information, please call: (512) 794-8461

◆ ◆ ◆
Chapter 321. Pari-mutuel Wagering

**Subchapter C. Simulcast Wagering
Simulcasting at Horse Race-tracks**

• 16 TAC §321.232

The Texas Racing Commission adopts an amendment to §321.232, concerning negotiation with horsemen, without changes to the proposed text as published in the June 16, 1992, issue of the *Texas Register* (17 TexReg 4326).

The amendment is adopted to ensure that the pari-mutuel racing will be conducted with the highest integrity and that the participants in pari-mutuel racing are protected.

The amendment eliminates the requirement that an association negotiate with an organization representing jockeys regarding simulcasting.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize

the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; under §6.06, which authorize the commission to adopt rules relating to the operation of racetracks.

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

Issued in Austin, Texas, on August 28, 1992.

TRD-9212119 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: October 1, 1992

Proposal publication date: June 16, 1992

For further information, please call: (512) 794-8461

◆ ◆ ◆
TITLE 22. EXAMINING BOARDS

Part VIII. Texas Appraiser Licensing and Certification Board

Chapter 153. Provisions of the Appraiser Licensing and Certification Act

• 22 TAC §153.17

The Texas Appraiser Licensing and Certification Board adopts an amendment to §153.17 relating to renewal of certification, license or trainee approval; continuing education, with changes to the proposed text as published in the July 7, 1992, issue of the *Texas Register* (17 TexReg 4869).

Minor editorial changes were made from the published text to clarify the intent of the amendment.

The amendment adds specificity to the appraiser continuing education (ACE) requirements including the implementation date of two years after implementation of the federal Title XI, Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), the purpose of appraiser continuing education, types of acceptable educational offerings and courses, acceptable appraisal related topics, and allowing credit for the teaching of appraisal courses and other appropriate activities. They also require a minimum of seven hours of coverage of the Uniform Standards of Professional Appraisal Practice (USPAP) every other renewal. Requirements for renewing an appraiser trainee approval specifies that a trainee must complete 15 classroom hours of the Uniform Standards of Professional Appraiser Practice (USPAP) in order to renew the first year, and must complete 30 classroom hours of acceptable appraisal courses every other annual renewal thereafter. An additional 15 classroom hours of USPAP is required for the sixth annual trainee approval renewal.

One written comment was received. The Foundation Appraisers Coalition of Texas

(FACT) supported the amendments to the rules.

The amendment is adopted under the Texas Appraiser Licensing and Certification Act, Texas Civil Statutes, Article 6573a.2, which provides the Texas Appraiser Licensing and Certification Board with authority to adopt rules and regulations necessary for the performance of its duties.

§153.17. Renewal of Certification, License, or Trainee Approval; Appraiser Continuing Education.

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

(e) As a condition for renewing a certification or license after December 31, 1994, or two years after the federal implementation of Title XI, Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), whichever is later, an appraiser must successfully complete the equivalent of at least 20 classroom hours of appraiser continuing education (ACE) courses approved by the board, during the two-year period preceding the expiration of the certification or license. The board shall base its review and approval of appraiser continuing education courses upon the then current appraiser qualifications criteria of the Appraiser Qualifications Board.

(1) The purpose of ACE is to ensure that certified and licensed appraisers participate in programs that maintain and increase their skill, knowledge, and competency in real estate appraising.

(2) The following types of educational offerings may be accepted for meeting the ACE requirements:

(A) a course that meets the requirements for certification or licensing also may be accepted for meeting ACE provided:

(i) the course is devoted to one or more of the appraisal related topics of the then current appraiser qualifications criteria of the Appraiser Qualifications Board (AQB) for continuing education; and

(ii) the course was not repeated within a three-year period;

(B) a course that has been accepted by an appraiser professional trade association as meeting the association's continuing education requirements if the board has previously approved one or more courses from the association as meeting licensure or certification requirements, provided that the course must have been at least two hours in duration and devoted to one or more of the appraisal related topics of the then current appraiser qualifications criteria of AQB for continuing education;

(C) a course specifically approved by the board for meeting ACE offered by a provider as specified in §153.13(b)(2) of this title (relating to Educational Requirements), provided the course is devoted to one or more of the appraisal related topics of the then current appraiser qualifications criteria of the AQB for continuing education and the course is at least two hours in duration;

(D) a course that meets the Texas Real Estate Commission mandatory continuing education (MCE) requirements, provided it is devoted to one or more of the appraisal related topics of the then current appraiser qualifications criteria of AQB for continuing education;

(E) a seminar or other educational offering that deals with appraisal issues, offered by an appraiser trade association, a related association, or by a federal or state governmental agency, provided the offering was at least two hours in duration, and is devoted to one or more of the appraisal related topics of the then current appraiser qualifications criteria of AQB for continuing education.

(3) as part of the 20 classroom hour ACE requirement, an appraiser must successfully complete a minimum of seven classroom hours of instruction covering the Uniform Standards of Professional Appraisal Practice (USPAP) before the appraiser's second renewal after December 31, 1992, of certification or licensure, and before every even numbered renewal thereafter (fourth, sixth, eighth, etc.).

(4) Copies of transcripts or course completion certificates from the course provider must accompany the application for renewal form.

(5) Appraiser continuing education credit may also be granted for participation, other than as a student, in real estate appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, educational program development, authorship of real estate appraisal textbooks, or similar activities that are determined by the board to be equivalent to obtaining appraiser continuing education. Appraisal experience may not be substituted for ACE.

(f) As a condition for renewing an appraiser trainee approval, a trainee must successfully complete the following educational courses which meet requirements for application for licensing and certification:

(1) for the first annual renewal, 15 classroom hours devoted to the USPAP

(2) for the third annual renewal, 30 classroom hours of actual real estate appraisal courses;

(3) for the fifth annual renewal, 30 classroom hours of actual real estate appraisal or appraisal related courses;

(4) for the sixth annual renewal, 15 classroom hours devoted to the USPAP; and

(5) for each second annual renewal thereafter, 30 classroom hours of actual real estate appraisal or appraisal related courses.

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 4, 1992.

TRD-9212102

Renil C. Limer
Commissioner
Texas Appraiser Licensing
and Certification Board

Effective date: October 1, 1992

Proposal publication date: July 7, 1992

For further information, please call: (512) 465-3950

◆ ◆ ◆
TITLE 28. INSURANCE
Part II. Texas Workers'
Compensation
Commission

Chapter 102. Practice and
Procedures

• **28 TAC §102.8**

The Texas Workers' Compensation Commission adopts new §102.8, concerning information required on written communications, with changes to the proposed text as published in the May 26, 1992, issue of the *Texas Register* (17 TexReg 3821).

This section is adopted to allow staff to identify the injured worker; match information to a claim file; identify the employer; verify whether the employer is covered by workers' compensation insurance; and to identify the insurance carrier that will provide benefits to the injured worker. This section is also adopted to comply with the federal requirement for disclosure to allow the commission to request the injured worker's social security number on forms or information requests. The only change made to the text of this section is in subsection (a)(1) where the phrase "work permit (green card)" was replaced with the more formal and correct phrase "immigrant or non-immigrant visa."

Section 102.8 requires any person communicating with the commission regarding an injured employee or claim to provide specific information if they know it.

There were no public comments received on this section.

The new section is adopted under Texas Civil Statutes, Article 8308-2.09(a), authorizing the commission to adopt rules necessary to implement and enforce the Texas Workers'

Compensation Act and Article 8308-2.11(f), which allows the executive director to prescribe the form, manner, and procedure for transmission of information to the commission.

§102.8. Information Required on Written Communications to the Commission.

(a) All written communications to the commission regarding an injured worker or claim for benefits shall include the following information, if known:

- (1) the injured worker's full name, date of injury, address, and social security number, or immigrant or non-immigrant visa number if no social security number has been assigned;
- (2) the name and address of the claimant, if other than the injured worker;
- (3) the workers' compensation number assigned to the claim by the commission;
- (4) the employer's name and address;
- (5) the employer's federal employer's identification number (FEIN);
- (6) the insurance carrier's name;
- (7) the insurance carrier's policy number; and
- (8) the insurance carrier's claim number.

(b) Written communications involving medical issues shall also provide the information required by §133.1 of this title (relating to Information Required in Communications).

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 8, 1992.

TRD-9212208 Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Effective date: October 1, 1992

Proposal publication date: May 26, 1992

For further information, please call: (512) 440-3592

◆ ◆ ◆
**Chapter 112. Scope of
Liability for Compensation**
**Subchapter E. Application to
Certain Professional Athletes**
• 28 TAC §112.401, §112.402

The Texas Workers' Compensation Commission adopts new §112.401 and §112.402,

concerning the election of workers' compensation or contract benefits to be made by certain professional athletes with changes to the proposed text as published in the June 19, 1992, issue of the *Texas Register* (17 TexReg 4427).

These sections are adopted as required by Texas Civil Statutes, Article 8308-3.075, to clarify when a professional athlete must make a selection of benefits and to establish a mechanism for comparing those benefits.

Section 112.401 requires a professional athlete, no later than 15 days after an injury, to make a written election to receive either workers' compensation insurance benefits or equivalent benefits provided by contract or collective bargaining agreement; requires the employer to provide the athlete with written notice of this mandatory election at the time the contract is executed; and establishes filing requirements for the written election. Section 112.402 defines when contractual benefits are equal to or greater than workers' compensation insurance benefits.

There were no public comments received as a result of proposing these sections at this time, however, they were previously proposed and automatically withdrawn. The public comments when previously proposed were:

The commission should amend the rule to permit a one-time, pre-injury election which is irrevocable and binding throughout the athlete's employment with that particular professional franchise, whether pursuant to one or several contracts. This is in keeping with Article 8308-3.08(b), which requires that employees (not just professional athletes) who wish to retain their common law rights must do so within five days of beginning their employment.

The commission disagrees. Pursuant to Article 8308-3.075, the injured athlete is entitled to benefits that are equal to or greater than workers' compensation benefits. Contract benefits available to the athletes appear to change with time, so that an injury at the end of the contract period will result in less overall benefit than an injury at the beginning of the contract period. If the injured athlete will not be entitled to benefits that are equal to or greater than workers' compensation benefits, the Act does not allow them to make an election. Also, each new contract or collective bargaining agreement has the potential to change the equivalence of benefits. Thus, benefits must be compared after the injury to be certain that the statute even allows the athlete to make a choice.

The commission should amend the rule to provide that an athlete who signs a guaranteed contract, which requires that an athlete be paid whether injured or not and whether he/she plays or not, is deemed to have elected to receive the contract benefits.

The commission disagrees. The rule as proposed includes a provision that the failure to make an election will result in a presumption that the athlete elected the option that would result in the highest benefits, which is consistent with the legislative requirement that benefits be at least equal before an election is made. Deeming the election to be made by

the nature of the contract would not guarantee that the benefits are at least equal when the election must be made.

In subsection (a), the 15-day deadline is not mandated by the statute and may confuse athletes, complicate administration, and cause unnecessary litigation. Other injured employees have 30 days in which to file a claim and the same time frame should apply here.

The commission disagrees. Commenter is in error. Article 8308-5.01(a) provides that an employee has 30 days after an injury to notify the employer that an injury occurred, not to file a claim. Article 8308-5.01(b) provides that an injured employee has one year from the date of injury to file a claim for compensation. The issue here however, is the athlete providing notice of the type of benefits that he or she is electing to pursue. Establishing a different filing deadline emphasizes the fact that the actions are different.

In subsection (a), the presumption that an athlete who fails to make an election has elected the option which provides the highest benefits eliminates the athlete's statutory right to elect which benefits to receive. The commission does not have the statutory authority to create a default method of election.

The commission disagrees. The creation of the presumption does not take away the athlete's statutory right to elect. It merely provides a mechanism for determining which benefits are to be paid if the athlete is unwilling or unable to make the election which is required by law. Subsection (b) of Article 8308-3.075 authorizes and requires the commission to establish the procedures and requirements for the election.

In subsection (a), the term "highest benefits" is not found in the statute and there is no assurance that an outsider such as a representative of the commission or administrative law judge will be in a position to determine which benefits are the highest. Problems could arise if an arbitrator ruled that the contract benefits were the highest while the commission refused to permit the election.

The commission disagrees. The common meaning of "highest" would clearly indicate that the phrase relates to benefits that are greater than other benefits. By using the formulas set out in §112.402 a person can compare the benefits and determine which are greater. The authority to resolve disputes about professional athletes' elections under Article 8308-3.075 rests with the commission, not an arbitrator with jurisdiction over a collective bargaining agreement. In addition, if the commission determined that the benefits available under the Act were greater, the athlete could not make an election.

Subsection (a) forces the athlete to elect between his statutory benefits and the benefits available to him under a collective bargaining agreement or contract. This ventures close to, and perhaps beyond, the boundary between permissible state regulations and exclusive federal labor law. This may result in the entire rule being invalidated.

The commission disagrees. The election is required by Article 8308-3.075. This rule

merely provides the procedure by which the mandatory election will be made and ensures that the athlete is given notice that he or she must make an election. It is an appropriate exercise of the rule-making process for the commission to adopt a rule required by statute. The commission does not believe federal labor law preempts this state law.

In subsections (c) to (e), the procedures for making the election and notifying the commission and the employer's insurance carrier of the election are unnecessarily burdensome and complicated.

The commission disagrees. The procedures established in subsections (c) to (e) are the same procedures which must be followed by contractors and subcontractors under Articles 8308-3.05 and 8308-3.06 of the Act and Chapter 112 of the rules. It is administratively simpler for the commission to use similar procedures for making and filing all elections and agreements.

Subsection (f) is repetitive and unnecessary. The same point is made in subsection (a).

The commission disagrees. The purpose of subsection (f) is to make clear that the election is binding on the athlete and the term for which it is binding. Subsection (a) merely states that an election must be made and when the election must be made.

The athlete (or his next of kin) should be required to make an election at the time the athlete seeks benefits or files a claim with respect to a particular injury. If the athlete does not timely file a claim for benefits under the Act, then he should be deemed to have elected the benefits under his contract.

The commission disagrees. An injured worker (including professional athletes) has one year from the date of injury to file a claim to receive benefits under the Act. This would create an unworkably long period before it could be determined whether an athlete was electing to receive benefits under the Act or under a contract or collective bargaining agreement. Thus, the employer's insurance carrier will not get clear and timely notice of whether a specific athlete is covered by the workers' compensation policy which will make calculation of the appropriate premium difficult if not impossible.

In a recent decision by the United States Court of Appeals for the District of Columbia, the Federal Employee Retirement Income Security Act of 1974 (ERISA) was held to preempt a statute which required employers to provide equivalent health insurance benefits to employees while they received workers' compensation. This statute should be considered preempted and no rule drafted.

The commission disagrees. The statute which was held to be preempted in the cited case required an employer, who provided health insurance coverage to an employee, to provide health insurance coverage equivalent to the existing coverage while that employee received or was eligible to receive workers' compensation coverage. Article 8308-3.075 does not require the employer to provide equivalent coverage while the athlete is receiving or eligible to receive workers' compensation. Instead, this statute mandates that

when the teams provide equivalent benefits the athlete must elect which benefits to receive.

The rule should require the election after extent of injury and disability has been determined.

The commission disagrees. Many injuries take years to determine extent. Since workers' compensation benefits are required to be paid within a limited time after the insurance carrier is notified that an injury resulted in more than eight days of disability, allowing the choice to be delayed would create an untenable situation for the carrier and the employer. The employer would have to report the injury to avoid penalties established in the Act. The carrier would have to begin paying benefits, also to avoid penalties under the Act.

The athlete should be allowed a choice for each of the benefits provided under workers' compensation.

The commission disagrees. Article 8308-3.075 does not require that athletes be given a choice for each benefit. It requires that, under specific conditions, an athlete choose between workers' compensation benefits and contract or collective bargaining benefits. Based on the statute and §112.402, if any of the benefits fails to be equal to or greater than workers' compensation benefits, the athlete is not allowed to make an election.

Comments were filed by the following in support of change to the rules as proposed: Texas Professional Sports Coalition; The Senate of the State of Texas; Houston Sports Association, Inc.; Mattingly & Marsh; Jackson & Walker, Attorneys for the Texas Rangers Baseball Club; National Football League Players Association

The new sections are adopted under Texas Civil Statutes, Article 8308-3.075, which require the commission to adopt rules to establish the procedures and requirements for an election of benefits, and Article 8308-2.09(a), authorizing the commission to adopt rules necessary to implement and enforce the Texas Workers' Compensation Act.

§112.401. Election of Coverage by Certain Professional Athletes.

(a) A professional athlete employed by a franchise with workers' compensation insurance coverage and subject to the Texas Workers' Compensation Act (the Act), Article 8308-3.075, shall elect to receive either the benefits available under the Act or the equivalent benefits available under the athlete's contract or collective bargaining agreement. The election shall be made not later than the 15th day after the athlete sustains an injury in the course and scope of employment. If the athlete fails to make an election, the athlete will be presumed to have elected the option which provides the highest benefits.

(b) When a contract is signed by a professional athlete, the employer shall give the athlete a copy of the following state-

ment: "(Name of employer) has workers' compensation coverage from (name of insurance carrier). If the benefits available to you under your contract and any applicable collective bargaining agreement are equivalent to or greater than those available to you under the Texas Workers' Compensation Act, Article 8308-3.075 of that Act requires you to elect whether to receive the benefits available to you under the Act or the benefits available to you under your contract and any applicable collective bargaining agreement. You must make this election no later than 15 days after sustaining an injury. If you elect to receive the benefits available to you under your contract and any applicable collective bargaining agreement, you cannot obtain workers' compensation income or medical benefits if you are injured. You can get more information about your workers' compensation rights and the benefits available to you under the Act from any office of the Texas Workers' Compensation Commission, or by calling 1-800-252-7031."

(c) The election shall be in writing and shall:

(1) indicate the date of the injury for which the election is being made;

(2) indicate whether the athlete elects to receive the benefits available under the Act or the benefits provided under the contract or agreement; and

(3) be signed by the athlete and the employer.

(d) If the athlete elects to receive the benefits available under the Act, the election shall be provided to the commission by personal delivery or registered or certified mail within 10 days of the date of execution. A copy shall also be provided to the franchise's workers' compensation insurance carrier within 10 days of the date of execution. Both the athlete and the franchise shall also keep a copy of the election.

(e) If the athlete elects to receive the benefits available under the contract and any agreement, the election shall be provided to the franchise's workers' compensation insurance carrier by personal delivery or registered or certified mail within 10 days of the date of execution. Both the athlete and the franchise shall keep a copy of the election.

(f) An election made under this section is irrevocable and binding on the athlete and the athlete's legal beneficiaries for a compensable injury incurred on the date specified in the election.

§112.402. Determination of Equivalent Benefits for Professional Athletes.

(a) Medical care available to a professional athlete subject to the Act, Article 8308-3.075, is equal to or greater than medical benefits under the Act if:

(1) the athlete is entitled to all health care reasonably required by the nature of the work-related injury as and when needed, including all health care that:

(A) cures or relieves the effects naturally resulting from the work-related injury;

(B) promotes recovery; or

(C) enhances the ability of the employee to return to or retain employment; and

(2) the employer's liability for health care is not limited or terminated in any way by the contract or collective bargaining agreement.

(b) When the athlete is not eligible for lifetime income benefits or when the athlete's legal beneficiaries are not eligible for death benefits under the Act, weekly benefits available to a professional athlete subject to the Act, Article 8308-3.075, are equal to or greater than the income benefits provided under the Act if the total amount of the payments provided for in the contract or collective bargaining agreement is equal to or greater than the maximum weekly benefit available under the Act multiplied by 104.

(c) When the athlete is entitled to lifetime income benefits under the Act, weekly benefits available to a professional athlete subject to the Act, Article 8308-3.075, are equal to or greater than the income benefits provided under the Act if equal to or greater than the maximum weekly benefit available under the Act.

(d) When the athlete's legal beneficiaries are entitled to death benefits under the Act, weekly benefits available to the legal beneficiaries of a professional athlete subject to the Act, Article 8308-3.075, are equal to or greater than the death benefits provided under the Act if equal to or greater than the maximum weekly benefit available under the Act.

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

Issued in Austin, Texas, on September 8, 1992.

TRD-9212209

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Effective date: October 1, 1992

Proposal publication date: June 19, 1992

For further information, please call: (512) 440-3592

Chapter 134. Guidelines for Medical Services, Charges, and Payments

Subchapter J. Reviews and Audits

• 28 TAC §134.900

The Texas Workers' Compensation Commission (TWC) adopts new §134.900, concerning the regulation of medical benefits, with a change in title, but no changes to the proposed text as published in the July 10, 1992, issue of the *Texas Register* (17 TexReg 4941).

This new section is adopted as required by Texas Civil Statutes, Article 8308-8.01(b) and as required to implement Article 8308-8.21. It implements the program of medical review of fees charged, payments made, and medical services provided which was contemplated by the Act in Article eight.

The section requires health care providers, insurance carriers, third party administrators, and others to allow staff of the medical review division access to their records and facilities to perform reviews and audits.

Public comments received on this section were:

There may not be statutory authority to charge a health care provider for the review and audit conducted by TWCC.

The commission disagrees. The statute clearly gives the TWCC the authority to charge a health care provider a fee for the review of health care fees and treatments when the provider's fees and treatments exceed the fee and treatment guidelines and policies established by the commission. Health care providers will not incur a charge for the review and audit unless their fees and treatments are found to exceed these guidelines and policies.

It is unfair to require small practices to provide an office and access to a copy machine and telephone.

The commission disagrees. This section requires office space to be provided; however, the term "office space" simply requires a health care provider to provide a work space large enough for the auditors to review the medical records, not an enclosed office. The statute requires the health care providers to submit copies of reports and records to the commission when requested and does not allow the provider to charge the commission for copies. It allows providers to charge insurance carriers for copies of reports provided to that carrier. Access to a copy machine allows the auditors to make their own copies to ensure that the information is complete and accurate. Access to a telephone is only necessary when the audited providers cannot clarify issues related to the fees and treatments from within their own records.

Since the review and audit is initiated by the commission, there should not be a charge to the provider except when the provider exceeds fee or treatments guidelines established by the commission.

The commission agrees. The exception stated by the commenter is the only time a provider will be required to incur the expense of the audit.

The fiscal notes did not accurately reflect the true economic impact, especially for small health care providers treating few workers' compensation cases, because it listed an hourly rate instead of the anticipated total cost per audit.

The commission disagrees. The fiscal notes listed the hourly rate because the anticipated cost per audit can vary significantly between different audited entities. The providers who treat few workers' compensation cases will be audited fewer hours. The larger health care providers treating a higher percentage of workers' compensation cases will incur a greater total cost due to more hours.

This section should include a provision to ensure patient confidentiality.

The commission disagrees. Pursuant to the statute, all information in or derived from a claim file regarding an injured employee is confidential, and is treated as such by commission employees.

Increasing the intensity of review will punish health care providers and circumvent due process.

The commission disagrees. The statute mandates that health care providers' fees and treatments be reviewed. In addition, the statute mandates that the intensity of review be increased to ensure compliance when a provider's practices and patterns of medical charges and treatments are inconsistent with established guidelines. This rule is established to comply with the statutory mandate that the commission will increase the intensity of review. In addition, any violations noted during the audit are referred to the Compliance and Practice Division. This referral allows for due process provided through the Administrative Procedure and Texas Register Act.

The carriers, third party administrators, and audit companies should be audited and held accountable for their actions.

The commission agrees. All parties in the workers' compensation system should be accountable for fulfilling their responsibilities under the law and rules, and health care providers are not exempt from being held accountable. The commission also agrees that such accountability can be beneficial to the workers' compensation system.

Comments on this proposed section were received from the Fort Worth Hospital Council, Physical Therapy Services, and the Texas Medical Association Committee on Workers' Compensation and Occupational Health, all generally opposed to some aspects.

The new section is adopted under Texas Civil Statutes, Article 8308, §2.09(a), which authorize the commission to adopt rules necessary to administer the Act, Texas Civil Statutes, Article 8308, §8.01, which require the commission to adopt rules to regulate medical services and the fees for those services, and Texas Civil Statutes, Article 8308, §8.21, which specifically direct the commission to address review and audit by rule.

§134.900. Medical Benefit Review and Audit.

(a) The division of medical review (the division) shall review and audit medical services, to include, but not be limited to:

- (1) treatments administered;
- (2) services provided;
- (3) fees charged;
- (4) payments made for medical treatment or services provided to injured employees; and
- (5) compliance with other commission rules regulating health care.

(b) The division may conduct a review or audit at the office of an insurance carrier, third party administrator, audit company, health care provider, or at any other appropriate location as determined by the division.

(c) The division shall notify, in writing, the person or entity whose documents are to be reviewed and audited, stating when the review and audit will be performed and the commission employee to contact.

(d) The division shall be granted access to documents and to information regarding health care treatment; fees charged; or payments made, modified, or denied. Pursuant to law, failure or refusal to comply with a division request or order for any information is an administrative violation subject to penalty as provided by the Act.

(e) The person or entity being reviewed or audited by the division shall furnish division personnel, for the duration of the review and audit, with:

- (1) a contact person to answer questions and respond to the needs of division staff;
- (2) office space;
- (3) access to a copy machine; and
- (4) access to a telephone.

(f) The commission shall charge a reasonable administrative fee, set in accordance with Administrative Procedure 5, for the review and audit conducted under this rule.

(g) The intensity of review and audit for compliance with medical policies and fee guidelines shall be increased as necessary to induce compliance by the health care provider who has established practices and patterns in medical charges or treatments inconsistent with medical policies and guidelines established by the commission.

(h) Reports of all probable violations of law and commission rules found during a review and audit shall be forwarded to the division of compliance and practices.

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 8, 1992.

TRD-9212210

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Effective date: October 1, 1992

Proposal publication date: July 10, 1992

For further information, please call: (512) 440-3592

◆ ◆ ◆
Chapter 152. Attorney's Fees

• **28 TAC §152.3**

The Texas Workers' Compensation Commission adopts amended §152.3, concerning the approval of fee by the commission, without changes to the proposed text as published in the July 10, 1992, issue of the *Texas Register* (17 TexReg 4941).

This amended section is adopted as required by Article 8308-4.09 to provide a mechanism for attorneys to get fees approved and for the client to protest the amount of that fee. It additionally provides a viable recourse for the client to recoup overpaid fees.

The section requires attorneys to submit bills on a specific form and to provide a copy of that bill to their client. It allows the client to protest the fee approved by the commission and establishes that the attorney will pay any amounts found to be overpaid.

Public comments regarding this section and the commission responses follow:

The amendment requiring the carrier to pay the entire attorney fee pending an appeal is not authorized by the Act. The Act "limits any payment during the pendency of an appeal to workers' compensation benefits." Articles 8308-6.34(h) and 8308-6.42(e). "Benefits," by definition, do not include attorney fees. Article 8308-1.03(5). The legislature intended only benefits to be continued in recognition "that a claimant may become destitute before recovery is final. In the case of attorney fees, a similar justification or urgency does not exist."

The commission disagrees. A commission decision on a claimant's attorney's fees is a "decision regarding benefits," as referenced by Articles 8308-6.34(h) and 8308-6.42(e), since the claimant's income or death benefits are the source of the fee. Article 8308.09(b).

The amendment requiring the carrier to pay the entire attorney fee pending an appeal conflicts with the Texas Rules of Civil Procedure and the Texas Rules of Appellate Procedure. The rules require a party wishing to

appeal a trial court's judgment to file a bond. The bond suspends enforcement of the judgment. The amendment serves to enforce the judgment on attorney fees, thus violates the rules.

The commission disagrees. If the Act is in conflict "with the Texas Rules of Civil Procedure or any other rules promulgated or adopted by the Supreme Court of Texas," the Act controls. Article 830-86.62(c)(4).

The amendment requiring the carrier to pay the entire attorney fee pending an appeal does not provide an adequate mechanism to recover funds. The legislature provided a mechanism to recover reimbursement of overpaid benefits (the subsequent injury fund) if the carrier ultimately prevails. No similar mechanism is provided by the rule for overpaid attorney fees. The attorney may be ordered to repay the carrier, but there is no guarantee of repayment. Neither is there provision for interest, nor penalty for late payment. "To guarantee payment, §152.3 should provide for the computation of interest and should provide a penalty for recovering delinquent payments."

The commission disagrees. The attorney may be required to repay the injured employee based on final order of the commission or the courts. Compliance with a final commission order can be enforced by an administrative penalty and a suit to enforce. Article 8308-10.21(b)(3); Article 6252-13a, §19A, Administrative Procedure and Texas Register Act, Texas Civil Statutes Compliance with an order of the court is enforced by the court.

The commission should require the insurance carrier to notify the legal representative of the claimant of every document sent to the claimant.

The commission agrees. Section 102.4(b) already requires essentially what the commenter is requesting. If that isn't happening, the commission should be provided with details of the violation to allow enforcement actions.

The insurance carrier should be required to specifically notify the legal representative of the initiation of impairment income benefits.

The commission agrees. This is covered by §102.4(b) which requires the carrier to provide copies of notices to the representative, after they are notified in writing of the representation.

The commission should require the carrier to withhold 25% of the temporary income benefits when the claimant receives 0% impairment.

The commission disagrees. Because impairment is rated only when the injured employee has reached maximum medical improvement, the carrier will not know that there will be a 0% impairment until the point in time when no weekly benefit will be available from which to deduct 25%.

The commission should require the carrier to withhold 25% of the impairment income benefits for payment of attorney fees.

The commission disagrees. The carrier is required to comply with Article 8308-5.22(a),

which requires payment directly to the employee or beneficiaries, and with Article 8308-4.07(a), which establishes that benefits are exempt from legal process and are not assignable. Until the attorney obtains commission approval for a fee, the attorney does not have an allowable lien as provided in Article 8308-4.08(a)(1).

The commission should require the carrier to pay the claimant a lump sum, of any amounts remaining of the 25% withheld, after attorney fees are paid.

The commission disagrees. Since the carrier may not withhold benefits, there cannot be a balance to pay. If it was permissible to set aside a portion of the injured employee's benefit checks to pay for attorney fees, this might be a workable method for dealing with the excess.

Comments on this section were received from the American Insurance Association and a private attorney. Both were opposed to the section in general or the revisions in particular.

This new section is adopted under Texas Civil Statutes, Article 8308-4.09 which require the commission or a court to approve attorney fees and Texas Civil Statutes, Article 8308-2.09(a) which authorize the commission to adopt rules necessary to administer the Act.

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

Issued in Austin, Texas, on September 8, 1992.

TRD-9212211 Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

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Proposal publication date: July 10, 1992

For further information, please call: (512) 440-13592

◆ ◆ ◆
TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 284. Private Sewage Facilities

Subchapter R. Richland Creek Reservoir

Editor's Note: In the August 25, 1992 issue of the Texas Register, 17 TexReg 5791, a conversion chart was published transferring rules from 31 TAC Chapter 285 to 31 TAC Chapter 284. Subchapter R. was not published in this chart. The table below lists the conversion of Subchapter R. with the new section numbers and the old section numbers that correspond to them.)

Old Number	New Number
§285.401	§284.401
§285.401	§284.402
§285.403	§284.403
§285.404	§284.404
§285.405	§284.405
§285.406	§284.406
§285.407	§284.407
§285.408	§284.408
§285.409	§284.409
§285.410	§284.410
§285.411	§284.411
§285.412	§284.412
§285.413	§284.413
§285.414	§284.414

◆ ◆ ◆
Chapter 320. Regional Assessments of Water Quality

Program for Water Quality Assessment by Watershed

• 31 TAC §320.21, §320.22

The Texas Water Commission adopts §320.21, and §320.22, concerning the program for water quality assessment by watershed. Section 320.21 is adopted with changes to the proposed text as published in the July 14, 1992 issue of the *Texas Register* (17 TexReg 5003). Section 320.22 is adopted without changes and will not be republished.

Section 320.21(a) provides a list of definitions and terms which apply to the section. Subsection (b) states the basis and the purpose for the fee. Subsection (c) provides the basis for assessing municipal and industrial uses of water. Subsections (d), (e), and (f) provide the bases for assessing a fee against water right holders. Subsections (g), (h), and (i) describe how retail public utilities may collect from customers a charge to recover the amount of the fee assessed. Subsection (j) sets out the dates upon which the fees shall be paid. Subsection (k) provides that the fees may be adjusted to ensure the adequate support of the programs and the equitable assessment of fees.

Section 320.22 relates to allocation of fee revenue. Subsection (a) of that section provides that river authorities or designated local governments shall be eligible for reimbursement of the costs of development of water quality assessments and implementation of the provisions of Chapter 320. Subsection (b) provides that the schedule and amount of any reimbursement shall be determined by mutual agreement of the commission and the appropriate river authority or local government

based on an approved water quality assessment report or work plan.

The commission received comments on the proposed rules from Dallas Water Utilities, Fort Worth Water Department, Gulf Coast Waste Disposal Authority, North Central Texas Council of Governments, Red Bluff Power Control District, Texas Chemical Council, Texas Eastman Division of the Eastman Chemical Company, and the Trinity River Authority.

Several commenters suggested that assessed fees be used only for projects within the basin from which the fees were collected. The commission believes that the intent of the legislation and the rule is to address water quality on a statewide basis. To strictly allocate income and expense by river basin would be costly and cumbersome and could harm the overall benefits of the program. Therefore, the commission did not incorporate this comment into the adopted rule.

Other commenters asserted that point source dischargers pay an inordinate amount of the fees compared to nonpoint dischargers. They recommended that TWC devise a method to assess more fees on nonpoint source dischargers, though they supported using permitted water use as a means to identify significant nonpoint sources. The commission responds that Senate Bill 818 clearly states that fees shall be assessed against permitted wastewater dischargers and users of water. The legislature did not authorize a mechanism to assess costs to non-point source dischargers. Therefore, the commission did not incorporate this comment into the adopted rule.

One commenter suggested the commission add the following sentence to §320.21(a)(19): "If the permit does not contain a BOD limit then the higher of COD or TOC should be used to derive the BOD value according to the calculation." Pursuant to this comment, the commission incorporated the above comment into the adopted rule.

Another commenter suggested that fee assessments be based on the greater dollar amount as determined by permitted wastewater discharge or water use, clarifying that fee assessments are not based on both. It is the position of the Texas Water Commission that the fee methodology is not based on any dollar amount, but prioritizes wastewater discharge uses first, then it cross references if they have a water right permit, and eliminates duplicative uses, and then bills for those uses that are not already being billed under the wastewater permit. The fee methodology bills for all uses for water rights if the permit holder does not have a wastewater discharge permit. Therefore, the methodology does eliminate duplication of assessing fees for the same uses. Therefore, the commission did not incorporate this comment into the rule.

One of the comments recommended clarifications to §320.21(d) relating to fee calculations for water right holders, to eliminate potential confusion without changing the substance of the adopted regulation as follows:

"For water right holders entitled to divert for irrigation more than 100 acre-feet per year,

the fee shall be \$50 plus \$.07 per acre foot per year in excess of 100 acre-feet per year, in addition to..."

Pursuant to this comment, TWC incorporates the above changes into the rule.

One commenter agreed with the provision requiring verification of water rights use reports for irrigators claiming credit. However, the commenter recommended deleting verification requirements in favor of the 1990 water use reports as the sole verification device. The commission believes that some verification procedure is necessary in order to ensure a fair and accurate assessment for all affected entities. Therefore, the commission did not incorporate this comment into the adopted rule.

Another commenter recommended that the exemption in §320.21(f) be expanded to include water which is authorized in a permit for consumptive use but is not actually appropriated by the permittee. No feasible method exists whereby the commission could accurately verify actual flows. Furthermore, the rule tracks directly the statutory language which provides that the fees shall be based on the "right" to withdraw, not the actual amount withdrawn. Therefore, the commission did not incorporate this comment into the rule.

One of the comments suggested specific wording to revise §320.21(e) to assess fees only on the amount of water actually used. The commission has addressed this issue in the rules by issuing a credit to irrigation use for the verified difference in the permit and actual use. Therefore, the commission did not incorporate this comment into the rule.

Another commenter suggested TWC clarify §320.21(d) regarding calculation of fees associated with water rights appropriated for consumptive use including irrigation use. The commenter asked whether the fee for consumptive use is calculated based on the total appropriation for consumptive use or only on amounts greater than 250 ac-ft, and also whether the fee for irrigation rights is based on that portion of the appropriation that exceeds 100 ac-ft. The rule is intended to assess fees for consumptive use only on amounts greater than 250 acre-feet. The fee for non-consumptive irrigation use assesses a fee of \$50 to all water right uses classified as irrigation and if their entitlement is more than 100 acre-feet per year they shall be assessed \$.07 per acre-foot in addition to the minimum fee. Therefore, the commission believes the rule addresses these comments already and requires no change.

Another comment recommended that the regulation contain guidelines for calculating water quality assessment fees associated with a water rights appropriation that includes more than one use and specific amounts are not given for each use. The commission will include flyers in the bills explaining the methodology for assessments. TWC staff will provide further assistance as necessary. Therefore, the commission did not incorporate this comment into the adopted rule.

Another commenter said that the fee penalizes facilities that are operated carefully be-

cause it is based on permitted flow rather than actual flows and pollutant discharge. However, the commission believes that no feasible method exists whereby it could accurately verify actual flows. Furthermore, the rule tracks directly the statutory language which provides that the fees shall be based on the "right" to discharge, not the actual amount discharged. Therefore, the commission did not incorporate this comment into the adopted rule.

One comment stated, "The maximum fee cap for POTW's should be maintained at the current \$35,000 cap rather than opening it up to some other scheme that could cost plants more." The current fee structure does maintain the \$35,000 cap. Therefore, the commission did not incorporate this comment into the adopted rule.

The sections are adopted in order to implement the fee methodology to fund the water quality assessment program authorized by Senate Bill 818. The assessment program has been codified in the Texas Water Code, §26.0135.

The new sections are adopted under the Texas Water Code, §§5.103, 5.105, and 26.011, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the code and all other laws of the State of Texas and to establish and approve all general policies of the commission.

§320.21. Water Quality Assessment Fees.

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

(1) BOD-Five-day biochemical oxygen demand.

(2) COD-Chemical oxygen demand.

(3) Consumptive use-The use of water for domestic and municipal, industrial, irrigation or mining purposes, consistent with the meaning of these uses for which water may be appropriated under the Texas Water Code, §11.023 and §11.024.

(4) Final flow limit-The maximum amount of wastewater discharge authorized by a permit issued in accordance with the Texas Water Code, Chapter 26 expressed as a daily average flow, a daily maximum flow, an annual average or an annual maximum. For the purpose of this section, a final flow limit is expressed in millions of gallons per day of discharge (MGD).

(5) Flow-The total by volume of all wastewater discharges authorized under a permit issued in accordance with Chapter 26 of the Texas Water Code, expressed as an average flow per day, a maximum flow per day, an annual average or an annual maximum, exclusive of variable or occasional stormwater discharges. Gener-

ally, the flow is based on the sum of the volumes of discharge for all outfalls of a facility, but excludes internal outfalls. However, for those facilities for which permit limitations on the volumes of discharge apply only to internal outfalls, the flow is based on the sum of the volumes of discharge for all internal outfalls of the facility, exclusive of variable or occasional stormwater discharges.

(6) Flow type:

(A) contaminated-These wastewaters include sanitary wastewater, process wastewater flows or any mixed wastewaters containing more than 10% process wastewaters;

(B) uncontaminated-these wastewaters include non-contact cooling water or mixed flows which contain at least 90% non-contact cooling water and not more than one million gallons per day of process wastewater.

(7) Hydropower use-The use of water for hydroelectric and hydromechanical power and for other mechanical devices of like nature.

(8) Industrial use-The use of water in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including commercial feedlot operations, commercial fish production and the development of power by means other than hydroelectric.

(9) Irrigation use-The use of water for the irrigation of crops, trees, and pastureland, including but not limited to golf courses and parks which do not receive water through a municipal distribution system.

(10) MGD-Million gallons per day

(11) Mining use-The use of water for mining processes including hydraulic use, drilling, washing sand and gravel, and oil field repressuring.

(12) Municipal use-The use of treated water within or without a municipality and its environs whether supplied by a person, privately-owned utility, political subdivision, or other entity as well as the use of municipal sewage effluent for certain purposes specified as follows. It includes the use of treated water for domestic purposes, fighting fires, sprinkling streets, flushing sewers and drains, watering parks and parkways, and recreational purposes including public and private swimming pools, the use of treated water in industrial and commercial enterprises supplied by a municipal distribution system without special

construction to meet its demands, and for the watering of lawns and family gardens. Municipal use also includes the application of municipal sewage effluent upon land sites, pursuant to a Texas Water Code, Chapter 26, permit, where:

(A) the primary purpose of the application is the treatment and/or necessary disposal of such effluent; or

(B) the application site is a park, parkway, golf course, or other landscaped area owned by the owner of the permitted sewerage system; or

(C) the effluent applied to such site is generated within an area for which the commission has adopted a no-discharge to surface water rule.

(13) Navigation use—A recognized use that is not currently included in any water rights.

(14) Non-consumptive use—The use of water for those purposes not otherwise designated as consumptive uses under this section, including hydroelectric power, navigation, non-consumptive recreation and other beneficial uses, consistent with the meaning of these uses and for which water may be appropriated under the Water Code, §11.023, and §11.024.

(15) Other use—Any beneficial use not otherwise defined herein

(16) Recreational use—The use of water impounded in or diverted or released from a reservoir or watercourse for fishing, swimming, water skiing, boating, hunting, and other forms of water recreation, including aesthetic land enhancement of a subdivision, golf course or similar development.

(17) Recharge use—The use of surface water to either increase the amount of natural recharge to an underground aquifer or the injection of water into an aquifer.

(18) TOC—Total organic carbon.

(19) Traditional pollutants—The wastewater parameters typically found in wastewater discharge permits, specifically oxygen demand (BOD/COD/TOC), total suspended solids (TSS) and ammonia. For the purpose of this section, COD and TOC are expressed in terms of BOD at the rate of three pounds of TOC equal to one pound of BOD (3:1) or eight pounds of COD equal to one pound of BOD (8:1). If the permit does not contain a BOD limit then the higher of COD or TOC should be used to derive the BOD value according to the calculation.

(20) TSS—Total suspended solids.

(b) For the purpose of recovery of the costs of development of regional water quality assessments and administration of

the provisions of this chapter, a fee is assessed against water right holders and wastewater discharge permit holders in each watershed of the state in proportion to their right to use water from and discharge wastewater into the watershed.

(c) The municipal and industrial use of water shall be assessed a fee based on the authority of a permittee to dispose of or discharge wastewater under a permit issued pursuant to the Texas Water Code, Chapter 26. The fee shall be assessed on the basis of permitted flow and traditional pollutant limits and determined as the sum of the factors in paragraphs (1)-(3) of this subsection. When calculating the charge based on flow, this amount shall be calculated based on the daily average flow limit in the permit. For permits that do not have a daily average flow limit, the charge shall be based on 50% of the daily maximum flow limit:

(1) for contaminated discharges, \$300 per MGD up to a maximum of 100 MGD; and \$10 for each additional MGD or fraction thereof;

(2) for uncontaminated discharges, \$1.00 per MGD;

(3) for each traditional pollutant, \$2.00 per pound per day. The annual fee assessed for each wastewater discharge permit shall be a minimum of \$200 and shall not exceed \$35,000. The fee for a permit which does not authorize the discharge of wastewater, including evaporation and land disposal permits, shall be \$150. The fee for an inactive permit shall be \$100.

(d) Water right holders not subject to subsection (c) of this section shall pay a fee based on the right to appropriate water under a permit issued pursuant to the Texas Water Code, Chapter 11. The fee for all water rights entitled to divert more than 250 acre-feet per year for consumptive use, other than water rights appropriated for irrigation, shall be \$.20 per acre foot up to 10,000 acre feet, and \$.02 per acre-foot thereafter. The fee shall be \$.02 per acre foot for water rights appropriated for non-consumptive use above 2,500 acre-feet per year up to 100,000 acre feet, and \$.002 per acre-foot thereafter. Holders of water rights appropriated for irrigation shall pay a minimum fee of \$50 per permit with no exceptions. If a water right includes irrigation use which has specific amounts stated for each of the multiple holders, each of these holders shall pay a separate \$50 fee for that permit. Water right holders entitled to divert for irrigation 100 acre-feet or less per year will be assessed only the \$50 minimum fee. For water right holders entitled to divert for irrigation more than 100 acre-feet per year, the fee shall be \$50 plus \$.07 per acre foot per year in excess of 100 acre-feet per year in addition to the minimum fee.

(e) Water right holders entitled to divert for irrigation more than 100 acre-feet of water annually will be assessed \$.07 per acre-foot. If the amount of water actually diverted is less than the water entitlement, the water right holder for irrigation would be entitled to a credit at \$.07 per acre-foot for the difference between the total appropriated amount and the amount of water actually diverted. The 1990 water use reports will be the governing year for any claimed credits. Diverters claiming any credits would have to meet the following condition of verification: actual diversions would have to be verified by the commission's watermaster program or a federal entity (i.e., Bureau of Reclamation, United States Geological Survey or its designated contract employees, Corps of Engineers, or the International Boundary and Water Commission), political subdivision, or municipality. For those water right holders not required to file an annual use report with the Texas Water Commission, verification of any credits would have to be provided by any one of the above previous listed entities. Water right holders unable to provide this verification shall not be allowed any credits and shall be required to pay the full assessment.

(f) Water which is authorized in a permit for consumptive use, but which is designated by a permit provision as unavailable for use may be exempted from the assessment of a fee under subsection (c) of this section.

(g) A retail public utility as defined by the Texas Water Code, §13.002, which is subject to a water quality assessment fee under this chapter may collect from each customer a charge to recover the amount of the fee assessed. The total amount recovered by a retail public utility shall not exceed the amount assessed under this chapter plus any reasonable costs of collection. Any pass-through mechanism for the fees shall be fair and equitable for all customers and may be subject to review by the commission.

(h) The portion of a water quality assessment fee recovered from a customer of a retail public utility may be listed on the customer's bill as a separate item and may be collected in addition to other regulatory assessments or charges for utility services.

(i) The portion of a water quality assessment fee recovered from a customer by a retail public utility is not part of the rates of that utility. This provision shall apply to a retail public utility providing water and/or wastewater service.

(j) Water quality assessment fees for every year after the initial year of this program are due and payable to the commission by January 1 of each year. The commission shall establish procedures for

billing and collection of the fee and notification of amounts due for each year. For the first year this program is in effect, water quality assessment fees are due and payable 30 days after issuance of the bill.

(k) The commission shall monitor both the collection of fees under this section and the allocation of fee revenues under §320.22 of this title (relating to Allocation of Water Quality Assessment Fee Revenue) for the river basins of the state. The commission shall adjust the fee rates established under this section to the extent necessary to ensure the adequate support of the programs undertaken to implement this chapter and the equitable assessment of fees within each watershed and region of the state.

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

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

TRD-9212166

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

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

Part XVI. Coastal Coordination Council

Chapter 501. Council Procedures

• 31 TAC §§501.1-501.3

The Coastal Coordination Council adopts new §§501.1-501.3, concerning council procedures, with changes to the proposed text as published in the June 5, 1992, issue of the *Texas Register* (17 TexReg 4069).

The new chapter will implement the Coastal Coordination Act, Subchapter F of Chapter 33, Texas Natural Resources Code. The Coastal Coordination Act establishes the Coastal Coordination Council and requires the council to review federal, state, and local actions that may adversely affect coastal natural resources. The Texas Natural Resources Code, §33.052(b), directs the commissioner to develop the Coastal Management Program (CMP). The Coastal Coordination Act requires the council to promulgate rules adopting the goals and policies of the CMP and to review agency and subdivision actions for consistency with the CMP.

The review process as set out in new Chapter 501 generally tracks the language of the Coastal Coordination Act; however, until the council adopts goals and policies, the review process will not be operative. In order to make the review process as efficient and predictable as possible, the council anticipates substantial amendments to the provisions of this chapter prior to that time.

These amendments will provide further detail on matters such as preliminary review,

interagency cooperation, staffing, and timing. These issues must be addressed in the course of development of the CMP. The council is adopting basic provisions now that will be clarified by amendments as the program is developed.

New Chapter 501 enumerates the agencies and subdivisions whose actions are subject to council review, provides for the council's structure and for setting and conducting council meetings, establishes an executive committee to guide the implementation of council directives and to review policies, issues, or other matters that will or may be subject to council deliberation, and sets forth the procedures and methods by which the council will review federal, state, and local actions for consistency with the goals and policies of the CMP. The chapter further provides for judicial review of council decisions and for council enforcement.

Eleven state agencies and one corporation commented on the proposed rules. The Texas Historical Commission, the Texas Department of Health, and the Texas Air Control Board all offered general endorsements of the rules as proposed and suggested no changes.

Most of the comments focused on the practical implications of the consistency review process. Generally, the council recognizes that these comments arise from legitimate concerns. The council elected not to make some of the specific changes suggested by these comments. The issues the comments raise regarding consistency review procedures will be addressed in the development of the CMP. Other changes were made in response to comments.

Section 501.1 is changed to make certain that regional agencies are included within the definition of "agency or subdivision." Section 501.2 is retitled "General Provisions" and amended to provide that the council will meet on the first Thursday, instead of the third Thursday, of February, May, August, and November. Section 501.2(c) is amended to establish an executive committee, composed of representatives of the council members, which will meet regularly in the interim between regular council meetings to guide the implementation of council directives and perform staff-level work concerning the policies, issues, or other matters on which the council will or may deliberate.

Section 501.2(f) is changed to clarify that the chairman will notify the governor of agency or subdivision actions once an action has been referred to the council for review. The Governor's Office requested that this provision be amended to require a minimum 10-day notice prior to a consistency review meeting to enable the governor's local representative to fully participate in the review process. Because referrals are made either by the commissioner or three other council members placing an item on the agenda at least 14 days in advance of a meeting, under the new language the Governor's Office is assured of receiving at least 14-day prior notice. In practice, the Governor's Office will be kept abreast of probable referrals through the preliminary review process.

Section 501.2(g) explains what happens when a time period ends on a weekend or holiday. §501.3(a) is changed to clarify that actions subject to council review may include ordinances, approval of development plans, and bond issues. The United States Department of Commerce noted some inconsistency with the actions described in proposed §501.3(a) and those described in proposed §501.3(b)(2). With the changes to §501.3(a) and the elimination of a further description of actions in §501.3(b), any confusion should now be eliminated.

The United States Commerce Department also suggested including a specific requirement that agencies and subdivision amend their rules to include a council notification process. Section 501.3(a)(2) requires state agencies and subdivisions to amend their rules to ensure compliance with the CMP, including council notification requirements.

The Texas Department of Transportation questioned the authority to the council to review the adoption of agency rules and policies for consistency with the CMP. While the department recognized that the Act requires agencies and subdivisions to adopt rules and policies in accordance with the goals and policies of the CMP, it commented that the promulgation of rules and policies is not an action subject to consistency review. By contrast, the council reads the Act to make the adoption of rules clearly a reviewable action. To read the Act as placing the adoption of policies and rules outside the definition of actions and beyond the scope of the consistency review process clearly conflicts with the legislative intent. Such a construction would frustrate the purposes of the Act. The legislature did not intend to force the council to address the same issues repeatedly through review of individual actions, when the council could more effectively achieve the purposes of the Act through review of agency policies and rules.

The Texas Department of Transportation and the Texas Water Development Board raised questions regarding the meaning of "final actions" in the context of the 30-day time period within which final actions must be referred to the council. See proposed §501.3(c)(4), now §501.3(c)(2). This language is taken directly from the Texas Natural Resources Code, §33.205(c). The council intends to develop a definition of final actions for purposes of council review as it develops the CMP.

Almost all those submitting comments perceived the need for some type of preliminary review to precede an agency's or subdivision's final actions. The council will consider refinements to address this need in the preliminary review process that currently appears at new §501.3(b). The title to proposed §501.3(b) is amended to recognize the role of council agencies in the preliminary review process. The United States Department of Commerce raised several questions with respect to preliminary findings under §501.3(b)(3), particularly the legal effect of preliminary findings. The council intends to address these questions as it develops the CMP.

Section 501.3(b)(2) is changed to more clearly set out the notification requirements of all agencies proposing or giving final approval

to actions subject to the CMP. Proposed §501.3(b)(3) is amended to include council agencies in the preliminary review process.

The Texas Department of Transportation also suggested changing the time period in §501.3(c)(7) within which an agency or subdivision must notify the council of the modifications or amendments adopted following council remand. The department recommended changing the current 10-day notification requirement to 30 days, so that the department would be allowed the same number of days the council is allowed following its decision to protest an action. No change is made in response to this suggestion. While under §501.3(c)(6) the council must remand, following its protest of an action, within 30 days, this requirement includes an obligation to supply findings of inconsistency and specify the basis for the inconsistency determination. On the other hand, there is no time period within which an agency or subdivision must modify or amend its action in conformance with the CMP. However, if an agency or subdivision goes forward with the action, adopting proper modifications or amendments, then it must notify the council of such action within 10 days.

In response to the Water Commission's suggestion, proposed §501.3(c)(2), now §501.3(c)(3), is amended to provide that the council will determine which counties are directly affected by the action under review. The Water Commission also raised issues with respect to the standard of review the council will apply, the criteria by which the council will determine consistency, and the meaning of "sufficient" in proposed §501.3(c)(3), now §501.3(c)(4)(A). In conducting reviews, as provided in §501.3(c)(5), the "only basis on which the council may protest an action is that it is inconsistent with the goals and policies of the CMP." While an agency will most certainly have made its own consistency determination, the council cannot fulfill its legal obligations by completely deferring to the agency's determination. Whether the council should adopt a clearly erroneous standard or some other legal standard is still under consideration. As noted earlier, these questions have not yet been fully explored, and the council intends to address them as it develops the CMP.

Exxon's comments with respect to proposed §501.3(c) suggest that the council should not be allowed to consider any "additional information" during its review process. Exxon commented that review should be limited to the agency's record. The Texas Natural Resources Code, §33.204(c), clearly sets out that in conducting its reviews, the council "shall receive and consider the oral or written testimony of any person regarding the goals and policies of the coastal management plan," as well as "any additional information provided by that agency or subdivision." In response to Exxon's comments and those from the United States Department of Commerce, proposed §501.3(c)(3), now renumbered §501.3(c)(4), is amended to make clear that the additional information provided is limited to information relating to the goals and policies of the CMP.

To provide further clarification of the nature and scope of council hearings, proposed §501.3(c)(2) is renumbered §501.3(c)(3) and amended to provide that the council may ap-

point officers or employees of council agencies to take testimony and report to the council. Section 501.3(c)(4) now includes subparagraphs (A) and (B). Subparagraph (A) is the last sentence from proposed §501.3(c)(3) and provides that the council can hold hearings and make legal and factual findings where the record of the agency or subdivision is insufficient for the council to conduct a complete and thorough review. Subparagraph (B) contains the language from proposed §501.3(c)(2) regarding the council's appointment of a hearings examiner to receive testimony and propose findings of fact and conclusions of law. Proposed §501.3(c)(4), regarding the time periods within which final actions must be referred to the council and acted on, now appears at §501.3(c)(2).

New §501.3(c)(2) sets out the time periods within which the council must take up and act on actions subject to review. Section 501.3(c)(2) also provides that actions are no longer subject to council review after the time periods have expired, provided proper notification was made under §501.3(b)(2). This last change responds to the problems of uncertainty raised by the comments of the Texas Water Development Board and Exxon. Section 501.3(c)(8) is changed to make it clear that if the council determines an action is consistent with the CMP, it shall affirm the action.

The Texas Soil and Water Conservation Board requested that agriculture and silviculture operations be specifically exempted from rules requiring Coastal Coordination Council or General Land Office review. The Coastal Coordination Act states that all state and local actions that may adversely affect coastal natural resources must be consistent with the goals and policies of the CMP. (See Texas Natural Resources Code, §33.205(a).)

The Texas Water Development Board, the United States Department of Commerce, and the Attorney General's Office questioned why §501.3(d) only permits the commissioner to refer federal actions to the council for review. This is because the Texas Natural Resources Code, §33.206(d), provides that the "council shall review any federal action the commissioner submits to the council for review."

The Water Development Board also recommended that the council issue a written explanation of any findings of inconsistency. §501.3(c)(6) requires that the "remand shall include the council's findings of inconsistency with the goals and policies of the CMP and specify the basis for the inconsistency determination." The Water Development Board's recommendation that written findings of inconsistency be published in the *Texas Register* will be considered as the review process is more fully developed.

The Texas Department of Agriculture raised the question of what actions taken outside of the coastal zone area will become subject to the CMP review process. The council anticipates providing greater guidance on this question as it develops the CMP. The department also suggested adding the agriculture commissioner to the council. While the process of developing and implementing the

CMP will be open to all interested agencies and local governments, the council cannot expand its membership because membership is established by the Act.

Exxon also recommended that §501.3(e) be amended to limit judicial review to only those persons who participated in the decision-making process at the agency level, the rationale being that it would be unfair to allow new concerns to be raised for the first time in the review process before the council. The Texas Natural Resources Code, §33.207, addresses judicial review. Standing to challenge a final council decision under the Administrative Procedure and Texas Register Act is an issue more appropriately resolved by the courts.

The United States Department of Commerce commented that the definition of "coastal natural resource areas" in §501.18 was ambiguous because it was unclear whether such areas included the entire coastal zone or only designated areas within the coastal zone. One of the council's top priorities in developing the CMP will be to identify and precisely define those areas within the coastal zone that are deserving of special management as "coastal natural resource areas."

The United States Department of Commerce also recommended that §501.3(a) be amended to cover actions that "significantly affect" coastal natural resource areas, not just those that "adversely affect" such areas. The rationale is that even actions considered beneficial may have adverse impacts on competing uses, or otherwise adversely affect coastal natural resource areas. This important issue will be addressed in the CMP development process.

The United States Commerce Department suggested that in §501.3(a) "complies" and "compliance" should be changed to "consistent" and "consistency." While "consistency" is the touchstone of the federal CZMA, the legislature used "compliance" and "consistency" almost interchangeably. The legislature used the term "comply" in §33.205(a) and in §33.206, but used the similar concept of consistency at other times, for example in §33.206(c). Generally, an action that is inconsistent with the CMP is not in compliance with the CMP.

The sections are adopted under the Texas Natural Resources Code, §33.204(a), which provides the council with the authority to promulgate rules adopting the goals and policies of the coastal management program.

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

Agency or subdivision—Any state, regional, or local governmental or quasi-governmental agency, department, board, commission, subdivision, body politic, entity or unit. These include, by way of example, state agencies, counties, municipalities, beach park boards of trustees, boards of park commissioners, regional planning commissions, municipal or special utility districts, navigation districts, road or road

utility districts, transportation corporations, transit or transportation authorities, river authorities, water districts, drainage or levee improvement districts, and other special purpose districts.

Coastal management program (CMP)—The comprehensive state program for management of the coastal natural resource areas that consists of the plan developed by the commissioner under the Texas Natural Resources Code, §33.052.

Coastal natural resource areas—Those areas within counties having any tidewater shoreline that are designated in the coastal management program as requiring special management.

Commissioner—Commissioner of the General Land Office.

Council—The Coastal Coordination Council. The council consists of the commissioner, the attorney general, the chair of the Parks and Wildlife Commission, the chair of the Texas Water Commission, a member of the Railroad Commission of Texas, and one city or county elected official and one resident from the coastal area, each appointed by the governor for two-year terms.

GLO—General Land Office.

§501.2. General Provisions.

(a) The commissioner chairs the council and conducts all meetings. The council may select a vice chairperson who shall serve in the chair's absence.

(b) The council shall meet at least four times a year, once in each calendar quarter. Council meetings shall be scheduled for the first Thursday of February, May, August, and November. The commissioner, at his or her discretion or at the request of any council member, may call special meetings by posting notice in accordance with the Texas Open Meetings Act and sending a copy to all council members.

(c) Each council member shall appoint a person to represent the member on an executive committee.

(1) The executive committee shall meet regularly in the interim between regular council meetings to coordinate implementation of council directives and review of policies, issues, or other matters that will or may be subject to council deliberation. The representative of the commissioner chairs the committee. The executive committee shall consider any matter a committee member refers to the committee.

(2) The commissioner shall appoint a council secretary. The secretary shall record the minutes of the meetings and perform other duties in compliance with the Texas Open Meetings Act or as required by the council or this chapter.

(d) Council members may set items for the agenda by submitting them in writing to the chair at least 14 days before each

meeting. The council secretary shall notify all council members of the agenda by certified or overnight mail, hand delivery, or telefax at least 10 days before each meeting. The council secretary shall notify the general public in compliance with the Texas Open Meetings Act posting and notification requirements.

(e) Four voting council members or their statutorily authorized representatives shall constitute a quorum. The council will take action only when a quorum exists and a majority of the members present and voting agree to the action.

(f) The chair shall notify the governor of each state agency or subdivision action referred to the council under §501.3(c) of this title, (relating to State Consistency) and request that the governor appoint an elected official from a county directly affected by that action to represent local interests in the affected area. The official shall assist the council in reviewing and evaluating the action's compliance with the CMP, but shall not vote on the action. The official shall not attend any executive session conducted by the council except at the council's request.

(g) Time periods set out in this chapter do not include the day of the act or event that activates the time period. If the last day of the time period is a Saturday, Sunday, or legal holiday, the time period is considered to end the next day subsequent that is not a Saturday, Sunday, or legal holiday.

§501.3. State Consistency.

(a) Compliance with the CMP.

(1) A state agency or subdivision, or a person authorized by a state agency or subdivision, taking any action that may adversely affect coastal natural resource areas, including discharges of wastewater and withdrawals of water that may significantly affect water quality in state waters subject to tidal influence, must act in compliance with the CMP. The agency or subdivision shall ensure that the action complies with the goals and policies of the CMP and the rules adopted by the council to implement those goals and policies.

(2) Such actions include, but are not limited to, adoption of rules, ordinances, or policies; issuance of permits, licenses or certifications of approval; approval of development or use plans, bond issues, government development projects, government sponsored or assisted activities, or government imposed fees. Such actions further include any activity by a person or an entity pursuant to state agency or subdivision action or authorization. State agencies and subdivisions must adopt, or amend existing,

administrative rules, ordinances, and policies when necessary to ensure compliance with the CMP.

(b) Preliminary review by council agencies.

(1) Under the Texas Natural Resources Code, §33.052(b) and §33.204(d), the GLO is designated as the lead agency for coordinating the CMP and in assisting the council in effectuating its statutory responsibilities.

(2) Agencies and subdivisions shall provide timely and sufficient notice to the council of any proposed action to be taken, authorized, or approved by the agencies and subdivisions that is subject to the CMP. Agencies and subdivisions shall also provide timely and sufficient notice to the council of any significant changes in proposed actions likely to affect review under paragraph (3) of this subsection. Agencies and subdivisions shall provide immediate notice to the council of final actions subject to the CMP.

(3) The agencies represented on the council will review proposed agency or subdivision actions for consistency with the goals and policies of the CMP, make preliminary findings on consistency, and report the findings to the council and the agency or subdivision proposing the action.

(c) Council review—state agency or subdivision actions.

(1) The council shall review any action subject to the CMP if the commissioner or three other members of the council refer it to the council for review. The commissioner may refer the action to the council by placing it on the agenda for a regularly scheduled or specially convened council meeting. Three council members may refer an action to the council by the procedures specified in §501.2(d) of this title (relating to General Provisions).

(2) An action must be referred to the council within 30 days of the date it becomes final. The council must consider and act on the matter within 90 days of referral. If the agency or subdivision proposing the action provided notice as required in subsection (b)(2) of this section, the matter is no longer subject to council review if it is not referred to or acted on by the council within the time periods set out in this paragraph.

(3) In conducting reviews, the council shall receive and consider the oral or written testimony of any person regarding the goals and policies of the CMP. The council may reasonably limit the length and format of the testimony, set the time at which it will be received, and appoint officers or employees of agencies represented on the council to take testimony and report to the council. Before the commencement

of the period during which public testimony will be received, notice shall be published in the *Texas Register* and in a newspaper of general circulation in each county that is directly affected by the matter under review.

(4) The council shall consider only the record before the agency or subdivision involved in the matter under review, the agency's or subdivision's findings, applicable laws and rules, and any additional information regarding the goals and policies of the CMP provided by the agency or subdivision or through public testimony.

(A) If the agency or subdivision did not hold a hearing, make a record, or make factual or legal findings sufficient for the council to conduct a complete and thorough review, the council may hold hearings and make factual and legal findings.

(B) The council may appoint a hearings examiner to receive testimony and propose to the council findings of fact and conclusions of law.

(5) After reviewing a state agency or subdivision action subject to the CMP, the council shall make a consistency determination regarding the action. If the council determines that an action is consistent with the CMP, it shall affirm the action. If the council determines that an action is inconsistent with the CMP, it shall protest the action. The only basis on which the council may protest an action is that it is inconsistent with the goals and policies of the CMP.

(6) If the council affirms an action, the chair shall immediately notify the agency or subdivision involved in the matter under review. If the council protests an action, the council shall within 30 days remand the action to the state agency or subdivision. The remand shall include the council's findings of inconsistency with the goals and policies of the CMP and specify the basis for the inconsistency determination. The council may recommend modifications of the action to ensure that it is consistent with the CMP.

(7) On remand, the state agency or subdivision shall modify or amend the action to ensure compliance with the CMP. The agency or subdivision shall notify the council in writing of its modification or amendment of the action within 10 days of such decision.

(8) After remand, the council will review the state agency's or subdivision's decision. The council shall conduct further review in accordance with the procedures provided in subsections (c)(1)-(4) of this section. If the council determines that an action is consistent with the CMP, it shall affirm the action. If the council determines that the action still does not comply

with the CMP, it shall reverse the action. The only basis on which the council may reverse a decision of an agency or subdivision is that it is inconsistent with the goals and policies of the CMP.

(d) Council review—federal actions.

(1) The council shall review any federal action the commissioner refers to the council for a consistency determination. The commissioner shall refer the action in the manner provided in subsection (c)(1) of this section.

(2) If, after review, the council determines that a federal action is inconsistent with the goals and policies of the CMP, the council shall refer the matter to the federal official authorized to review or act on the matter and shall pursue resolution of the matter with the federal official in accordance with the provisions of the Coastal Zone Management Act, 16 United States Code 1451-1464.

(e) Judicial review. Any person aggrieved by a decision of the council may appeal to the district court in Travis County under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13(a).

(f) Enforcement. At the request of the council, the attorney general shall file suit to enforce the provisions of this section and Chapter 33, Subchapter F of the Texas Natural Resources Code. Such suit shall be filed in a district court in either Travis County or in the county in which the violation occurred.

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 8, 1992.

TRD-9212235

Garry Mauro
Commissioner
Coastal Coordination
Council

Effective date: September 29, 1992

Proposal publication date: June 5, 1992

For further information, please call: (512) 463-5019

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter O. State Sales and Use Tax

• 34 TAC §3.298

The Comptroller of Public Accounts adopts an amendment to §3.298, concerning amuse-

ment services, without changes to the proposed text as published in the June 19, 1992, issue of the *Texas Register* (17 TexReg 4430).

The amendment makes changes authorized by the 72nd Legislature, 1991, First Called Session. Effective October 1, 1991, nonprofit country clubs described by the Internal Revenue Code of 1986, §501(c)(7), are required to collect sales tax from their members on various fees and dues such as initiation fees, membership dues green fees, etc. Additionally, amusements provided jointly by the state, a municipality, county, school district, special district, political subdivision of the state or the United States and a for-profit group are subject to sales tax. See new subsection (h) of this section for specific exclusions from the amusement services exemption for entities with dual classifications.

Two comments were received on the rule, neither having to do with the proposed rule amendment.

An attorney with the law firm of Clark, Thomas, Winters & Newtwn in Austin, and an individual from Beaumont, commented on subsection (b). Both commenters expressed the opinion that the comptroller's assessment of sales tax on charges by private clubs to members for boat slip rental fees, golf cart storage and lockers fees is not support by the Tax Code. Both commenter felt that these fees represented the rental of real property and were not special privileges being allowed to members of the club.

The comptroller had rejected these arguments earlier stating that charges to club members for locker rental, golf cart storage or boat slip rental constitute "... other charges and assessment...required for...a special privilege...in the club or organization" as required by Tax Code, §151.007(e). It is the comptroller's position that the assessment of sales tax on these charges is wholly reasonable and consistent with legislative intent.

The attorney also felt that the assessment of sales tax on "fees for access to the restaurant and bar" at a private club resulted in double taxation of food. The comptroller also rejected this contention stating that the charge for the privilege of entering a restaurant or bar at a private club is not connected with sale of the food any more than a cover charge at other clubs relates to the sale of food.

The amendment 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.

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 8, 1992.

TRD-9212196

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: September 29, 1992

Proposal publication date: June 19, 1992

For further information, please call: (512) 463-4028

Subchapter V. Franchise Tax

• 34 TAC §3.548

The Comptroller of Public Accounts adopts new §3.548, concerning taxable capital: close and S corporations, without changes to the proposed text as published in the July 3, 1992, issue of the *Texas Register* (17 TexReg 4735).

The new section replaces 34 TAC §3.417, concerning the same subject matter, which is being repealed in order that it can be adopted under the Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter V. This new section addresses close and S corporations for taxable capital purposes.

No comments were received regarding adoption of the amendment.

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.

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 8, 1992.

TRD-9212225

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: September 29, 1992

Proposal publication date: July 3, 1992

For further information, please call: (512) 463-4028

• 34 TAC §3.556

The Comptroller of Public Accounts adopts new §3.556, concerning earned surplus: S corporations, without changes to the proposed text as published in the July 16, 1992, issue of the *Texas Register* (17 TexReg 4331).

The new section sets out guidelines for computing earned surplus for S corporations pursuant to the Tax Code, §171.110.

No comments were received regarding adoption of the amendment.

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.

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 8, 1992.

TRD-9212226

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: September 29, 1992

Proposal publication date: June 16, 1992

For further information, please call: (512) 463-4028

• 34 TAC §3.558

The Comptroller of Public Accounts adopts new §3.558, concerning earned surplus: officer and director compensation, without changes to the proposed text as published in the July 10, 1992, issue of the *Texas Register* (17 TexReg 4944).

The new section sets out guidelines for officer, executive officer, and director compensation which is included in computing net taxable earned surplus pursuant to the Tax Code, §171.110.

Although the new section limits amounts which may be characterized as compensation of officers and directors of S corporations, this provision is only intended to ensure that excessive compensation is not used as a method of tax avoidance.

One comment was received regarding adoption of the amendment from Texas Bankers Association of Austin. The comment was favorable.

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.

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 8, 1992.

TRD-9212227

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: September 29, 1992

Proposal publication date: July 10, 1992

For further information, please call: (512) 463-4028

Part IV. Employees Retirement System of Texas

Chapter 63. Board of Trustees

• 34 TAC §63.3, §63.4

The Employees Retirement System of Texas adopts amendments to §63.3 and §63.4, concerning board of trustees. Section 63.4 is adopted with changes to the proposed text as published in the July 3, 1992, issue of the

Texas Register (17 TexReg 50). Section 63.3 is adopted without changes and will not be published.

Rule will improve the distribution and return of ballots in the nomination and election of Trustees. Additional information will be furnished on candidates, and the Trustees will be allowed to contract with an election administrator.

The amended sections will help insure the integrity of the nomination and the election procedures, provide for improved ballot distribution, and better inform the electorate on the qualifications of the nominees.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Government Code, §815.003 and §815.102, which provides the Employees Retirement System of Texas with the authority to promulgate rules necessary to nominate and elect Trustees and to carry out other business of the board.

§63.4. Election of Trustees (Ballot).

(a) The order of names on the ballot will be set by drawing. All nominated candidates or their representatives are entitled to be present at the drawing.

(b) Qualified candidates must submit within the time frame established by the system the following information for printing on the ballot:

(1) name as it is to appear on the ballot;

(2) number of years and months state employment;

(3) current classification/exempt title and position as a state employee;

(4) name of current employing state agency.

(c) In addition to the information required in subsection (b) of this section, the candidate shall provide, within the time frame provided by the system, his or her state agency mailing address and a statement of qualifications consisting of 100 words or less. This information, in addition to that which will appear on an election ballot, will be made available to the electorate through a special ERS newsletter devoted to the Trustee election process. This special edition of the newsletter will be made available to the electorate prior to the ballot distribution and will describe restrictions on the use of state funds to influence the outcome of any election.

(d) The system may contract with an election administrator to implement and monitor the election process.

(e) The system/election administrator will, at least 25 calendar days in advance of the return due date established by the Trustees, mail ballots to eligible voters in the manner currently used for annual individual ERS statements. Each such ballot

will contain the printed name of the eligible voter for whose use it is intended.

(f) The system/election administrator will provide a 24-hour toll-free telephone line which eligible voters may use to request their individual ballots if they did not receive their ballots pursuant to subsection (e) of this section.

(g) All ballots will be returned through the United States Postal Service (postage prepaid by the system) to the system/election administrator. The system/election administrator will not accept ballots delivered in any other manner. All ballots will remain sealed and in a secure location through the return due date established by the Trustees.

(h) Each candidate may designate one person to observe the ballot counting process. No observer will be permitted to see complete ballots which indicate the identity of a voter and voter's candidate selection. No observer will be permitted to challenge the validity of ballots or disrupt the counting process in any way.

(i) The system/election administrator will disqualify all ballots which:

- (1) are from ineligible voters;
- (2) do not contain the signature of the eligible voter;
- (3) fail to accurately reflect the eligible voter's Social Security number;
- (4) are reproduced;
- (5) are from eligible voters from whom more than one ballot is received;
- (6) fail to clearly indicate the eligible voter's candidate selection; and
- (7) are postmarked after the return due date established by the Trustees, provided however, a ballot that is postmarked on or before the return due date and received within five working days of the due date will be counted.

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 8, 1992.

TRD-9212233 Charles D. Travis
Executive Director
Employees Retirement
System of Texas

Effective date: September 29, 1992

Proposal publication date: July 3, 1992

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 48. Community Care for Aged and Disabled

Client-Managed Attendant Services

The Texas Department of Human Services (DHS) adopts amendments to §§48.2602, 48.2605, 48.2911, 48.2914, 48.2918, 48.3903, 48.5903, and 48.9301, in its community care for aged and disabled (CCAD) chapter. The amendment to §48.3903 is adopted with a change to the proposed text as published in the July 31, 1992, issue of the *Texas Register* (17 TexReg 5346). The amendments to §§48.2602, 48.2605, 48.2911, 48.2914, 48.2918, 48.5903, and 48.9301 are adopted without changes and will not be republished. DHS also proposed an amendment to §48.2919 in the July 31, 1992 issue. DHS withdrew the proposal to §48.2919 in the August 18, 1992, issue of the *Texas Register* (17 TexReg 5659).

The justification for the amendments is to change the name "Special Services to the Handicapped" to "Special Services to Persons with Disabilities."

The amendments will function by emphasizing the individual and discontinuing the use of the word "handicapped."

No comments were received regarding adoption of the amendments. The department, however, has initiated one change to the text of §48.3903 to clarify that special services to persons with disabilities contracts apply to both attendant care and day care.

• 40 TAC §48.2602, §48.2605

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

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 9, 1992.

TRD-9212249 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: October 1, 1992

Proposal publication date: July 31, 1992

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

• 40 TAC §48.2608

The Texas Department of Human Services (DHS) adopts an amendment to §48.2608, concerning client copayment, without changes to the proposed text as published in

the August 4, 1992, issue of the *Texas Register* (17 TexReg 5460).

The justification for the amendment will be to provide current copayment information for program participants.

The amendment will function by updating the client copayment schedule.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on September 9, 1992.

TRD-9212254 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: October 1, 1992

Proposal publication date: August 4, 1992

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

Eligibility

• 40 TAC §§48.2911, 48.2914, 48.2918

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

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 9, 1992.

TRD-9212250 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: October 1, 1992

Proposal publication date: July 31, 1992

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

Case Management

• 40 TAC §48.3903

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

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

(a) An applicant or client may request an appeal of any decision that denies, reduces, or terminates his benefits. The ef-

fective date of the action depends on the situation, as shown in the following table: (r Slick)

If	Then
Termination or reduction is because client lost his eligibility as an income-eligible, failed to qualify as an income-eligible after a verbal referral, failed to meet the client needs assessment score or medical criteria for the service, repeatedly refused to follow the service plan, experienced a change in his need for the specific service, or failed to pay fees for services,	The action is effective 10 days (or 12 days if mailed) from the date of the notice unless the action is appealed. In the event of appeal, services continue until the hearing officer gives a decision. The cost of providing services during this period is subject to recovery by the department from the client. Services to clients in residential care facilities are terminated five days after the hearing officer gives his decision.
Termination is because client lacks AFDC, SSI, Medicaid or food stamp eligibility,	Services continue only to the end of the month that the client is determined ineligible, even if the action is appealed.
Termination is because client lacks physician's orders for the service,	Services continue only through the date the previous orders end, even if the action is appealed.
Termination or reduction is because of budgetary constraints or changes in federal law or state regulations, and services are reduced or terminated for an entire categorical client group,	Services continue only through the date of termination of a categorical client group, even if appealed.
Termination is because the client or someone in his home threatens the health or safety of others, or because the client threatens his own health or safety.	Services may be terminated immediately under the following conditions: A client receiving residential care, adult foster care, day activity and health services, congregate meals, or special services to persons with disabilities threatens his own health or safety or that of others; or Someone in the client's home or a client receiving emergency response services, home-delivered meals, family care, primary home care, or special services to persons with disabilities threatens the provider's health or safety.

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

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

Issued in Austin, Texas, on September 9, 1992.

TRD-9212251 Nancy Murphy
Agency Liaison, Policy and Document Support
Texas Department of Human Services

Effective date: October 1, 1992

Proposal publication date: July 31, 1992

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

Contracting for CCAD Services

• 40 TAC §48. 5903

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

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 9, 1992.

TRD-9212252 Nancy Murphy
Agency Liaison, Policy and Document Support
Texas Department of Human Services

Effective date: October 1, 1992

Proposal publication date: July 31, 1992

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

Minimum Standards for Agencies Contracted to Provide Special Services to Persons with Disabilities

• 40 TAC §48.9301

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

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 9, 1992.

TRD-9212253 Nancy Murphy
Agency Liaison, Policy and Document Support
Texas Department of Human Services

Effective date: October 1, 1992

Proposal publication date: July 31, 1992

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

Support Documents

• 40 TAC §48.9801

The Texas Department of Human Services (DHS) adopts an amendment to §48. 9801, concerning support documents, without changes to the proposed text as published in the August 4, 1992, issue of the *Texas Register* (17 TexReg 5442).

The justification for the amendment is to delete all the references to a unit rate ceiling in the reimbursement methodology.

The amendment will function by allowing contractors to negotiate a competitive and adequate unit rate that considers local cost factors.

No comments were received regarding adoption of the amendment.

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

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 9, 1992.

TRD-9212255 Nancy Murphy
 Agency Liaison, Policy and
 Document Support
 Texas Department of
 Human Services

Effective date: October 1, 1992

Proposal publication date: August 4, 1992

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

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Open Meetings

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

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

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

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

Texas Department of Agriculture

Tuesday, September 22, 1992, 1 p.m. (Rescheduled from Thursday, August 20, 1992) The Office of Hearings Examiners of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §101.001 et seq and/or §102.001 et seq (Vernon 1982) by Sun Sprouts of Texas, Inc. as petitioned by Jones Produce Company.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: September 9, 1992, 1:51 p.m.

TRD-9212268

Thursday, October 8, 1992, 9 a.m. The Office of Hearings Examiners of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §76.116(a)(1) and 4 TAC §7.22, by Kenneth Schwarz.

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

Filed: September 8, 1992, 2:02 p.m.

TRD-9212215

Wednesday, October 14, 1992, 10 a.m. The Office of Hearings Examiners of the Texas Department of Agriculture will meet

at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of 4 TAC §§6.1-6.4 by Patrick W. Brown.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: September 9, 1992, 1:51 p.m.

TRD-9212269

Thursday, November 5, 1992, 9 a.m. The Office of Hearings Examiners of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §76.116(a)(1) and 4 TAC §7.22, by Mark Lane.

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

Filed: September 8, 1992, 2:02 p.m.

TRD-9212214

State Bar of Texas

Thursday, September 17, 1992, 1 p.m. The Executive Committee of the State Bar of Texas will meet at the Tremont House, Sam Houston II, 2300 Ship's Mechanic Row, Galveston. According to the agenda summary, the committee will hear reports from the chair of the board, president, president-elect, executive director, office of general counsel, immediate past president,

commission for lawyer discipline, TYLA president and Supreme Court liaison.

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

Filed: September 9, 1992, 4:11 p.m.

TRD-9212292

Friday, September 18, 1992, 9 a.m. The Board of Directors of the State Bar of Texas will meet at the Wendletrap Restaurant, Top Gallant Room, 2301 Strand, Galveston. According to the agenda summary, the board will hear reports of the chair of the board, president, president-elect, executive director, office of general counsel, board committees, bar committees/sections/divisions/commission for lawyer discipline, immediate past president, TYLA president, Supreme Court liaison, Court of Criminal Appeals liaison, federal judicial liaison, judicial section liaison, and remarks from the general public.

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

Filed: September 9, 1992, 4:10 p.m.

TRD-9212291

Texas Bond Review Board

Monday, September 14, 1992, 10 a.m. (Rescheduled from Friday, September 11, 1992). The Staff of the Texas Bond Review Board held an emergency meeting at the Clements Building, Room 102, 300 West 15th Street, Austin. According to the complete agenda, the staff called the meeting to order; discussed agency budget; and adjourned. The emergency status was necessary to allow timely consideration of agency budget request prior to meeting of full board.

Contact: Tom K. Pollard, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: September 9, 1992, 3:47 p.m.

TRD-9212286

Thursday, September 17, 1992, 10 a.m. The Texas Bond Review Board will meet at the Clements Building, Room 101, 300 West 15th Street, Austin. According to the agenda summary, the board will call the meeting to order; consider proposed issues; discuss other business; and adjourn.

Contact: Tom K. Pollard, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: September 9, 1992, 3:40 p.m.

TRD-9212284

State Cogeneration Council

Friday, September 25, 1992, 10 a.m. The State Cogeneration Council will meet at the John H. Reagan Building, Room 103, Austin. According to the agenda summary, the council will discuss approval of the minutes; hear a status report on current and future state agency projects; hear a report on PUC proceedings pertaining to cogeneration; hear a report on TACB regulations pertaining to cogeneration; discuss and consider for approval of cogeneration application by Texas A&M at College Station; hear a technical review and comments on A&M proposal; hear public comment on cogeneration application; take action regarding application; discuss agenda; time and location of next meeting; and adjourn.

Contact: Chris Willrich, 620A Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1863.

Filed: September 8, 1992, 2:31 p.m.

TRD-9212221

Texas School for the Deaf

Friday, September 11, 1992, 1 p.m. The Governing Board of the Texas School for the Deaf met at 601 Airport, Building 602, Large Conference Room, Austin. According to the emergency revised agenda summary, the board called the meeting to order; may have discussed approval of the minutes of July 25, 1992 meeting; discussed business for information purposes; business requiring board action; heard comments by board members; and adjourned. The emergency status was necessary to comply with House Bill 2885.

Contact: S. Custer, 1102 South Congress Avenue, Austin, Texas 78704, (512) 440-5335.

Filed: September 9, 1992, 10:18 a.m.

TRD-9212259

Texas State Board of Dental Examiners

Wednesday, September 17, 1992, 9:30 a.m. The Examination Committee of the Texas State Board of Dental Examiners will meet at the TSBDE, 327 Congress Avenue, Suite 500, Austin. According to the complete agenda, the committee will call the meeting to order; take roll call; discuss examination procedures; guidelines and criteria; examination schedules; and adjourn.

Contact: C. Thomas Camp, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

Filed: September 8, 1992, 4:07 p.m.

TRD-9212237

Friday-Saturday, September 18-19, 1992, 8 a.m. The Texas State Board of Dental Examiners will meet at the Holiday Inn Town Lake, 20 North Interregional, Austin. According to the complete agenda, the board will call the meeting to order; take roll call; discuss approval of past minutes; approve settlement orders; modification of board orders (Copenhaver, Pinson, Runnels, Parmer); appearances before the board (Hill, Barron, Wiede, Case); approve permits; discuss Rule 109.173; specialty examination discussion; reports (president's, executive director's and committee reports); and on Saturday, a public hearing to discuss Laser Rules (109.301, 109.302, 109.303); make announcements; and adjourn.

Contact: C. Thomas Camp, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

Filed: September 8, 1992, 4:08 p.m.

TRD-9212238

Texas Education Agency

Thursday, September 10, 1992, 9 a.m. (Emergency revised agenda) The Committee on School Finance of the Texas Education Agency met at Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the emergency revised agenda, the committee discussed addition to agenda: recommendation for appointment to the Texas Council on Vocational Education. The emergency status was necessary because federal rules require the state to recertify any new member of the council not more than 60 days after a position on the council is vacated. The vacancy on the council occurred on July 5, 1992, due to a resignation.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: September 9, 1992, 2:56 p.m.

TRD-9212277

Friday, September 11, 1992, 1 p.m. (Emergency revised agenda) The State Board of Education of the Texas Education Agency met at Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the emergency revised agenda, the board discussed addition to agenda: recommendation for appointment to the Texas Council on Vocational Education. The emergency status was necessary because federal rules require the state to recertify any new member of the council not more than 60 days after a position on the council is vacated. The vacancy on the council occurred on July 5, 1992, due to a resignation.

Friday, September 18, 1992, 9 a.m. The Committee on Student Learning of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will make introductions and comments; discuss North Carolina Education Reform; report on curriculum review and textbook adoption process; report on assessment; and hold a work session.

Contact: Marvin Veselka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9533.

Filed: September 8, 1992, 3:55 p.m.

TRD-9212236

Friday-Saturday, September 18-19, 1992, 10 a.m. and 9 a.m. respectively. The Continuing Advisory Committee for Special Education of the Texas Education Agency will meet at the Red Lion Inn, IH-35 North at U.S. 290, Austin. According to the agenda summary, on Friday, the committee will hold team meetings on leadership initiative to improve special education services in Texas; discuss approval of minutes; perfection of agenda; review of hearing officer decisions, Docket Numbers 149-SE-192, 297-SE-592, 306-SE-692; hear public comment; update on memorandum of understanding; update on accreditation process; and discuss old business. On Saturday, the committee will discuss leadership initiative for improving special education services in Texas Strategies 1-4; strategies 5-8; strategies 9-12; strategies 13-16; plan agenda for next meeting; and give evaluation and reflection.

Contact: Shirley Sanford, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9362.

Filed: September 8, 1992, 10:28 a.m.

TRD-9212202

Texas Department of Health

Thursday, September 17, 1992, 9 a.m. The Family Planning Interagency Advisory Council of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room T-607, Austin. According to the complete agenda, the council will introduce new members; discuss approval of minutes of previous meetings; elect chairperson and chairperson-elect; discuss and possibly act on: Governor's Health Policy Task Force information concerning health policy and economics; American Disabilities Act; welfare reform initiatives; proposed joint standards revisions; medical subcommittee report; Provider Enrollment Participation Criteria (PEPC) update covering interim contracts, final fiscal year 1993 coordinated allocation plan and allocation amounts and examples; advisory committee report; coordinated data collection information; family planning program updates; and hear announcements and comments.

Contact: Walter P. Peter, Jr., M.D., 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Contact: September 9, 1992, 3:39 p.m.

TRD-9212283

Texas Department of Human Services

Wednesday, September 16, 1992, 1:30 p.m. The Interagency Coordinating Council on Dropout Prevention and Recovery of the Texas Department of Human Services will meet at 701 West 51st Street, Third Floor, West Tower, Conference Room 360-W, Austin. According to the complete agenda, the council will call the meeting to order; make introductions; discuss approval of minutes of the July 2, 1992 meeting; elect vice-chair; compendium status report; reports from workgroups on survey of local programs and grant resource manual; discuss other business; plan next steps; plans for the next meeting; and adjourn.

Contact: Cindy Marler, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3662.

Filed: September 8, 1992, 10:02 a.m.

TRD-9212194

Texas Incentive and Productivity Commission

Wednesday, September 23, 1992, 10 a.m. The Texas Incentive and Productivity Commission will meet at One Capitol Square,

15th and Lavaca Streets, Meeting Room One, Austin. According to the agenda summary, the commission will call the meeting to order; roll call of members; discuss approval of the minutes of previous meeting; elect vice-chair; consider: agency 1993 operating budget; agency 1994-95 legislative appropriations request; employee suggestions; revisions to productivity bonus program rules for approval; agency applications for productivity bonus program awards; report on administrative matters; meet in executive session; reconvene to open meeting; and adjourn.

Contact: M. Elaine Powell, P.O. Box 12482, Austin, Texas 78711, (512) 475-2393.

Filed: September 10, 1992, 9:50 a.m.

TRD-9212311

Texas Department of Insurance

Wednesday, September 16, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Brenda Kay Meadows, of Waco, for an insurance service representative's license. Docket Number 11553.

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

Filed: September 8, 1992, 3:11 p.m.

TRD-9212228

Wednesday, September 16, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the proposed plan of merger of American Union Life Insurance Company, Arlington, into States General Life Insurance Company, Dallas, with States General Life Insurance Company being the survivor. Docket Number 11557.

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

Filed: September 8, 1992, 3:11 p.m.

TRD-9212229

Wednesday, September 16, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of

Whitney Joseph Prince, Jr., Port Arthur, for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11554.

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

Filed: September 8, 1992, 3:11 p.m.

TRD-9212230

Thursday, September 17, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the proposed plan of merger of Murray Life Insurance Company, Dallas, into Unified Life Insurance Company being the survivor. Docket Number 11558.

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

Filed: September 8, 1992, 3:11 p.m.

TRD-9212231

Friday, September 18, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Guadalupe Mercado DeLeon, Dallas, for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11556.

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

Filed: September 8, 1992, 3:12 p.m.

TRD-9212232

Commission on Jail Standards

Wednesday, September 23, 1992, 9 a.m. The Commission on Jail Standards will meet at the Department of Public Safety Auditorium, 5805 North Lamar Boulevard, Austin. According to the agenda summary, the commission will call the meeting to order; take roll call of members; reading and discuss approval of minutes of last meeting of July 29, 1992; discuss old business: Angelina County, Bowie County, Ector County, Hidalgo County, Hopkins County, McLennan County, Titus County, Wharton County, Zapata County; status of transfer of felony backlog; status of payment to counties; completed jail projects; jail population report; and active remedial orders; new business: Camp County, Grays County, Americans with Disability Act; travel rules procedures for staff and com-

missioners; re-adopt fee schedule for designated services; internal audit report; and technology in jails training; applications for variances: Galveston County and Lubbock County; hear directors report; discuss other business; meet in executive session; and adjourn.

Contact: Jack E. Crump, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

Filed: September 9, 1992, 9:15 a.m.

TRD-9212241

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**Texas Juvenile Probation
Commission**

Thursday, September 17, 1992, 6:30 p.m. The Internal Audit Committee of the Texas Juvenile Probation Commission will meet at 2015 South IH-35, Austin. According to the complete agenda, the committee will call the meeting to order; discuss the recommendations to be made to the commission concerning an internal audit; and adjourn.

Contact: Bernard Licarione, P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: September 9, 1992, 3:24 p.m.

TRD-9212281

Friday, September 18, 1992, 9 a.m. The Board of the Texas Juvenile Probation Commission will meet at 2015 South IH-35, Austin. According to the complete agenda, the board will discuss excused absences; approval of July 10, 1992 minutes; introduce new staff; report from finance/budget committee and approval of LAR for FY 1994-1995; report from internal audit committee; Title IV-E Program; adoption of rules for Title IV-E Foster Care and adoption assistance federal funding, 37 TAC Chapter 347; review and discuss contract issues with DHS update; creative and innovative grants; discretionary funds; adoption of amendment to the rules for memorandum of understanding for runaways, 37 TAC §341.21; update on TYC commitments; schedule next meeting; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: September 9, 1992, 3:23 p.m.

TRD-9212280

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**Legislative Natural Resources
Board**

Wednesday, September 16, 1992, 2 p.m. The Legislative Natural Resources Board will meet at the Senate Meeting Room One, One Capitol Square, 300 West 15th Street, Austin. According to the complete agenda,

the board will receive reports on changes in permitting and hearing processes by the Texas Air Control Board, Kirk P. Watson, Chairman; activities of the Governor's Environmental Agency Transition Committee, John Hall, Chairman; and Kirk P. Watson, Vice-Chairman.

Contact: Carol McGarah, P.O. Box 12068, Austin, Texas 78711, (512) 463-0390.

Filed: September 9, 1992, 3:44 p.m.

TRD-9212285

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**Texas Department of Licens-
ing and Regulation**

Friday, September 18, 1992, 9 a.m. The Manufactured Housing Division of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 920 Colorado Street, Third Floor Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing to consider a disputed claim by Lynn E. Hoover of one Kaufman and Broad Home Systems manufactured home, Serial Number KBTXSN9801033; Vernon's Texas Civil Statutes, Articles 5221f, and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 465-2899.

Filed: September 9, 1992, 4:09 p.m.

TRD-9212290

Wednesday, September 23, 1992, 2 p.m. The Property Tax Consultants Advisory Board of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 920 Colorado Street, Room 1012, Austin. According to the agenda summary, the board will hold a department briefing; receive and discuss committee reports; discuss reciprocity; and council interpretations.

Contact: Jimmy G. Martin, P.O. Box 12157, Austin, Texas 78711, (512) 463-7348.

Filed: September 10, 1992, 9:13 a.m.

TRD-9212302

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**Texas Department of Mental
Health and Mental Retar-
dation**

Tuesday, September 15, 1992, 3:30 p.m. (Emergency revised agenda) The TXMHMR Board of the Texas Mental Health and Mental Retardation will hold an emergency meeting at the Central Office, 909 West 45th Street, Auditorium, Austin. According to the complete agenda, the

board will consider approval of the adoption of new subchapter governing community relations (Chapter 410, Subchapter B) with repeal of Chapter 405, Subchapter V (relating to client volunteers) and Chapter 407, Subchapter D (relating to volunteer services); and consider approval of a board policy governing community relations. The emergency status is necessary as board policy on which the rules are predicated is also the basis for operating instructions which are being developed. The items deal with the allocation of resources to serve clients. If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78751, (512) 465-4506.

Filed: September 9, 1992, 3:33 p.m.

TRD-9212282

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Board of Nurse Examiners

Tuesday-Wednesday, September 22-23, 1992, 8 a.m. (Revised agenda). The Board of Nurse Examiners will meet at the Board of Medical Examiners, Meeting Room 203, 1812 Centre Creek Drive, Austin. According to the complete agenda, the board will consider education/examination: Texas Tech University Health Science Center, Lubbock; and consider adoption of §§213.1-213.3, 213.5, 213.7-213.13, 213.15-213.18, and 213.21.

Contact: Erlene Fisher, P.O. Box 140466, Austin, Texas 78714, (512) 835-8675.

Filed: September 8, 1992, 2:05 p.m.

TRD-9212216

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**Public Utility Commission of
Texas**

Wednesday, September 9, 1992, 9 a.m. The Public Utility Commission of Texas held an emergency meeting at 7800 Shoal Creek Boulevard, Austin. According to the emergency revised agenda summary the commission also considered the appeal of independent trier of fact's oral ruling scope of remand proceedings and cities' motion to compel responses to its 51st request of information in Docket Number 10200 on remand-application of Texas-New Mexico Power Company for authority to change rates. The emergency status was necessary to preserve jurisdiction over the subject matter of the appeal.

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

Filed: September 8, 1992, 2:39 p.m.

TRD-9212224

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Texas Racing Commission

Wednesday, September 23, 1992, noon. The Texas Racing Commission will meet at the Joe C. Thompson Conference Center, Room 1.110, 26th and Red River Streets, Austin. According to the complete agenda, the commission will consider and act on the proposal for decision in Number 91-R1-26, in regards to the application for a horse racing track license in Dallas/Tarrant Counties.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78711, (512) 794-8461.

Filed: September 9, 1992, 4:13 p.m.

TRD-9212294

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Texas Real Estate Commission

Friday, September 18, 1992, 1 p.m. The Inspector Examination Subcommittee of the Texas Real Estate Commission will meet at Room 235 A (Second Floor), TREC Headquarters, 1101 Camino La Costa, Austin. According to the complete agenda, the subcommittee will call the meeting to order; meet in executive session to review and discuss examination materials pursuant to Attorney General Opinion H-484; and possible recommendations to the Texas Real Estate Inspector Committee; and adjourn.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: September 9, 1992, 1:57 p.m.

TRD-9212270

Friday, September 18, 1992, 1 p.m. The Inspection Report Forms Subcommittee of the Texas Real Estate Commission will meet at Room 234 (Second Floor), TREC Headquarters, 1101 Camino La Costa, Austin. According to the complete agenda, the subcommittee will call the meeting to order; discuss standardized inspection report form and possible recommendations to the Texas Real Estate Inspector Committee; and adjourn.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: September 9, 1992, 1:57 p.m.

TRD-9212271

Saturday, September 19, 1992, 9 a.m. The Texas Real Estate Inspector Committee of the Texas Real Estate Commission will

meet at Room 235 (Second Floor), TREC Headquarters, 1101 Camino La Costa, Austin. According to the complete agenda, the committee will call the meeting to order; introduce election of officers; discuss approval of the July 25-26, 1992 minutes; meet in executive session for consultation with legal counsel pursuant to Texas Civil Statutes, Article 6252-17, §2(e); discuss and possible action on mailing by James Hemsell; to recommend proposed new §535.221 concerning advertising and amendments to §535.226 concerning sponsorship of apprentices and inspectors in training; subcommittee reports; inspection standards; date and place of next meeting; and adjourn.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: September 9, 1992, 1:57 p.m.

TRD-9212272

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Texas Real Estate Research Center

Monday, October 5, 1992, 9:30 a.m. The Advisory Committee of the Texas Real Estate Research Center will meet at the Real Estate Center, Conference Room, College Station. According to the complete agenda, the committee will meet in executive session; opening remarks; discuss approval of minutes; progress reports (administrative, communications, research); current budget report; review of plan work; elect chair; and date of next meeting.

Contact: Gary Halder, Real Estate Center, Texas A&M University, College Station, Texas 77843-2115, (409) 845-9691.

Filed: September 10, 1992, 9:22 a.m.

TRD-9212307

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Center for Rural Health Initiatives

Wednesday, September 23, 1992, 2:30 p.m. The Executive Committee of the Center for Rural Health Initiatives will meet at the Midland Hilton Hotel, Ballroom D, 117 West Wall Street, Midland. According to the complete agenda, the committee will elect new officers; discuss selection process for a new executive director; discuss proposed development of legislative report; act on rule change for Outstanding Rural Scholar Recognition Program; and be updated on Center activities.

Contact: Laura Jordan, 211 East Seventh Street, #915, Austin, Texas 78767, (512) 479-8891.

Filed: September 9, 1992, 5:01 p.m.

TRD-9212295

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University of Texas Health Science Center at San Antonio

Wednesday, September 16, 1992, 3 p.m. The Institutional Animal Care and Use Committee of the University of Texas Science Center at San Antonio will meet at the President's Conference Room, Room 422A, 7703 Floyd Curl Drive, San Antonio. According to the agenda summary, the committee will discuss approval of minutes; protocols for review; hear subcommittee reports; and discuss other business.

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7822, (512) 567-3717.

Filed: September 9, 1992, 9:17 a.m.

TRD-9212243

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Texas Water Commission

Wednesday, September 16, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider approving the following matters: enforcement actions; examiner's proposal for decision and orders; rules (regional plans when evaluating domestic wastewater permit applications); and emergency order. The commission will also meet in executive session to discuss pending litigations. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

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

Filed: September 8, 1992, 12:34 p.m.

TRD-9212206

Wednesday, September 16, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider approving the following matters: permit amendments and permit modifications; permit applications; municipal utility district bonds; water rate matters; water right permits and amendments; agreed enforcement order; orders; and examiner's memorandum and orders. In addition, the commission will consider items previously posted for open meeting and at such meet-

ing verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

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

Filed: September 8, 1992, 12:36 p.m.

TRD-9212207

Thursday, September 17, 1992, 3 p.m. The Texas Water Commission will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 123, Austin. According to the agenda summary, the commission will receive a briefing concerning the current status and proposed development of the State Solid Waste Strategic Plan; the proposed rules 31 TAC, Chapter 330, Subchapter R, Management of Whole Used or Scrap Tires regarding the administration of the Waste Tire Recycling Fund and program; the Clean Cities 2000 program regarding local demonstration projects for recycling and composting of solid waste; and consideration of general internal policies regarding coordination of activities between the various offices and divisions within the agency.

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

Filed: September 9, 1992, 3:07 p.m.

TRD-9212279

Monday, September 21, 1992, 9:30 a.m. The Task Force 21: Waste Management Policy for the Future of the Texas Water Commission will meet at the John H. Reagan Building, Room 107, Austin. According to the complete agenda, the task force will discuss the following issues: update on needs assessments; update on spill rules; update from permit processing subcommittee; update from pollution prevention subcommittee; border waste plan; update from local review committee; and upcoming rule making.

Contact: Kari Bourland-Chestnut, 1700 North Congress Avenue, Austin, Texas 78711-3087, (512) 371-6319.

Filed: September 10, 1992, 9:40 a.m.

TRD-9212310

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Tuesday, October 20, 1992, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Environmental Pollution Control Building, Auditorium, 7411 Park Place, Houston. According to the agenda summary, the commission will consider an application by Cogen Lyondell, Inc. for an amendment to Permit Number 02845 to authorize an increase in the permit limits for total organic carbon for outfall 001 from 55 mg/l to

75/mg/l. The proposed amendment will also enforce more stringent requirements as needed in order to meet applicable rules and regulations. The permit authorizes a discharge of cooling tower blowdown, steam trap condensate and stormwater at a dry weather flow not to exceed 504,000 gallons per day average, which will remain the same. The plant site is adjacent to the intersection of Avenue C and Fifth Street in the Arco Lyondell Chemical plant in the City of Channelview, Harris County.

Contact: Heidi Jackson, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: September 8, 1992, 2:06 p.m.

TRD-9212218

Tuesday, October 20, 1992, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Environmental Pollution Control Building, Auditorium, 7411 Park Place, Houston. According to the agenda summary, the commission will consider an application by Otto Marine Enterprise, Inc. for Proposed Permit Number 03448 authorizing a discharge of treated wastewater at a volume not to exceed an average flow of 8,000 gallons per day from a barge cleaning facility. The plant site is to be on Riverside Drive, approximately 1/4 mile south of IH-10, one mile west of the intersection of IH-10 and Crosby-Lynchburg Road in Harris County.

Contact: Heidi Jackson, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: September 8, 1992, 2:06 p.m.

TRD-9212219

Tuesday, October 20, 1992, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Environmental Pollution Control Building, Auditorium, 7411 Park Place, Houston. According to the agenda summary, the commission will consider an application by Chemical Distributors, Inc. for Proposed Permit Number 03474 to authorize an intermittent, flow variable discharge of treated stormwater from a chemical distribution facility. The plant site is 0.9 mile southeast of the Brazoria/Galveston County line on State Highway 6 and southeast of the City of Algo in Galveston County.

Contact: Heidi Jackson, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: September 8, 1992, 2:06 p.m.

TRD-9212220

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Texas Water Development Board

Wednesday, September 16, 1992, 4 p.m. The Finance Committee of the Texas Water Development Board will meet at 1700

North Congress Avenue, Stephen F. Austin Building, Room 513-F, Austin. According to the complete agenda, the committee will consider approval of the minutes of the August 19, 1992, committee meeting; may be briefed on the status of structuring a long-term SRF revenue bond sale and other funding and programmatic issues for the SRF; may consider items relating to any pending or prospective applications for funding, including Upper Trinity Regional Water District, El Paso County Lower Valley Water District Authority and North Channel Water Authority; and may discuss items on the agenda of September 17, 1992 board meeting. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Donna Darling at 463-8422 two (2) work days prior to the meeting so that appropriate arrangements can be made. Additional non-committee board members may be present to deliberate but will not vote in the committee meeting.

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

Filed: September 8, 1992, 4:08 p.m.

TRD-9212239

Thursday, September 17, 1992, 9 a.m. The Texas Water Development Board will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the agenda summary, the board will consider approval of the minutes; DFM report; financial assistance to Bowie, Clear Lake City Water Authority, Sulphur Springs, Harris County WCID #84, Corrigan, Needville, Stanley Lake MUD and El Paso; Midlothian security change; El Paso Lower Valley Water District Authority change in scope; contracts with Texas Water Commission and United States Geological Survey; planning grant to Brazos River Authority; FY 1993 intended use plan; sale and transfer by Walnut Creek WSC and appointing successor trustee; Water for Texas-Trans-Texas Water Program contracts; publishing rfp's for industrial water use study; budget request summaries for FY 1994-95; finance/audit committee meetings items; municipal solid waste report; litigation; and SJRA board appointment.

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

Filed: September 9, 1992, 3:57 p.m.

TRD-9212287
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Texas Water Resources Authority

Thursday, September 17, 1992, 9 a.m.
The Texas Water Resources Authority will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the complete agenda, the authority will consider approval of the minutes of the regular meeting of August 20, 1992; consider a revised request for exchange refunding of Bell County Water Control and Improvement District Number One-1975 Series A Bonds and 1976 Series C Bonds held in the Texas Water Resources Authority (the "Authority") portfolio.

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

Filed: September 9, 1992, 3:57 p.m.
TRD-9212288

Texas Youth Commission

Thursday, September 17, 1992, 1:30 p.m.
The Board of the Texas Youth Commission will meet at the Jefferson County Courthouse, Commissioner's Court Room, Beaumont. According to the agenda summary, the board will discuss update on Population Management Admission Reduction Alternatives and Length of Stat Issues (Action); approval of Technical Assistance/Feasibility Study for Dallas County Site (Action); change order for construction at Gainesville State School (Action); and Statistical Summary/Report on Student Population (Information).

Contact: Ron Jackson, P.O. Box 4260, Austin, Texas 78765, (512) 483-5001.

Filed: September 9, 1992, 2:57 p.m.
TRD-9212278

Regional Meetings

Meetings Filed September 3, 1992

The Fort Bend County Education District Board of Trustees met at the Lamar CISD Administration Building Board Room, 3911 Avenue I, Rosenberg, September 9, 1992, at 6 p.m. Information may be obtained from Jerome D. Bourgeois, 2706 St. Andrews Place, League City, Texas 77573, (713) 334-5639. TRD-9212049.

Meetings Filed September 8, 1992

The Central Appraisal District Nolan County Board of Directors will meet at the

Nolan County Courthouse, Third Floor, Sweetwater, September 15, 1992, at 7 a.m. Information may be obtained from Steven G. Beck, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9212200.

The Central Appraisal District Nolan County Board of Directors met at the Nolan County Courthouse, Third Floor, Sweetwater, September 15, 1992, at 8 a.m. Information may be obtained from Steven G. Beck, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9212201.

The Central Appraisal District of Taylor County Appraisal Review Board will meet at 1534 South Treadaway, Abilene, September 29, 1992, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79602, (915) 676-9381. TRD-9212203.

The Central Counties Center for MHMR Services Board of Trustees met at 304 South 22nd Street, Temple, September 15, 1992, at 7:45 p.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, ext. 301. TRD-9212205.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, September 16, 1992, at 9 a.m. Information may be obtained from John D. Brown, 3911 Morse Street, Denton, Texas 76208, (817) 566-0904. TRD-9212212.

The Denton Central Appraisal District Board of Directors will meet at 3911 Morse Street, Denton, September 17, 1992, at 4 p.m. Information may be obtained from Joe Rogers, 3911 Morse Street, Denton, Texas 76208, (817) 566-0904. TRD-9212213.

The Dewitt County Appraisal District Board of Directors will meet at the Dewitt County Appraisal Office, 103 Bailey Street, Cuero, September 15, 1992, at 7:30 p.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9212197.

The Henderson County Appraisal District Board of Directors met at 1751 Enterprise, Athens, September 14, 1992, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas 75751, (903) 675-9296. TRD-9212195.

The Martin County Appraisal District Board of Directors will meet at the MCAD Offices, 308 North Saint Peter, Stanton, September 15, 1992, at 7 p.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823. TRD-9212198.

The South East Texas Regional Planning Commission Executive Committee will

meet at the City of Beaumont Council Chambers, Beaumont, September 16, 1992, at 7 p.m. Information may be obtained from Jackie Vice, P. O. Drawer 1387, Nederland, Texas 77627, (409) 727-2384. TRD-9212199.

Meetings Filed September 9, 1992

The Bexar-Medina-Atascosa Counties Water Control and Improvement District Board of Directors met at the Natalia District Office, Natalia, September 14, 1992, at 8 a.m. Information may be obtained from John W. Ward, III, BMA#1, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132. TRD-9212247.

The Cass County Appraisal District Board of Directors met at the Cass County Appraisal District, 502 North Main Street, Linden, September 14, 1992, at 7 p.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (903) 756-7545. TRD-9212273.

The Concho Valley Council of Governments Executive Committee will meet at 5014 Knickerbocker Road, San Angelo, September 16, 1992, at 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666. TRD-9212262.

The Hays County Appraisal District Appraisal Review Board will meet at 632 A East Hopkins, Municipal Building, San Marcos, September 17, 1992, at 9 a.m. Information may be obtained from Lynnell Sedlar, 632 A East Hopkins, San Marcos, Texas 78666, (512) 754-7400. TRD-9212265.

The Houston Galveston Area Council Projects Review Committee will meet at 3555 Timmons Lane, Board of Directors Conference Room, Fourth Floor, Houston, September 15, 1992, at 9 a.m. Information may be obtained from Rowena Ballas, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200. TRD-9212261.

The Houston Galveston Area Council Board of Directors will meet at 3555 Timmons Lane, Fourth Floor Conference Room, Houston, September 15, 1992, at 10 a.m. Information may be obtained from Cynthia Marquez, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200. TRD-9212260.

The Jack County Appraisal District Board of Directors met at 210 North Church Street, Jacksboro, September 14, 1992, at 6:30 p.m. Information may be obtained from Gary L. Zeitler or Donna Hartzell, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301. TRD-9212264.

The Jack County Appraisal District Board of Directors met at 210 North Church Street, Jacksboro, September 14, 1992, at 7 p.m. Information may be obtained from Gary L. Zeitler or Donna Hartzell, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301. TRD-9212263.

The Lower Neches Valley Authority (Revised agenda) Board of Directors will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, September 15, 1992, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9212266.

The North Texas Municipal Water District Board of Directors will meet at the Administrative Offices, 505 East Brown Street, Wylie, September 24, 1992, at 4 p.m. Information may be obtained from Carl W. Riehn, P.O. Box 2408, Wylie, Texas 75098, (214) 442-5405. TRD-9212246.



Meetings Filed September 10, 1992

The Brown County Appraisal District Board of Directors met at 403 Fisk Avenue, Brownwood, September 14, 1992, at 7 p.m. Information may be obtained from Doran E. Lemke, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676. TRD-9212296.

The County Education District Number Six Board of Trustees will meet at the Brownfield ISD Administration Building, 601 Tahoka Road, Brownfield, September 15, 1992, at 7 p.m. Information may be obtained from Larry R. Thom, 1628 19th Street, Lubbock, Texas 79401, (806) 766-1092. TRD-9212306.

The East Texas Council of Governments Private Industry Council will meet at the ETCOG Offices, Kilgore, September 17, 1992, at 9:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9212305.

The Education Service Center, Region XI Board of Directors will meet at the Education Service Center, Region XI, 3001 North Freeway, Fort Worth, September 22, 1992,

at noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311. TRD-9212309.

The Guadalupe-Blanco River Authority Board of Directors will meet at the Authority's Offices, 933 East Court Street, Seguin, September 17, 1992, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78156-0271, (512) 379-5822. TRD-9212303.

The Martin County Appraisal District Appraisal District Board of Directors will meet at the MCAD Office, 308 North St. Peter, Stanton, September 22, 1992, at 7 p.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823. TRD-9212308.

The Region VII Education Service Center Board of Directors will meet at Elizabeth's New Orleans Restaurant, Highway 322, Henderson, September 17, 1992, at 7 p.m. Information may be obtained from Don J. Peters, 818 East Main Street, Kilgore, Texas 75662, (903) 984-3071. TRD-9212297.



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 Air Control Board

Notice of Opportunity to Comment on Administrative Actions

Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions.

The Texas Air Control Board (TACB) Staff is providing an opportunity for written public comment on the listed Agreed Board Orders (ABO's) pursuant to the Texas Clean Air Act, §382.096, Health and Safety Code, Chapter 382. The Act, §382.096, requires that the TACB may not approve these ABO's unless the public has been provided an opportunity to submit written comments. Section 382.096 requires that notice of the proposed orders and of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is October 15, 1992. Section 382.096 also requires that the TACB promptly consider any written comments received and that the TACB may withhold approval of an ABO if a comment indicates the proposed ABO is inappropriate, improper, inadequate, or inconsistent with the requirements of the Texas Clean Air Act. Additional notice is not required if changes to an ABO are made in response to written comments.

A copy of each of the proposed ABO's is available for public inspection at both the TACB's Central Office, located at 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1000 and at the applicable Regional Office listed below. Written comments about these ABO's should be sent to the Staff Attorney designated for each ABO at the TACB's Central Office in Austin, and must be received by 5 p.m. on October 15, 1992. Written comments may also be sent by facsimile machine to the Staff Attorney at (512) 908-1850. The TACB Staff Attorneys are available to discuss the ABO's and/or the comment procedure at the listed phone numbers; however, §382.096 provides that comments on the ABO's should be submitted to the TACB in writing. The ABO's are as follows: Company: 2400 Fountainview, Inc., Location: Houston, Harris County, Type of Facility: building, Rule Violated: TACB §101.20(2), which requires compliance with federal national emissions standards for hazardous air pollutants (asbestos), Penalty: \$6,300, Staff Attorney: Rodman C. Johnson, (512) 908-1854, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964; Company: Audubon Cleaners, Location: Garland, Dallas County, Type of Facility: dry cleaning facility, Rule Violated: TACB §115.521, failing to vent the entire dryer exhaust through a properly functioning carbon adsorption system or equally effective control device, Penalty: \$500, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531, (817) 732-5532; Company: Austin Bridge and Road, Inc., Location: Dallas, Dallas County, Type of Facility: hot mix

asphalt plant, Rule Violated: TACB §116.5, failing to comply with representations made in its original application, by using anti-strip agents in its plant process, Penalty: \$2,000, Staff Attorney: David Todd, (512) 908-1851, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531, (817) 732-5532; Company: Bill Miller Bar-B-Q Enterprises, Inc., Location: San Antonio, Bexar County, Type of Facility: demolition activity, Rule Violated: TACB §101.20(2), which requires compliance with federal national emission standards for hazardous air pollutant (asbestos), Penalty: \$7,000, Staff Attorney: David Todd, (512) 908-1851, Regional Office: 4335 Piedras West, Suite 101, San Antonio, Texas 78228, (512) 734-7981, (512) 734-7982; Company: Brazos Engineering, Location: Waco, McLennan County, Type of Facility: demolition project, Rule Violated: TACB §101.20(2), which requires compliance with federal national emission standards for hazardous air pollutant (asbestos), Penalty: \$1,000, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 500 Lake Air Drive, Suite 1, Waco, Texas 76710, (817) 772-9240, (817) 772-9241; Company: Duck Creek Cleaners, Location: Garland, Dallas County, Type of Facility: dry cleaning facility, Rule Violated: TACB §115.521, failing to vent the entire dryer exhaust through a properly functioning carbon adsorption system or equally effective control device, Penalty: \$500, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531, (817) 732-5532; Company: Enserch Processing Partners, Limited, Location: Near Trinidad, Henderson County, Type of Facility: gas processing plant, Rule Violated: TACB §101.20(1), compliance with federal new source performance standards for volatile organic liquid storage vessels, Penalty: \$32,000, Staff Attorney: David Todd, (512) 908-1851, Regional Office: 1304 South Vine Avenue, Tyler, Texas 75701, (903) 595-2639; Company: Exxon Chemical Company, Location: Baytown, Harris County, Type of Facility: petrochemical manufacturing plant, Rule Violated: TACB §101.20(3), failing to submit quarterly excess oxygen emission reports to the United States Protection Agency and TACB as required by PSD permit; TACB §115.121(a)(3), failing to perform Test Method 22 on flares; 40 CFR §§60.18(e), 60.482-10(d), and 61.242-11(d), failure to operate flares at all times when emissions are vented to them, Penalty: \$9,000, Staff Attorney: Rodman C. Johnson, (512) 908-1854, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964; Company: Exxon Company U.S.A., Location: Austin, Travis County, Type of Facility: Fuel Terminal, Rule Violated: TACB §116.4 and §116.5, failure to comply with permit conditions and representations in a permit application; TACB §116.1, unauthorized construction and operation of two fuel additive tanks, Penalty: \$19,000, Staff Attorney: Bill Zeis, (512) 908-1844, Regional Office: 500 Lake Air Drive, Suite 1, Waco, Texas 76710, (817) 772-9240, (817) 772-9241; Company: Foretravel, Inc., Location: Nacogdoches, Nacogdoches

County, Type of Facility: motorhome manufacturing plant, Rule Violated: TACB §116.4 and Agreed Board Order Number 87-04(k), failing to keep records as required by Special Provision Number 2 of TACB Permit Number C-17655 for volatile organic compound (VOC) usage, and exceeding VOC emission limits specified in Special Provision Number 3 of TACB Permit Number C-17655, Penalty: \$2,000, Staff Attorney: Rodman C. Johnson, (512) 908-1854, Regional Office: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703, (409) 898-3838, (409) 898-3790; Company: Fountainview-Westheimer Joint Venture, Location: Houston, Harris County, Type of Facility: a building, Rule Violated: TACB §101.20(2), which requires compliance with federal national emission standards for hazardous air pollutant (asbestos), Penalty: \$6,300, Staff Attorney: Rodman C. Johnson, (512) 908-1854, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964; Company: General Dynamics Corporation, Fort Worth Division, Location: Fort Worth, Tarrant County, Type of Facility: Chromic Acid Tank Number 513, Rule Violated: TACB §116.1, constructing and operating Chromic Acid Tank Number 513 without first obtaining a permit or qualifying for a standard exemption, Penalty: \$1,000, Staff Attorney: David A. Todd (512) 908-1851, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531, (817) 732-5532; Company: GNB, Incorporated, Location: Frisco, Collin County, Type of Facility: secondary lead smelter, Rule Violated: TACB §116.4, violating Provision Number 2(a) of TACB Permit Numbers R-1174A and R-5466 by causing or contributing to ambient lead concentrations which exceeded National Ambient Air Quality Standard, Penalty: \$83,000, Staff Attorney: Susan Owen, (512) 908-1842, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531, (817) 732-5532; Company: Lone Star Contracting Corporation, Location: Arlington, Tarrant County, Type of Facility: air curtain trench burner, Rule Violated: TACB §116.4, violating the Special Provisions of the company's Special Exemption Number X-14911A, Penalty: \$2,500, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531, (817) 732-5532; Company: Mazda Motor of America, Inc., Location: Midlothian, Ellis County, Type of Facility: dewaxing plant, Rule Violated: TACB §116.1, operating without obtaining a permit or satisfying the conditions for a standard exemption, Penalty: \$4,150, Staff Attorney: David Todd, (512) 908-1851, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531, (817) 732-5532; Company: Mike Nunery, Location: Liberty Hill, Williamson County, Type of Facility: land, Rule Violated: TACB §111.101, by causing, suffering, allowing or permitting outdoor burning without the prior written consent of the board, Penalty: \$750, Staff Attorney: David Todd, (512) 908-1851, Regional Office: 500 Lake Air Drive, Suite 1, Waco, Texas 76710, (817) 772-9240, (817) 772-9241; Company: Peak Cleaners, Location: Garland, Dallas County, Type of Facility: dry cleaning facility, Rule Violated: TACB §115.521, failing to vent the entire dryer exhaust through a properly functioning carbon adsorption system or equally effective control device, Penalty: \$500, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531, (817) 732-5532; Company: Phillips Petroleum Company, Location: Pasadena, Harris County, Type of Facility: petrochemical complex, Rule Violated: TACB §101.20(1), which requires compliance with federal new

source performance standards for equipment leaks at synthetic organic chemical plants; TACB §115.332(2), failure to repair 8 leaking valves within 15 days, Penalty: \$22,500, Staff Attorney: David Todd, (512) 908-1851, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964; Company: Pioneer Concrete of Texas, Inc., Location: Webster, Harris County, Type of Facility: concrete batch plant, Rule Violated: TACB §116.1, constructing and operating a concrete batch plant without first obtaining a permit or qualifying for a standard exemption, Penalty: \$2,250, Staff Attorney: Rodman C. Johnson, (512) 908-1854, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964; Company: Premier Lumber Products, Inc., Location: McAllen, Hidalgo County, Type of Facility: pallet manufacturing plant, Rule Violated: TACB Agreed Board Order Number 91-04(w), failure to properly maintain and operate a dust collection system, Penalty: \$1,500, Staff Attorney: David Todd, (512) 908-1851, Regional Office: Matz Building, Room 204, 513 East Jackson, Harlingen, Texas 78550, (512) 425-6010; Company: S.T.G. Leasing Company doing business as Tip-O-Tex Elevator, Location: Brownsville, Cameron County, Type of Facility: grain elevator, Rule Violated: Rule 116.1, construction and operating a new receiving pit and roller mill without first obtaining a permit or qualifying for a standard exemption, Penalty: \$0.00, Staff Attorney: Bill Zeis, (512) 908-1844, Regional Office: Matz Building, Room 204, 513 East Jackson, Harlingen, Texas 78550, (512) 425-6010; Company: Shell Oil Company, Location: Odessa, Ector County, Type of Facility: oil refinery, Rule Violated: TACB §101.20(2), which requires compliance with federal national emission standards for hazardous air pollutant (asbestos), Penalty: \$6,000, Staff Attorney: Terri Phelps, (512) 908-1846, Regional Office: 1901 East 37th Street, Suite 101, Odessa, Texas 79762, (915) 367-3871, (915) 367-3872; Company: Southwestern Bell Telephone Company, Location: Weatherford, Parker County, Type of Facility: a building, Rule Violated: TACB §101.20(2), which requires compliance with federal national emission standards for hazardous air pollutant (asbestos), Penalty: \$1,000, Staff Attorney: David Todd, (512) 908-1851, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531, (817) 732-5532; Company: Super Car Sales, Incorporated, Location: Houston, Harris County, Type of Facility: motor vehicle sales operation, Rule Violated: TACB §114.1(c), offering for sale in the State of Texas motor vehicles with missing or inoperative emission control systems or devices with which the motor vehicles were originally equipped, Penalty: \$500, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964; Company: Texas A&M University, Location: College Station, Brazos County, Type of Facility: renovation project, Rule Violated: TACB §101.20(2), which requires compliance with federal national emission standards for hazardous air pollutant (asbestos), Penalty: \$0.00, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 500 Lake Air Drive, Suite 1, Waco, Texas 76710; (817) 772-9240, (817) 772-9241; Company: Tiffany Brick doing business as U.S. Brick, Location: Mineral Wells, Palo Pinto County, Type of Facility: face brick manufacturing plant, Rule Violated: TACB §111.111, by exceeding maximum opacity limitations in the Rule; TACB §101.20(3) and §116.4, by exceeding permit maximum allowable emission rates for volatile organic compounds (VOC), nitrogen oxides (NOx), particulate matter (PM), inorganic fluoride (HF), sulfuric acid (H2SO4), and carbon monoxide (CO), estab-

lished in TACB and/or PSD permits; TACB §101.6, by failing to report an upset condition, Penalty: \$200,000, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531, (817) 732-5532; Company: Towne Cleaners, Location: Mesquite, Dallas County, Type of Facility: dry cleaning facility, Rule Violated: TACB §115.521, failing to vent the entire dryer exhaust through a properly function carbon adsorption system or equally effective control device; TACB §115.526, failing to keep proper records as required by the rule, Penalty: \$500, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531, (817) 732-5532; Company: Union Pacific Railroad Company, Location: Bryan, Brazos County, Type of Facility: demolition activity, Rule Violated: TACB §101.20(2), which requires compliance with federal national emission standards for hazardous air pollutant (asbestos), Penalty: \$3,500, Staff Attorney: David Todd, (512) 908-1851, Regional Office: 500 Lake Air Drive, Suite 1, Waco, Texas 76710, (817) 772-9240, (817) 772-9241.

Issued in Austin, Texas, on September 9, 1992.

TRD-9212245 Lane Hartsock
Deputy Director, Air Quality Planning
Texas Air Control Board

Filed: September 9, 1992

Texas Commission on Alcohol and Drug Abuse

Notice of Request for Proposals

The Texas Commission on Alcohol and Drug Abuse, under the authority of the Health and Safety Code, Title 6, Subtitle B, Chapter 464, gives notice of the Juvenile Justice In Service Training Request for Proposals (RFP). The RFP is soliciting applications from organizations with experience in training juvenile justice personnel utilizing the curriculum, "Drug Abuse Prevention, Recognition, and Intervention for Juvenile Probation Officers".

To request a copy of the RFP, call the Funding Processes Section at (512) 867-8700, or write to Texas Commission on Alcohol and Drug Abuse, Funding Processes Section, 720 Brazos Street, Suite 403, Austin, Texas 78701.

The closing date for receipt of applications by the commission is 5 p.m. on September 24, 1992. A contract with a funded provider will be executed for the period of October 1, 1992-August 31, 1993.

The amount of funds that will be available for the contract period is \$103, 896. Funding was issued to the commission through the Criminal Justice Division of the Governor's Office and is entitled "In Service Training for Juvenile Probation Officers".

Eligible applicants are private nonprofit, public, or for-profit organizations that meet the following requirements: provider shall be in good standing with any state or federal agency that has a contracting relationship with the provider; provider who has not repaid funds owed to the commission or who has defaulted on an agreed repayment schedule is not eligible to apply for new funds until the refund is paid in full; if provider has a current Texas Commission on Alcohol and Drug Abuse award, the award must be in good standing at the time of application

submission and throughout the application cycle; provider whose previous award has been terminated by the commission is required to demonstrate that the cause for termination has been corrected prior to submitting an application for new funds; and private nonprofit organizations that apply shall be incorporated and maintain good standing as a nonprofit corporation.

Technical assistance will be offered by Rob Beals, Juvenile Justice Specialist for the commission, at (512) 867-8785.

Issued in Austin, Texas, on September 8, 1992.

TRD-9212244 Bob Dickson
Executive Director
Texas Commission on Alcohol and Drug Abuse

Filed: September 9, 1992

General Land Office Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, the General Land Office announces the award of a contract for technical and professional assistance in the initiation and coordination of the early stages of development of the Funds Management Information System (FMIS). The contract is denominated GLO Contract Number 92-181-R., Amendment Number 1.

The request for proposals to provide these services was published in the July 3, 1992, issue of the *Texas Register* (17 TexReg 4825). Approval of the Governor's Budget Office was received August 28, 1992.

The consultant is to manage the FMIS software project and serve as GLO's primary advisor and the focal point for all required coordination between GLO and the designated developer of the FMIS project.

The contract has been awarded to William D. Briggs doing business as William D. Briggs and Associates (Consultant), 5201 Deerwood Court, Austin, Texas 78730.

The amount of the contract is not to exceed \$50,000, including expenses. The project manager will be engaged for the first six months of the one-year estimated to be required for development of FMIS project and shall terminate no later than January 31, 1993.

Issued in Austin, Texas, on September 8, 1992.

TRD-9212234 Garry Mauro
Commissioner
General Land Office

Filed: September 8, 1992

Governor's Energy Office Consultant Proposal Requests

This request for consulting services is filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

Notice of Invitation. The Governor's Energy Office (GEO) invites proposals from qualified firms, institutions of higher education, or individuals to provide technical orientation, technical review for the Institutional Conservation Program (ICP).

The contractor selected will conduct 10 technical analyst

orientation sessions for engineers involved in preparing Technical Assistance reports.

Technical review services will consist of evaluating and grading energy retrofit studies submitted to the ICP in support of retrofit grant applications. The Technical Assistance (TA) reports, which are prepared according to a prescribed format, analyze recommended capital retrofit energy efficiency projects for institutional buildings. The contractor selected will provide technical reviews of approximately 75 Technical Assistance reports on hospital, higher education, and public school facilities. The total review time for each Technical Assistance report may range from four to eight hours, depending on the size and complexity of the facility audited and the quality of the report. The technical review period for this program cycle will extend from March 19-July 1, 1993.

The contractor selected will possess a comprehensive knowledge of energy-using systems for institutional buildings, energy auditing, and energy-saving calculation methodologies; a broad understanding of the Institutional Conservation Program; and a specific understanding of the federal and state regulations governing the preparation of Technical Assistance Reports.

Services To Be Performed. The successful proposer will be expected to perform, at minimum, the following services: conduct 10 one-day technical analyst orientation sessions; five in November 1992 and five in October 1993; evaluate technical assistance reports for technical accuracy, soundness of engineering principles, and project cost estimates. Contractor shall: assign a technical review score to each report, based on established criteria; contact engineering analysts as necessary to resolve technical problems in the reports; consult with ICP staff on technical review problems as they develop; and submit a final report on the technical review project.

Contact Person. Additional information concerning this project may be obtained by contacting Karen Raven, Governor's Energy Office, P.O. Box 12428, Austin, Texas 78711, (512) 463-1931.

Closing Date. Seven copies of the sealed proposal should be sent to Blanche Saldivar at the previously listed address. The GEO is located in Room 620 of the Sam Houston State Office Building, 201 East 14th Street, Austin, Texas 78711. In order to be considered, proposals must be received or postmarked by October 12, 1992. Proposals received or postmarked after that date and proposals submitted by FAX will not be considered. All potential proposers are encouraged to attend a pre-proposal conference to be held in Room 104 of the John H. Reagan State Office Building corner of Congress Avenue and 15th Street in Austin, on Tuesday, September 22, 1992, from 10 to 12 p.m. Contractor selection will be made on or before November 1, 1992, and the contract period will extend from the date of signing through October 31, 1993.

Selection Criteria. Proposals will be reviewed by a staff committee, and evaluation scores will be based on the following criteria: proposers' ability to assign experienced and qualified personnel to the project (20%); proposers' ability to provide objective assessments of the Technical Assistance report to be evaluated; (Firms currently involved in preparing significant number of Technical Assistance reports for the upcoming cycle are not encouraged to apply.) (15%); proposed method of evaluating Technical Assistance Report (20%); proposers' ability to complete the technical review in a timely manner (20%); proposers'

experience in providing training sessions for engineers (25%).

Proposals should address each of the preceding criteria in the order listed.

GEO staff will require that the five finalists meet with the review panel and other GEO staff in Austin for a formal interview prior to the selection of the contractor. Selection for the interview will be based on the proposer's ability to satisfy the five criteria listed above, and the interviews will focus on published selection criteria. Final selection of the contractor will be based on the results of the interviews.

The GEO reserves the right to negotiate both budget and scope of work with the finalist(s). The GEO also reserves the right to reject any or all proposals and is under no legal requirement to execute a contract on the basis of this Consultant Proposal Request.

No respondent will be reimbursed for any costs incurred in the preparation, submission, or clarification of a proposal.

Issued in Austin, Texas, on September 8, 1992.

TRD-9212222

Harris E. Worcester
Director
Governor's Energy Office

Filed: September 8, 1992



This request for consulting services is filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

Notice of Invitation. The Governor's Energy Office (GEO) invites proposals from qualified firms, institutions of higher education, or individuals to provide monitoring services for the Institutional Conservation Program (ICP).

Monitoring services will include the review and on-site inspection of up to 120 ICP retrofit projects at 20 institutions funded by the state with petroleum violation escrow dollars. A prescribed monitoring format will be used for each monitoring assignment.

The contractor selected will possess a comprehensive knowledge of energy-using systems for institutional buildings, energy auditing, and energy-saving calculation methodologies; a broad understanding of the Institutional Conservation Program; and a specific understanding of the federal and state regulations governing the preparation of Technical Assistance Reports and the implementation of grant-funded retrofits.

Services To Be Performed. The successful proposer will be expected to perform, at minimum, the following services: provide on-site technical reviews of ICP projects funded with petroleum violation escrow dollars. Each on-site monitoring visit will require the contractor to complete the following steps: review basic grantee information on funded projects and enter preliminary information on monitoring checklist; contact grantees to arrange satisfactory dates for on-site visits; make on-site visits to grantees. During the on-site visit contractor will inspect grantee records and procedures for the financial management on grant funds for each building; evaluate grantee procedures to procure services or equipment to assure that they are in compliance with the Department of Energy's Financial Assistance Rules; review grantee compliance with requirements of the Davis-Bacon Act, if applicable; review grantee adherence to reporting requirements; and physically inspect the grant-funded projects to assure that the

work completed complies with the work described in the grant application; prepare a monitoring report for submission to the GEO.

Contact Person. Additional information concerning this project may be obtained by contacting Karen Raven, Governor's Energy Office, P.O. Box 12428, Austin, Texas 78711, (512) 463-1931.

Closing Date. Seven copies of the sealed proposal should be sent to Blanche Saldivar at the previously listed address. The GEO is located in Room 620 of the Sam Houston State Office Building, 201 East 14th Street, Austin, Texas 78711. In order to be considered, proposals must be received or postmarked by October 12, 1992. Proposals received or postmarked after that date and proposals submitted by FAX will not be considered. All potential proposers are encouraged to attend a pre-proposal conference to be held in Room 103 of the John H. Reagan State Office Building corner of Congress Avenue and 15th Street in Austin, on Tuesday, September 22, 1992, from 1 to 3 p.m. Contractor selection will be made on or before November 1, 1992, and the contract period will extend from the date of signing through October 31, 1993.

Selection Criteria. Proposals will be reviewed by a staff committee, and evaluation scores will be based on the following criteria: proposers' ability to assign experienced and qualified personnel to the project (30%); proposers' experience in evaluating the implementation of energy retrofit projects and knowledge of ICP guidelines for project implementation (40%); proposers' ability to complete monitoring visits and monitoring activities in a timely manner (30%); Proposals should address each of the preceding criteria in the order listed.

GEO staff will require that the five finalists meet with the review panel and other GEO staff in Austin for a formal interview prior to the selection of the contractor. Selection for the interview will be based on the proposer's ability to satisfy the three criteria listed above, and the interviews will focus on published selection criteria. Final selection of the contractor will be based on the results of the interviews.

The GEO reserves the right to negotiate both budget and scope of work with the finalist(s). The GEO also reserves the right to reject any or all proposals and is under no legal requirement to execute a contract on the basis of this Consultant Proposal Request.

No respondent will be reimbursed for any costs incurred in the preparation, submission, or clarification of a proposal.

Issued in Austin, Texas, on September 8, 1992.

TRD-9212242 Harris E. Worcester
Director
Governor's Energy Office

Filed: September 9, 1992

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**Texas Department of Housing and
Community Affairs**

Public Notice

The Texas Department of Housing and Community Affairs announces that its annual Community Development Block Grant performance and evaluation report is available for review at the Community Development Block Grant Section, 811 Barton Springs Road, Suite 550, Austin, during

regular business hours. The report includes the department's use of Community Development Block Grant funds for the year ending June 30, 1992; the nature of and reasons for changes in the program's objectives; indications of how the department would change its programs as a result of its experiences; and an evaluation of the extent to which its funds were used for activities that benefited low and moderate income persons.

Written comments may be submitted through September 28, 1992, to Ruth Cedillo, Director, Texas Community Development Program, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941.

Issued in Austin, Texas, on September 9, 1992.

TRD-9212258 Susan J. Leigh
Executive Director
Texas Department of Housing and
Community Affairs

Filed: September 9, 1992

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Texas Department of Human Services
Notice of Correction of Error

The Texas Department of Human Services filed an adoption of amendment to §72.902 in the August 28, 1992, issue of the *Texas Register* (17 TexReg 5957). The date of filing was incorrectly published as January 1, 1988, instead of August 24, 1992.

Issued in Austin, Texas, on September 9, 1992.

TRD-9212258 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: September 9, 1992

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Legislative Budget Office

**Joint Budget and Strategic Plan Hearing
Schedule (For the period of September
14-18, 1992)**

The Joint Budget and Strategic Plan hearing schedule appropriations requests for the 1994-1995 Biennium for the period of September 14-18, 1992 are as follows.

Board of Physical Therapy Examiners, September 14-1:30 p.m., Room 104, John H. Reagan Building, 15th and North Congress Avenue, Austin. Board of Veterinary Medical Examiners, September 14-1:30 p.m., Conference Room 204B, One Capitol Square Building, 15th and Lavaca, Austin. Texas Racing Commission, September 15-9:30 a.m., Conference Room 204B, One Capitol Square Building, 15th and Lavaca, Austin. Aircraft Pooling Board, September 15, 1:30 p.m., Conference Room 204B, One Capitol Square Building, 15th and Lavaca, Austin. State Office of Administrative Hearings, September 15, 2 p.m., Senate Meeting Room 2, One Capitol Square Building, 15th and Lavaca, Austin. Board of Professional Land Surveying, September 15-2 p.m., Conference Room 202, One Capitol Square Building, 15th and Lavaca, Austin. Board of Vocational Nurse Examiners, September 16-9 a.m., Conference Room 204B, One Capitol Square Building, 15th and Lavaca, Austin. Texas Eth-

ics Commission, September 16-9:30 a.m., Conference Room 202, One Capitol Square Building, 15th and Lavaca, Austin. Structural Pest Control Board, September 17, 9 a.m., Conference Room 204B, One Capitol Square Building, 15th and Lavaca, Austin. National Guard Armory Board, September 17-9:30 a.m., Camp Mabry, Building 64, 3500 West 35th Street, Austin. Department on Aging, September 17-1:30 p.m., Conference Room 202, One Capitol Square Building, 15th and Lavaca, Austin. Public Community Junior Colleges, September 17, 1:30 p.m. Coordinating Board Boardroom, Room 1. 100, Building 1, 7700 Chevy Chase Drive, Austin. Adjutant General's Department, September 17-2 p.m., Camp Mabry, Building 64, 3500 West 35th Street, Austin. Board of Tax Professional Examiners, September 17-2 p.m., Conference Room 204B, One Capitol Square Building, 15th and Lavaca, Austin. Texas Space Commission, September 17-2 p.m., Senate Meeting Room 2, One Capitol Square Building, 15th and Lavaca, Austin. Board of Private Investigators and Private Security Agencies, September 18-9 a.m., Conference Room 204B, One Capitol Square Building, 15th and Lavaca, Austin. Optometry Board, September 18-10:30 a.m., Conference Room 202, One Capitol Square Building, 15th and Lavaca, Austin. Board of Examiners of Psychologists, September 18, 1:30 p.m., Room 103, John H. Reagan Building, 15th and North Congress Avenue, Austin. Board of Chiropractic Examiners, September 18-3:30 p.m., Room 104, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Please confirm above dates, times, and locations in the event you plan to attend a hearing, since experience has shown that some rescheduling always occurs.

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

TRD-9212113 Larry Kopp
Assistant Director for Budgets
Legislative Budget Office

Filed: September 4, 1992



Board of Nurse Examiners Bid for Test Administration Agency

Bid Request for Test Administration Agency (TAA) to administer licensing examination in February and July of 1993 in Fort Worth and Galveston.

Qualifications. Prior experience in administering/managing standardized testing programs for large numbers of candidates.

The test administration agency will be responsible for: having each chief examiner attend an orientation for proctors, all TAA staff will be responsible for meeting with BNE staff for pretest planning; working with staff of examination site regarding specific arrangements for preparation of the site for testing; providing testing supplies not supplied by board; providing personnel to administer the examination as follows: one chief examiner per site, one assistant examiner per site; one proctor for every 20 candidates. The proctors will be assigned as follows: one for every section which is 35 seated candidates, one proctor supervisor for every three-four sections; one person to assist with the duplicate table per site and door monitors sufficient to allow orderly and timely admission of candidates and release of candidates following each part of the exam; transporting test booklets to examination sites

and securing test booklets in accordance with the security measures; inventorying test booklets at each examination site; orienting proctors to security measures and testing procedures; following established procedures for implementing the security measures; causing proctors to check test booklet covers and verify that candidate identifying information is recorded correctly; completing forms as necessary to comply with the procedures for implementing the security measures; returning test booklets to testing service as instructed by the board; and returning specified test materials to board office.

In addition: in July, the TAA must be prepared to staff one-two different testing rooms per site. This means one-two chief examiners with backup staff who are prepared to assume the chief examiner role; for each 500 candidates or part thereof per site there must be at least one staff member of the TAA; in accordance with the Americans with Disabilities Act (ADA), disabled candidates may be tested at any of the various examination sites. Accommodations are approved by the NCSBN and include separate rooms, extended time, reader or tape. The TAA should also be prepared to provide individual proctors for each room and one TAA chief examiner for the disabled candidates.

The Board of Nurse Examiners will be responsible for: obtaining examination sites; providing board liaison person to monitor examination activities at each site; ordering test booklets; inventorying test booklets upon receipt in board office; providing TAA numbers of candidates expected at each site approximately 30 days in advance; notifying staff of exam site regarding number of candidates expected at each site; arranging through NCSBN to approve the handicapped candidate request for reasonable accommodations and informing the TAA when specific accommodations have been made and what type; issuing admission cards; providing alpha candidate rosters, test booklet/candidate record in alpha order-one for each proctor and seating labels; providing guidelines for an emergency, late arrivals, suspected cheating, no shows, etc; providing one staff person to handle candidates requiring duplicate admission cards; providing copy of security measures, procedures for implementing security measures and information for proctor orientation; providing one copy of test administration manual for each chief examiner (to be treated as secure material); providing dialogue of necessary information to be read to candidates (information not in manual); and providing information needed for shipping test books from examination site to scoring center.

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

TRD-9212112 Louise Waddill, Ph.D., R.N.
Executive Director
Board of Nurse Examiners

Filed: September 4, 1992



Public Utility Commission of Texas Notice of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for the City of Victoria, Victoria.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for the City of Victoria Pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 11419.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for the City of Victoria. The geographic service market for this specific service is the Victoria area.

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 4, 1992.

TRD-9212223

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: September 8, 1992



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Marathon Letourneau, Longview.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Marathon Letourneau Pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 11430.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Marathon Letourneau. The geographic service market for this specific service is the Longview area.

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 3, 1992.

TRD-9212154

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: September 4, 1992



Notice of Petition of Inquiry

Notice is given to the public of the filing with the Public Utility Commission of Texas a petition of inquiry on July 23, 1992, into the classification and appropriate rate treatment by Southwestern Bell Telephone Company of business local exchange access service when used with Hybrid-PBX systems pursuant to the Public Utility Regulatory Act, §§16(a), 18, 37, 38, 39, and 42.

Docket Title and Number. General counsel's inquiry into Southwestern Bell Telephone Company's classification of Hybrid-PBX Systems, Docket Number 11335, before the Public Utility Commission of Texas.

The Application. In Docket Number 11335, Southwestern Bell Telephone Company's current rates and regulations for business local exchange access service used with Hybrid-PBX systems were previously approved; however, in this proceeding the Public Utility Commission may make changes to these rates and/or regulations.

Persons who wish to intervene or otherwise participate in this proceeding, should contact the Public Utility Commission of Texas as soon as possible. The deadline to intervene is October 30, 1992. A request to intervene, participate, or for further information should be mailed to the Public Utility Commission of Texas at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas, 78757. Further information may also be obtained by calling the Public Utility Commission Public Information Office at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf.

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

TRD-9212156

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: September 4, 1992



Texas Water Commission

Meeting Notice

A meeting of the Management Committee of the Galveston Bay National Estuary Program is scheduled for: Wednesday, September 16, 1992, 9 a.m., Holiday Inn-Hobby Airport, 9100 Gulf Freeway, Houston, Texas 77017, (713) 943-7979.

Following opening remarks and approval of minutes of the last meeting, a summary of GBNEP activities will be presented by the program staff. The Management Committee will then review the "Strawman Draft" of the Comprehensive Conservation and Management Plan for Galveston Bay. A update will be given regarding FY 1990 and 1991 Projects. Final Project Reports for FY 1992 and Project Work Plans for FY 1993 will then be reviewed and approved. The Committee will then hear a briefing regarding Senate Bill 818 and review a list of proposed nominees for the Finance Committee. A discussion of voting privileges for ex-officio members and the Oyster Reef Creation from Coal Combustion By-Products Action Plan Demonstration Project. Membership changes will then be discussed and approved. After consideration of other business and announcement of the next meeting the meeting will be adjourned.

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

TRD-9212184

Frank S. Shipley
Program Director
Texas Water Commission

Filed: September 8, 1992



Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of August 24th-September 4, 1992.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any

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

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

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

Amoco Oil Company; a petroleum refinery and an organic chemical plant; at 2401 Fifth Avenue South in the City of Texas City in Galveston County; amendment; 00443.

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

Beechnut Municipal Utility District; wastewater treatment facilities; are located approximately 1,250 feet northwest of the intersection of Eldridge Road and Beechnut Road 3.4 miles southeast of the intersection of FM Road 1093 (Westheimer) and State Highway 6 in Harris County; renewal; 12258-01.

Chaparral Feeders, Inc.; the feedlot; the feedlot is on the north side of FM Road 140, approximately 10 miles southeast of the intersection of FM Road 140 and FM Road 117 south of the City of Uvalde in Uvalde County; amendment; 02298.

City of Edna; wastewater treatment facilities; are located approximately one mile southeast of the intersection of U.S. Highway 59 and State Highway 111, adjacent to the south bank of Dry Creek, southeast of the City of Edna in Jackson County; renewal; 10164-01.

City of Ennis; the Oak Grove Wastewater Treatment Facilities; is approximately 1/2 miles south of the intersection of State Highway 34 and FM Road 1183, approximately 2 1/2 miles south of the intersection of Interstate Highway 45 and State Highway 34 in Ellis County; renewal; 10443-01.

Georgia-Pacific Corporation; a gypsum quarry at its Acme Plant; site is on the west bank of South Groesbeck Creek immediately north of State Loop 285 and approximately five miles west of the City of Quanah, Hardeman County; renewal; 01610.

Houston Solvents and Chemicals Company, Inc.; a bulk storage terminal for petroleum products and chemicals; located at 11235 FM 529, 1/2 mile southwest of the intersection of U.S. Highway 290 and FM 529 near the City of Jersey Village, Harris County; renewal; 02449.

Javelina Company; a natural gas liquids production facility; the plant site is between Up River Road and Interstate Highway 37 approximately one quarter mile west of Navigation Boulevard in the City of Corpus Christi in Nueces County; amendment; 03137.

Lakeway Municipal Utility District; the waste treatment facility (i.e. Central Plant) and irrigation site (i.e. the Yaupon Golf Course) are in the eastern portion of Lakeway, approximately 2.0 miles north of the intersection Ranch Road 620 and Lakeway Boulevard, 250 feet west of Yaupon Creek in the Village of Lakeway in Travis County; amendment; 11495-01.

City of Mathis; the wastewater treatment facilities; are approximately 1.25 miles northwest of the intersection of State Highway Spur 198 and FM Road 1068, along the access road northwest extension of San Patricio Avenue in the City of Mathis in San Patricio County; amendment; 10015-01.

Mary Bryant, doing business as Double J Lil L Dairy; a dairy; is approximately two miles west and 0.5 mile south of the intersection of State Highway 171 and an unnamed county road which is approximately three miles north of Covington business district in Hill County; new; 03484.

City of Mineral Wells; wastewater treatment facilities; located approximately 1,700 feet northwest from the intersection of the U.S. Highway 180 and Rock Creek in Parker County; renewal; 10585-03.

North Texas Municipal Water District; a water treatment plant; at 505 East Brown Street, at the corner of U.S. Highway 78 and Brown Street in the City of Wylie, Collin County; renewal; 10481-01.

City of Oakwood; wastewater treatment facilities; are located immediately southeast of the intersection of FM Highway 831 and FM Highway 542, approximately one mile southeast of Oakwood in Leon County; renewal; 10586-01.

Oscar Mayer Foods Corporation; a meat processing facility; at 4726 Highway 75 South, in the City of Sherman, Grayson County; renewal; 01991.

City of Pasadena; the Golden Acre Wastewater Treatment Facilities; site is on the north bank of Armand (Middle) Bayou in the 6300 Block of Spencer Road in southeast Pasadena, Harris County; renewal; 10053-03.

City of San Antonio; the Southside ISD Campus Wastewater Treatment Facilities; the plant site is approximately one-quarter of a mile east of the intersection of U.S. Highway 281 and FM Road 2537 in Bexar County; renewal; 10137-39.

Temple-Inland Forest Products Corporation; a Temple-Inland cogeneration plant; the plant site is west of the fiberboard plant and east of Neal Pickett Drive in the City of Diboll, Angelina County; renewal; 02832.

Quantum Chemical Corporation; the Deer Park Terminal, a bulk chemical storage and shipment facility; site is north of and adjacent to Strang Road, approximately 1/2 mile east of the Miller Cutoff Road/Strang Road intersection, Harris County; renewal; 02457.

Texas Utilities Electric Company, the North Lake Steam Electric Station; is located on the north shore of North Lake, immediately southeast of the Moore Road and Belt Line Road intersection approximately one mile east of the City of Coppell, Dallas County; renewal; 01249.

Texaco Refining and Marketing, Inc.; waste disposal wells for groundwater remediation activities at Texaco's Amarillo Refinery. The injection wells are used solely to dispose of recovered groundwater generated from the shallow wellfield recovery system at the refinery. The maximum rate of injection for each of the wells is not to exceed 300 gallons per minute. The combined volume of wastewater injected is not to exceed 13,392,000 gallons per month, nor 157,680,000 gallons per year. The maximum operating surface injection pressure for each of the wells is not to exceed 300 psig.

The waste disposal wells are located in the Adams, Beatty, and Moulton Survey within the eastern limit of the City of Amarillo, Potter County, Texas and further located as follows: WDW-135 is located approximately 2,533 feet east and 456 feet south of the northwest corner of Block 2, Section 123 of the aforesaid survey (north latitude 35 Degrees 12 feet 22 inches, west longitude 101 Degrees 47 feet 12 inches). WDW-136 is located approximately 3,382 feet east and 1,560 feet south of the northwest corner of Block 2, Section 123 of the aforesaid survey (north latitude 35 Degrees 12 feet 11 inches, west longitude 101 Degrees 47 feet 2 inches); new; WDW-135 and WDW-136.

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

TRD-9212217 Gloria A. Vasquez
Chief Clerk
Texas Water Commission

Filed: September 8, 1992

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Texas Workers' Compensation Commission

Notice of Extra-Hazardous Requirements

The commission will use the following format when providing the public with notice of the thresholds and other information regarding the Extra-Hazardous Employer program.

The commission has determined that the following factors will be used to identify extra-hazardous employers on and after _____.

THRESHOLD: For employers of 1 employee, the threshold is _____;

for employers of 2 employees, the threshold is _____;

for employers of 3 employees, the threshold is _____;

for employers of 4 employees, the threshold is _____;

for employers of 5-9 employees, the threshold is _____;

for employers of 10-19 employees, the threshold is _____;

for employers of 20-49 employees, the threshold is _____;

for employers of 50-149 employees, the threshold is _____;

for employers of 150-499 employees, the threshold is _____;

for employers of 500-999 employees, the threshold is _____;

for employers of 1,000 or more employees, the threshold is _____;

WEIGHT OF FATALITIES: this is based on the formula:
 $F_{index} = 1 + [(1 + (F/E)) \times N \times Y]$ where "F" is the total

number of fatalities, "E" is the number of employees, "N" is the number of incidents in which one or more fatalities occur, and "Y" is a variable whose value will be set by the Commissioners.

SOURCE OF EXPECTED RATE OF INJURY INFORMATION: 1990 Bureau of Labor and Statistics publication *Survey of Occupational Injuries and Illnesses*, all of the two digit SIC codes (column one) from TABLE 1, using the value in the most current year Lost Workday Cases column (column five); and the 1991 National Safety Council publication *Work Injury and Illness Rates 1991*, using the two digit SIC codes starting with "9" (column one) and the Total Lost Workday Cases (column five). Where the published rate is less than 1.0, a rate of 1.0 will be used.

DATE FOR USE OF EXPANDED INJURY DEFINITION: No date set for expanding the definition of injury.

"Y" = _____ (A variable used in determining the F_{index} , this value will be assigned by the Commissioners.)

Other terms and symbols are used in the formula for calculating whether an employer is extra-hazardous. These terms and symbols are defined as follows:

E = Number of employees recorded by or supplied by employers, insurance carriers, or other state agencies.

F = Employer's total number of fatalities.

I = Employer's total number of injuries as defined in Chapter 164.

N = The number of fatality incidents an employer experienced.

R = Employer's injury rate normalized to the number of injuries per 100 employees using the formula $(I/E) \times 100$.

Fatality Incident = An incident that results in one or more fatalities.

F_{index} = a weight factor applied to an employer's injury rate (R) based on the number of fatalities and fatality incidents the employer had. The weight will be calculated based on $1 + [(1 + (F/E)) \times N \times Y]$.

$R_{adjusted}$ = Employer's injury rate adjusted for fatalities based on the formula $R \times F_{index}$.

$R_{expected}$ = An employer's expected injury rate per 100 employees for the employer's two digit SIC code. When the published SIC code injury rate is less than 1 in 100, a minimum injury rate of 1 in 100 will be used.

To determine whether the employer is extra-hazardous, divide the employer's injury rate adjusted for fatalities ($R_{adjusted}$) by the injury rate expected for the employer's two digit SIC code ($R_{expected}$). If the result is greater than the threshold, the employer is extra-hazardous.

Anyone wishing to obtain copies of preliminary worksheets showing examples of, or information about this calculation, may do so by contacting the Division of Workers' Health and Safety of the Texas Workers' Compensation Commission, 4000 South IH-35, Southfield Building, Austin, Texas 78704-7491, phone (512) 440-5660.

Issued in Austin, Texas on September 8, 1992.

TRD-9212168 Susan Cory
General Counsel
Texas Workers' Compensation Commission

Filed: September 8, 1992

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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