

Texas Register

Volume 17, Number 81, October 27, 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- Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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).

Texas Register Art Project

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Texas Register Publications



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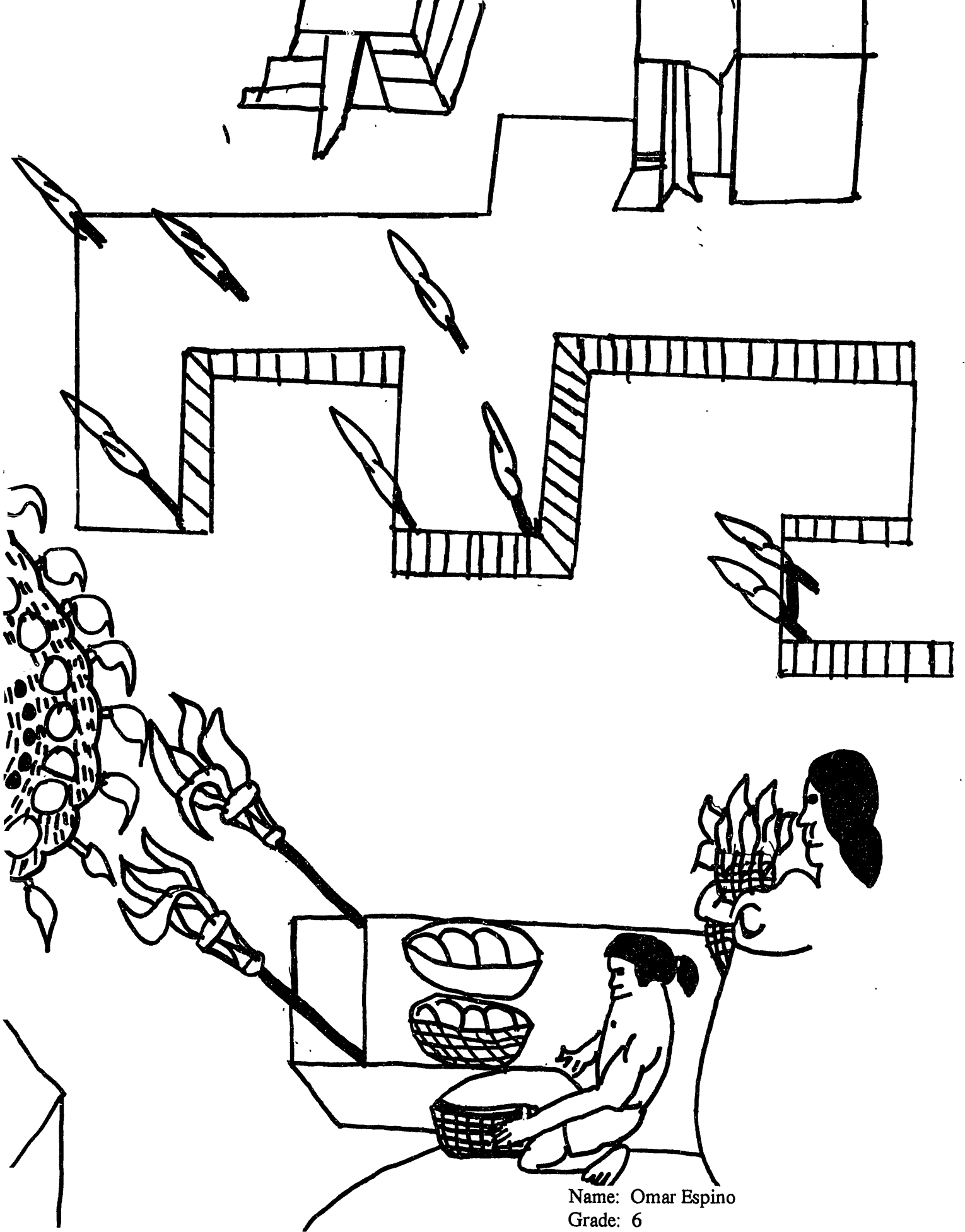
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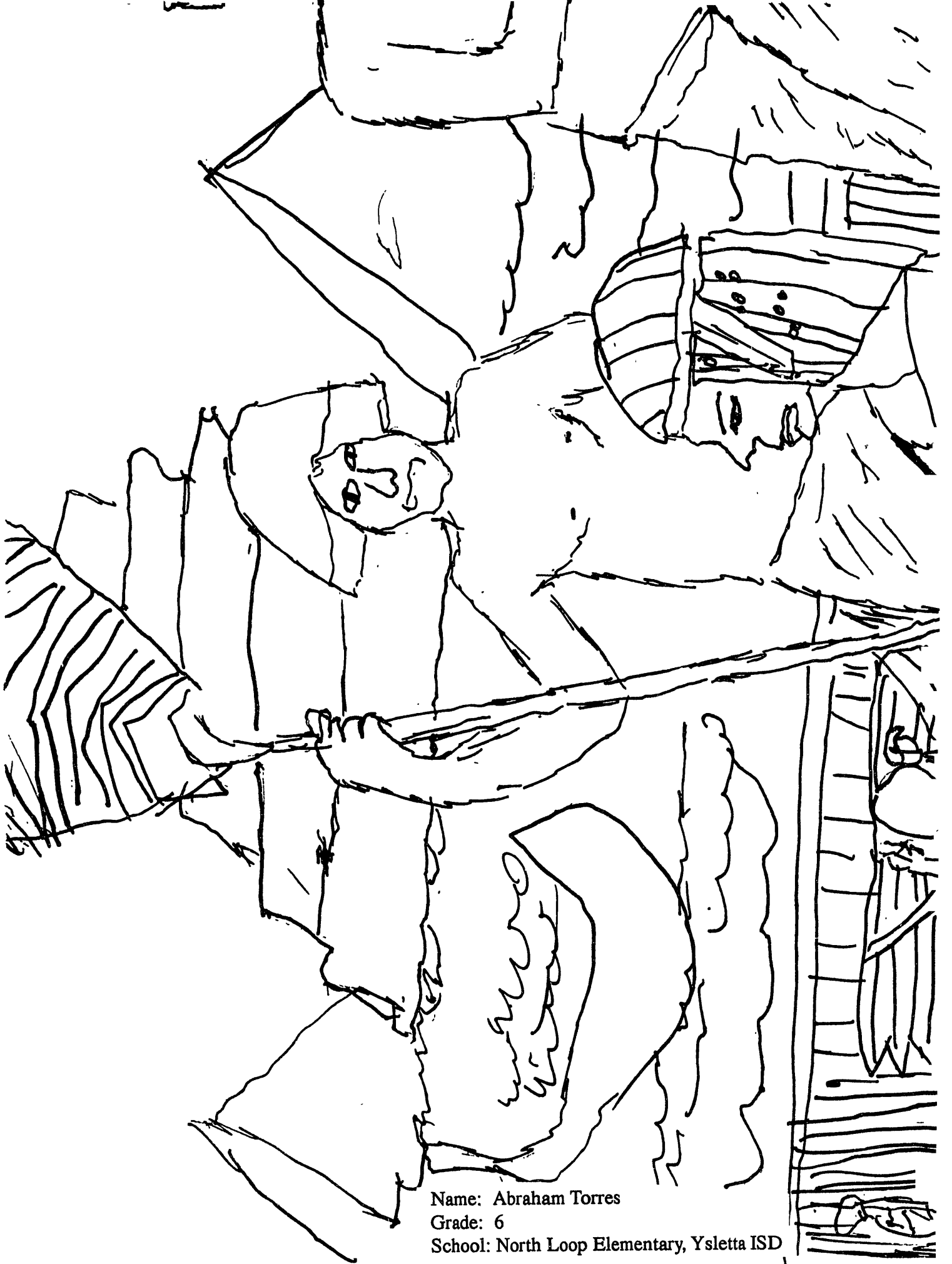
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Name: Omar Espino

Grade: 6

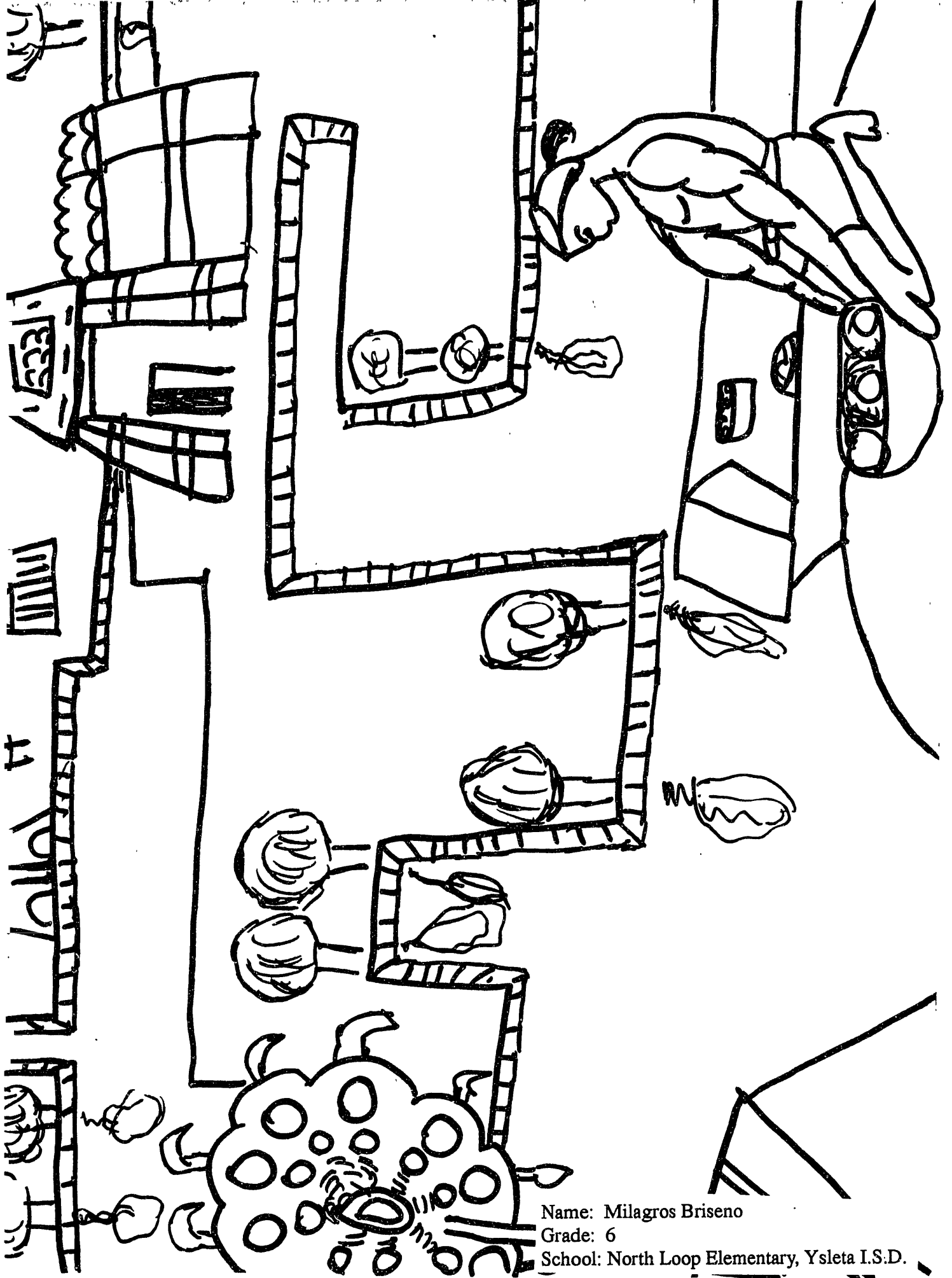
School: North Loop Elementary, Ysletta ISD



Name: Abraham Torres

Grade: 6

School: North Loop Elementary, Ysletta ISD



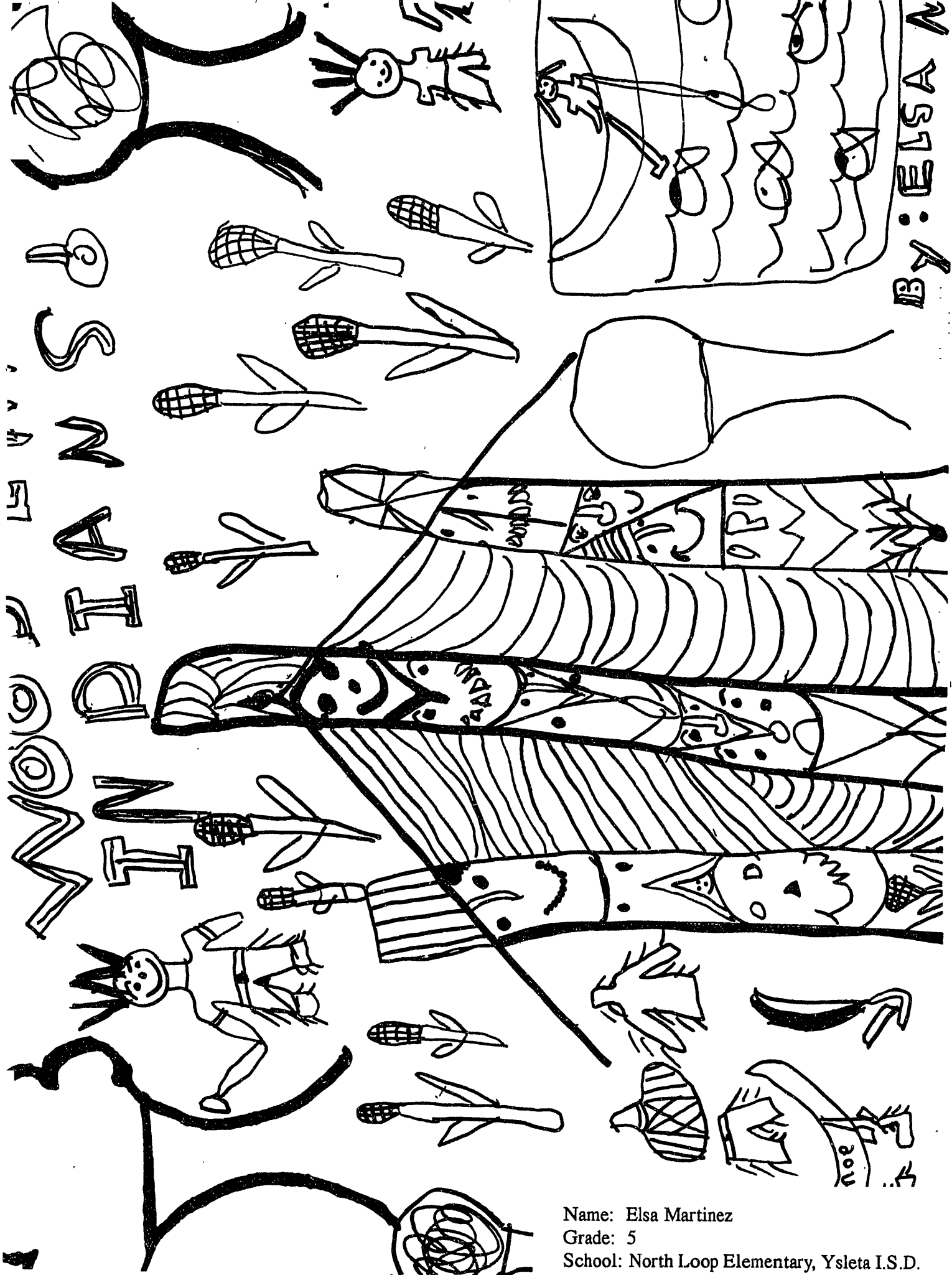
Name: Milagros Briseno

Grade: 6

School: North Loop Elementary, Ysleta I.S.D.



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Grade: 5
School: North Loop Elementary, Ysleta I.S.D.



BY: ELSA A

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Grade: 5
School: North Loop Elementary, Ysleta I.S.D.

Cuba



Name: Damaris Hernandez

Grade: 4

School: North Loop Elementary, Ysleta I.S.I

The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in Chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Appointments Made October 14, 1992

To be a member of the **Executive Committee of the Office For the Prevention of Developmental Disabilities** for a term to expire February 1, 1994: Jonathan Clark Race, M.D., 1513 Gaston Avenue, Austin, Texas 78703. Dr. Race is being reappointed.

To be a member of the **Texas Board of Criminal Justice** for a term to expire February 1, 1997: Rufus H. Duncan, 1010 Woodland, Lufkin, Texas 75901. Mr. Duncan will be filling the unexpired term of Selden B. Hale of Amarillo, who resigned.

To be a member of the **Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons** for a term to expire January 31, 1993: Sue Evans, 6 Red Bud Trail, Round Rock, Texas 78664. Ms. Evans will be replacing Marilyn Abercrombie of Conroe, whose term expired.

To be a member of the **Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons** for a term to expire January 31, 1993: Karen A. Allison, 9306 Nashville Drive, Lubbock, Texas 79423. Ms. Allison will be filling the unexpired term of Kelly Forehand of Amarillo, who resigned.

To be a member of the **Texas Space Commission** for a term to expire February 1, 1995: Ronald G. Bliss, 1301 McKinney, Suite 5100, Houston, Texas 77010-3095. Mr. Bliss will be filling the unexpired term of David A. Heuer of Houston, who resigned.

To be a member of the **Texas Department of Commerce Policy Board** for a term to expire February 1, 1997: Murphy George, Route 1, Box 3230, Lufkin, Texas 75901. Mr. George will be filling the unexpired term of Jorge Verduzco of Laredo, who resigned. Mr. Verduzco now serves as an ex officio member of the board since he is presiding officer of the Texas-Mexico Authority Advisory Board.

Appointments Made October 15, 1992

To be a member of the **Home Health Services Advisory Council** for a term to expire January 31, 1993: Randy Paul Washington, 311 Inwood, Georgetown, Texas 78628. Mr. Washington is being appointed pursuant to Chapter 142, Vernon's Texas Codes, Health and Safety Code.

To be a member of the **Advisory Commission on State Emergency Communications** for a term to expire September 1, 1995: Laverne Heath Hogan, 7919 Portal Drive, Houston, Texas 77071. Ms. Hogan

will be filling the unexpired term of John P. Schneider, Jr. of Austin, who resigned.

To be a member of the **Advisory Commission on State Emergency Communications** for a term to expire September 1, 1997: Linda G. Wells, Route 4, Box 4745B, Belton, Texas 76513. Ms. Wells will be replacing George E. Cook of Dallas, whose term expired.

To be a member of the **Advisory Commission on State Emergency Communications** for a term to expire September 1, 1997: William Charles Deere, 2104 Hill Country, Arlington, Texas 76012. Mr. Deere is being reappointed.

To be a member of the **Early Childhood Intervention Advisory Committee** for a term to expire February 1, 1995: Mary Lou Holloway, #3 South Pineview, Texarkana, Texas 75501. Ms. Holloway is being appointed pursuant to House Bill Number 7, 72nd Legislature.

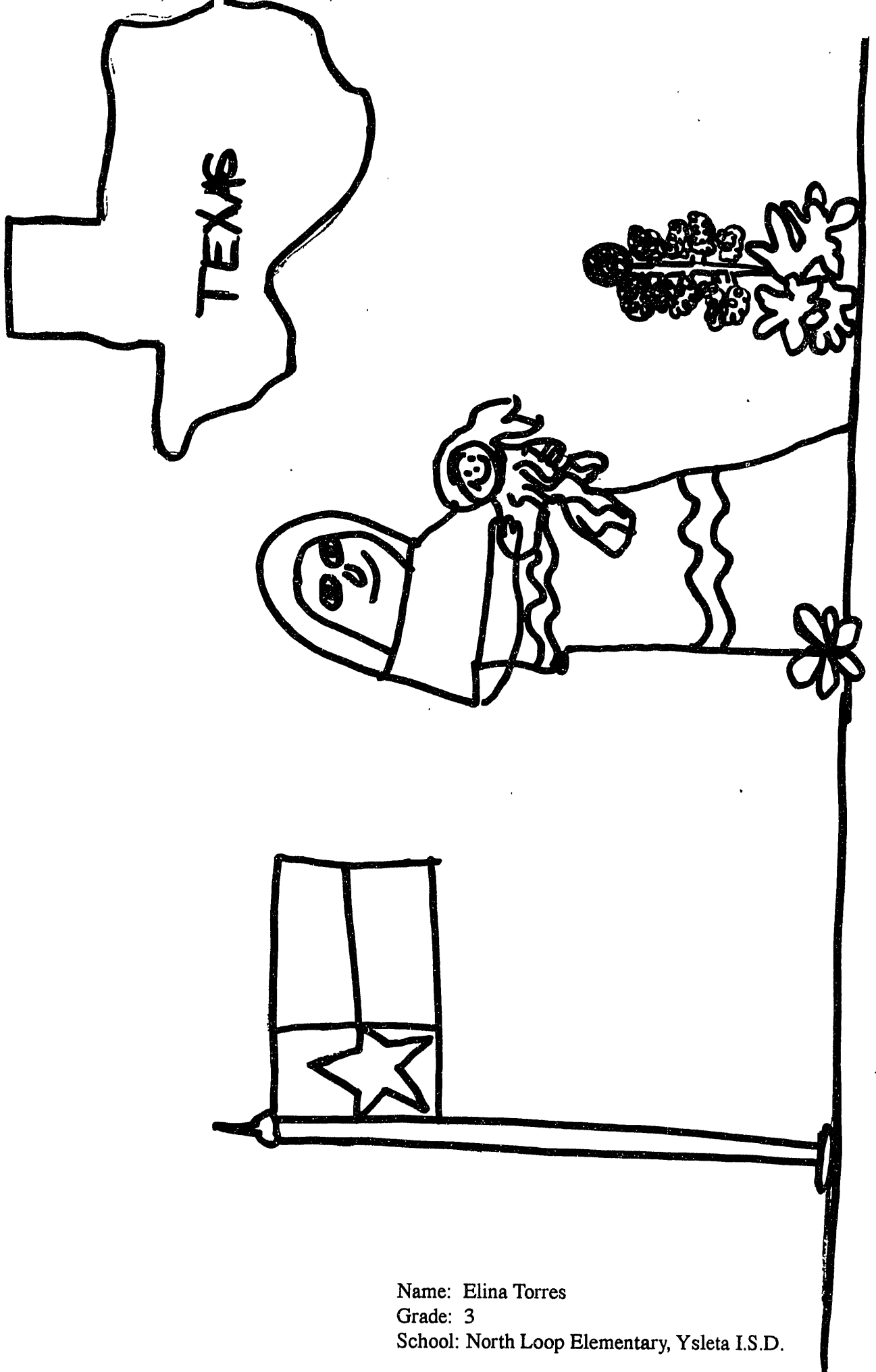
To be a member of the **Early Childhood Intervention Advisory Committee** for a term to expire February 1, 1997: Sharon E. Boatman, P.O. Box 149030 (Y-927), Austin, Texas 78714-9030. Ms. Boatman is being appointed pursuant to House Bill Number 7, 72nd Legislature.

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

TRD-9214257

Ann W. Richards
Governor of Texas





Name: Elina Torres

Grade: 3

School: North Loop Elementary, Ysleta I.S.D.

Proposed Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter P. Commercial Zones

• 16 TAC §5.294

The Railroad Commission of Texas, pursuant to a petition filed by Corrugated Services, Inc., proposes an amendment to §5.294, concerning existing commercial zones. The amendment as proposed by the commission would add the City of Forney and adjoining territories to the existing Dallas and Fort Worth commercial zones.

The petitioner alleges that the Forney city limits are located within one mile of the City of Dallas and 20 minutes from downtown Dallas, that the proposed area and the City of Dallas share the same telephone services, television, radio, and newspaper, that Dallas residents and businesses are relocating in Forney, that Forney residents commute from Dallas to Forney to work, that Metroplex chain stores have branch stores in Forney, and that Forney retailers rely on the Dallas market for goods. The petitioner does not allege what effect the inclusion of the proposed area will have on existing common carriers.

Jackye Greenlee, assistant director-central operations, 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.

E. A. Galvan, hearings examiner, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to increase the number of available for-hire carriers to transport commodities between the existing Dallas and Fort Worth commercial zones and the involved territories. 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 E. A. Galvan, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711. Comments

will be accepted for 30 days after publication in the *Texas Register*.

The amendment is proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorize the commission to prescribe rules and regulations for the operations of motor carriers.

§5.294. Existing Commercial Zones. Commercial zones defined and prescribed by the commission after notice and hearing are as follows.

(1) The Dallas commercial zone shall include the following:

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

(J) that area in Kaufman County beginning at the intersection of FM 740 and the Rockwall-Kaufman County line, then along FM 740 to the northwest Forney city limits, then along the Forney city limits to its intersection with FM 548, then along FM 548 to its intersection with County Road 219, then along County Road 219 to its intersection with County Road 218, then along County Road 218 to its intersection with County Road 217, then along County Road 217 to its intersection with U.S. Highway 80, then along U.S. Highway 80 to its intersection with County Road 212, then along County Road 212 to its intersection with County Road 211, then along County Road 211 to its intersection with FM 1641, then along FM 1641 to its intersection with the Forney city limits, then along the Forney city limits to its intersection with IH-20, then along IH-20 to its intersection with the Dallas-Kaufman County line.

(2) The Fort Worth commercial zone shall include the following:

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

(H) that area in Kaufman County beginning at the intersection of FM 740 and the Rockwall-Kaufman County line, then along FM 740 to the northwest Forney city limits, then along the Forney city limits to its intersection with FM 548, then along FM 548 to its

intersection with County Road 219, then along County Road 219 to its intersection with County Road 218, then along County Road 218 to its intersection with County Road 217, then along County Road 217 to its intersection with U.S. Highway 80, then along U.S. Highway 80 to its intersection with County Road 212, then along County Road 212 to its intersection with County Road 211, then along County Road 211 to its intersection with FM 1641, then along FM 1641 to its intersection with the Forney city limits, then along the Forney city limits to its intersection with IH-20, then along IH-20 to its intersection with the Dallas-Kaufman County line.

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

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

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

TRD-9214219

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

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 463-7085

TITLE 22. EXAMINING BOARDS

Part XVI. Texas State Board of Physical Therapy Examiners

Chapter 321. Definitions

• 22 TAC §321.1

The Texas State Board of Physical Therapy Examiners proposes an amendment to §321.1 concerning definitions. The amendment clarifies the intent of the board that these definitions apply to all chapters of the rules and defines "accredited curriculum in physical therapy education" and "accredited physical therapist assistant program."

Sherry L. Lee, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal

implications for state or local government as a result of enforcing or administering the section.

Ms. Lee 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 clarification of the definitions. 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 Sherry Lee, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendment is proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Act to carry out its duties in administering the Act.

§321.1. Definitions. The following words, [and] terms, and phrases, when used in the rules of the Texas State Board of Physical Therapy Examiners, [this chapter] shall have the following meanings, unless the context clearly indicates otherwise.

Accredited curriculum in physical therapy education—A body of courses in a physical therapy program at a school, college, or university which have satisfied the accreditation standards of the Commission on Accreditation for Physical Therapy Education that are substantially equivalent to or that surpass such accreditation standards as determined by board-approved credentialing agencies.

Accredited physical therapist assistant program—A body of courses at a school, college, or university which have satisfied the accreditation standards of the Commission on Accreditation for Physical Therapy Education.

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 October 19, 1992.

TRD-9214155
Sherry L. Lee
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 443-8202

Chapter 329. Licensing Procedure

• 22 TAC §329.1

The Texas State Board of Physical Therapy Examiners proposes an amendment to §329.1 concerning licensing procedure. The amendment allows the board to change from

a norm based grading system for the national examination to a criterion based grading system. This will create a system of grading in which all licensees have to meet a certain standard of knowledge to pass the examination.

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

Ms. Lee 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 as proposed will be that the public will be provided further assurance that the persons who are licensed in this state as physical therapists and physical therapist assistants have demonstrated their knowledge of this field by passing the examination graded on this new system. 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 Sherry Lee, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendment is proposed under Texas Civil Statutes, Article 4512e, §3(e) which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

§329.1. Licensing Procedure.

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

(e) Examination score requirements. All written examinations will be prepared by a board-approved examination service. For any examinations given on or after January 1, 1993, a passing score will be determined by the Board for each examination. For all examinations given prior to January 1, 1993, a passing score shall be 1.5 standard deviation below the nationwide mean or higher. [Any score on a testing date 1.5 standard deviation below the nationwide mean or higher will be considered passing.] The applicant will be notified in writing of the scores and the pass or fail result. Upon receipt of notification of failure, the applicant is immediately ineligible to practice. If an applicant fails, the applicant will be required to complete the application for the next scheduled examination for a second temporary license to be considered. A second temporary license may be issued if score results meet requirements under §333.1 of this title (relating to Second Temporary License).

(f)-(k) (No change.)

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

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

TRD-9214160

Sherry L. Lee
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 443-8202

Chapter 331. Endorsement Licensure

• 22 TAC §331.1

The Texas State Board of Physical Therapy Examiners proposes an amendment to §331.1, concerning reporting of test scores. The amendment is necessary to allow the board to change from norm referenced grading of the examination to criterion referenced grading of the examination. The new grading system will establish a level of knowledge that must be passed on the examination.

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

Ms. Lee, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new grading system will further ensure the safety of the public by establishing a basic level of knowledge that must be demonstrated on the examination by persons desiring licensure in this 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 to Sherry Lee, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendment is proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

§331.1. Reporting of Test Scores. Licensure examination scores must be reported through a board-approved reporting service. If the applicant meets the other requirements of the Act, §8 or §9, and has a current license in the state or territory from which they are applying, one of the following conditions must be met for the applicant to be licensed by endorsement:

(1) the applicant must have passed the examination given on or after January 1, 1993, with a passing score as determined by the board;

(2) the applicant must have obtained a score of 1.5 standard deviations below the nationwide mean on an

examination given prior to January 1, 1993; or

(3) the applicant must have obtained a score of 75% or higher for the Registry examination taken prior to September 1971. [If the scores are 1.5 standard deviation below the nationwide mean or higher on the examination or 75% or higher for the Registry examination taken prior to September 1971, and if the individual meets the other requirements of Sections 8 or 9 of the Act, the individual may be licensed by endorsement.] If the applicant fails to meet this standard for passing the examination, the applicant must meet the requirements of the Act, §8 or §9, for licensure by examination.

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 October 19, 1992.

TRD-9214159

Sherry L. Lee
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 443-8202

Chapter 333. Temporary License

• 22 TAC §333.4

The Texas State Board of Physical Therapy Examiners proposes new §333.4, concerning supervision of temporary license. The new rule would further ensure the health and well-being of clients receiving treatment from persons with temporary licenses. The new section would require on-site supervision of persons with temporary licenses by persons with permanent licenses.

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

Ms. Lee 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 as proposed is that it will enable the agency to further ensure the health and well-being of clients who receive physical therapy from persons with temporary licenses. 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 Sherry Lee, 3001 South Lamar, Suite 101, Austin, Texas 78704.

The new section is proposed under Texas Civil Statutes, Article 4512e, §3(e), which pro-

vide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

§333.4. *Supervision of Temporary License.* A person with a temporary physical therapist license while engaged in the practice of physical therapy must have on-site supervision by a physical therapist with a permanent license. A person with a temporary physical therapist assistant license while engaged in the practice of physical therapy must have on-site supervision by a physical therapist with a permanent license or a physical therapist assistant with a permanent license.

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 October 19, 1992.

TRD-9214156

Sherry L. Lee
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 443-8202

Chapter 343. Contested Case Procedure

• 22 TAC §§343.2, 343.4, 343.6, 343.9, 343.40, 343.41, 343.50

The Texas State Board of Physical Therapy Examiners proposes amendments to §§343.2, 343.4, 343.6, 343.9, 343.40, 343.50 and new §343.41, concerning contested case procedure. The amendments and new section make the title agree with text; comply with House Bill 7 passed by 72nd Legislature; safeguard the public by allowing board to know if applicant has prior disciplinary action or if a licensee is convicted of a felony; limit those who attend an informal conference and prohibits recording of an informal conference; further define agreed orders; and makes rules consistent with the Act.

Sherry L. Lee, executive director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Lee also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that they further ensure the health, safety, and well-being of the public who receive physical therapy services by further defining the procedures for contested case procedure and provides the board information about applicants and licensees regarding disciplinary actions and felony convictions. There will be no effect

on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Sherry Lee, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendments and new section are proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

§343.2. *Denial of a License and Disciplinary Actions by the Board.* The board has the authority to deny an applicant a license or to suspend or revoke a license, to reprimand or otherwise discipline a licensee, or to place on probation a licensee whose license has been suspended. If a license is suspended, the licensee is placed on probation for the duration of the suspension.

§343.4. *Practicing in a Manner Detrimental to the Public Health and Welfare.*

(a) (No change.)

(b) Practicing in a manner detrimental to the public health and welfare may include, but is not limited to, the following:

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

(11) intentionally or knowingly offering to pay or agreeing to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for receiving or soliciting patients or patronage, regardless of source of reimbursement, unless said business arrangement or payments practice is acceptable under 42 United States Code, §1320a-7b(b) or its regulations;

(12) advertising in a manner which is false, misleading, or deceptive.

§343.6. *Other Grounds for Denial of a License or Discipline of a Licensees.* Grounds for the board to deny a license to or discipline an applicant/respondent may include the following:

(1) attempting to obtain or obtaining a license by fraud, falsification, or deception of an application or examination procedure; or

(2) having a license to practice physical therapy or a license to practice another health-care profession revoked or suspended or had other disciplinary action taken against him or had his application for license refused, revoked, or suspended by the proper licensing authority of another state, territory, or nation.

§343.9. Licensure of Persons with Criminal Convictions.

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

(e) A licensee or applicant is required to report to the board a felony of which he is convicted within 60 days after the conviction occurs.

§343.40. Informal Conference.

(a) At any time after the filing of a sworn complaint, an informal [the investigative committee, unilaterally or at the request of the staff or respondent/applicant, may request that the parties, their attorneys or representatives appear before them at a specified time and place for a] conference may [to] be held [conducted] prior to the contested case hearing for the purpose of:

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

(b)-(c) (No change.)

(d) Participants in the informal conference may include board members, agency staff, the complainant, the respondent, attorneys representing any of the participants, and any other persons determined by the board to be necessary for proper conduct of the conference. All other persons shall be excluded. No formal record of the proceedings at such informal conference shall be made or maintained.

§343.41. Agreed Orders.

(a) An agreed order may be negotiated with any person under the jurisdiction of the board, the terms of which shall be approved by the investigation committee or by the executive director.

(b) To accept the agreed order, the respondent must sign it in the presence of a notary and return it to the board within 10 days after receipt. Inaction by the respondent constitutes rejection.

(c) The agreed order with the notarized signature of the respondent will be presented to the board. The proposed agreed order shall have no effect until such time as the board may, at a regularly scheduled meeting, take action approving the agreed order.

(d) Consideration by the board.

(1) Any board member who participated in the investigation of the complaint or formulation of the proposed agreed order may not participate in the board review of the agreed order.

(2) The name and license number of the licensee will not be made available to the board until after the board has reviewed and made a decision on the agreed order.

(3) Upon an affirmative majority vote, the board shall authorize the agreed order, and the chairperson of the board will sign it. The board-approved agreed order will be provided to the respondent.

(4) If the board does not approve the agreed order, it may consider the complaint at a contested case hearing, upon notice to the respondent named in the complaint.

§343.50. Application for Reinstatement of License.

(a) At the expiration of 180 days [one year] from the date of revocation, the board may consider a request for reinstatement by the former licensee (applicant).

(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 October 19, 1992.

TRD-9214158

Sherry L. Lee
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 443-8202

• 22 TAC §343.41

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

The Texas State Board of Physical Therapy Examiners proposes the repeal of §343.41, concerning agreed orders. The board is repealing this section so that a more explicit section can be proposed.

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

Ms. Lee, also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be a more clear and explicit section. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Sherry Lee, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The repeal is proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

§343.41. Agreed Orders.

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 October 19, 1992.

TRD-9214157

Sherry L. Lee
Executive Director
Texas State Board of
Physical Therapy
Examiners

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For further information, please call: (512) 443-8202

Chapter 345. Accessible Services

• 22 TAC §345.1

The Texas State Board of Physical Therapy Examiners proposes new §345.1, concerning accessible services. The new section would state clearly that the agency will comply with the federal legislation, the Americans With Disabilities Act, so that all services provided by the board are accessible to persons with disabilities and that the agency complies with the employment provisions of this federal act.

Sherry L. Lee executive director, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect the estimated additional cost is \$100 in 1992; \$500 in 1993; \$1,000 in 1994; \$1,000 in 1995; and \$1,500 in 1996.

Ms. Lee, 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 persons with disabilities are guaranteed that services from this agency comply with the Americans With Disabilities 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 Sherry Lee, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The new section is proposed under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

§345.1. Accessible Services. In accordance with the Americans with Disabilities Act, Public Law 101-336 and in order to

assure equal access to persons with disabilities as defined by that Act, the following is adopted:

(1) Applicants for licensure by examination. The board requires notification of an applicant's disability no later than the deadline set for receiving completed application forms and fees for each examination by the board, per the Physical Therapy Practice Act, §329.1(a)(1). The notification by the applicant should include the type of accommodation required. Objective documentation of the disability should accompany any request for an accommodation. Accommodations to be made by the board should be reasonable in that they should not impose undue hardship on the board. Accommodations for persons with disabilities may include accommodations that are reasonably appropriate for the disability and are not limited to, extended time for the examination, a map of the examination facility indicating wheelchair accessible entrances, elevators, restrooms, and examination rooms. Any costs for reasonable accommodations must be paid by the board.

(2) Applicants for employment at the board who have disabilities and board employees with disabilities. The board will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. Board employees with disabilities will be provided reasonable accommodations for their disabilities.

(3) All persons seeking other services from the board. All licensees, applicants, members of the general public, and others desiring services from the board will not be discriminated against in regard to their disabilities. The board will make reasonable accommodations for such persons with disabilities to enable them to access the services of the board.

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 October 19, 1992.

TRD-9214154

Sherry L. Lee
Executive Director
Texas State Board of
Physical Therapy
Examiners

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 443-8202

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 461. General Rulings

• 22 TAC §461.2

The Texas State Board of Examiners of Psychologists proposes an amendment to §461.2, concerning unofficial statements. The amendment will help clarify to the public as well as to persons regulated by the board the types of issues which must be decided by the board, en banc, rather than by individual board members or person employed by the board.

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

Ms. Bizzell Tweedy also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that decisions must be made by the board in public meetings. Individuals cannot act alone or make a decision inconsistent with board rulings. The public is assured that the board collectively has decided on a matter. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under the Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§461.2. Unofficial Statements and/or Decisions. Unofficial statements made by a board member or staff are not binding on the board. No member of the board, or representative of the board, may make statements or decisions binding upon the board in its deliberations upon ultimate issues presented for board decision. Among those issues which ordinarily require board decision are settlements of contested matters regarding applications, applicant qualifications, certifying and/or licensing of applicants, complaint resolution and/or legal matters involving modification, or board rehearing of any prior decision rendered by the board in performance of those statutory duties imposed by the provisions of the Psychologists' Certification and Licensing 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 October 16, 1992.

TRD-9214161

Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 635-2036

• 22 TAC §461.12

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

The Texas State Board of Examiners of Psychologists proposes the repeal of §461.12, concerning approval of institutions of higher education. The rule is unnecessary as the Psychologists' Certification and Licensing Act specifically exempts regionally accredited institutions of higher education from the requirements of the Act.

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

Ms. Bizzell Tweedy also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that it reduces a duplication of material to read. The requirement is already in the law and not needed in board rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The repeal is proposed under the Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§461.12. Approval of Institutions of Higher Education.

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 October 16, 1992.

TRD-9214162

Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

◆ ◆ ◆
• 22 TAC §461.14

The Texas State Board of Examiners of Psychologists proposes an amendment to §461.14, concerning conflict between state and federal laws. The amendment will clarify which that in the event of a conflict between the board's rules and ethical principles, the board's rules control.

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

Ms. Bizzell Tweedy also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the amendment will clarify to the public which rules or statutes apply in the case of conflict. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

§461.14. Conflict between State and Federal Laws. In the event of conflict among state or federal principles of psychologists and board rules, state or federal statute(s) control. In the event of conflict between board rules and the ethical principles of psychologists, the board's rules control.

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 October 16, 1992.

TRD-9214163 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

◆ ◆ ◆
Chapter 463. Applications

• 22 TAC §463.1

The Texas State Board of Examiners of Psychologists proposes an amendment to

§463.1, concerning qualifications of subdoctoral candidates. The amendment will update the rule to reflect current statutory and board requirements for subdoctoral applicants.

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

Ms. Bizzell Tweedy also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that it will notify persons of the specific sections of the Psychologists' Certification and Licensing Act that must be satisfied to meet the subdoctoral requirements. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under the Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§463.1. Qualifications of Subdoctoral Candidate. A subdoctoral candidate for certification as a psychological associate shall meet the qualifications and requirements of candidates at the doctoral level as stated in the Act, [§§11b, 11c.] §11d [, and 11e].

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 October 16, 1992.

TRD-9214164 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

◆ ◆ ◆
• 22 TAC §463.4

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

The Texas State Board of Examiners of Psychologists proposes the repeal of §463.4, concerning applicant interviews. The rule is unnecessary in that the requirements for applicants by reciprocity are found in the Psy-

chologists' Certification and Licensing Act and other board rules.

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

Ms. Bizzell Tweedy also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the information distributed by the board will more accurately reflect current requirements. All applicants will be treated the same, i.e., non must come to the board's office for interviews. The board has not enforced this rule for may years. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The repeal is proposed under the Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

◆ ◆ ◆
§463.4. Applicant Interviews.

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 October 16, 1992.

TRD-9214165 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

◆ ◆ ◆
• 22 TAC §463.6

The Texas State Board of Examiners of psychologists proposes an amendment to §463.6 concerning experience. The amendment is proposed to clarify that the board requires two full-time equivalent psychologists and interns to be on staff; clarify how consortia may be created in order to be acceptable to the board; and clarify the status of persons under the supervision of a psychologist under an agreed order or order of the board.

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

Ms. Bizzell Tweedy also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a

result of enforcing the section will be to clarify the board's requirements for licensure so that potential applicants will place themselves in appropriate work settings to obtain experience that will be acceptable to the board. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§463.6. Experience. Supervision may be obtained only in a full-time or half-time setting.

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

(11) For applications for licensure received after August 31, 1995, the one year of predoctoral experience must be an internship certified by the director of internship training and must be satisfied by either:

(A) (No change.)

(B) the successful completion of an organized internship meeting the following criteria:

(i) (No change.)

(ii) the internship agency had a clearly designated staff psychologist who was responsible for the integrity and quality of the training program and who was actively licensed/certified by the State Board of Examiners in Psychology and present at the training facility for a minimum of 20 hours a week;

(iii) the internship agency had two or more full-time equivalent psychologists on the staff as primary supervisors, at least one of whom was actively licensed as a psychologist by the State Board of Examiners in Psychology;

(iv)-(viii) (No change.)

(ix) the internship agency had a minimum of two full-time equivalent interns at the internship level of training during applicant's training period;

(x) the internship level psychology trainees have [Trainee had] title such as "intern," "resident," "fellow," or other designation of trainee status;

(xi)-(xii) (No change.)

(xiii) consortia may be created if they follow the guidelines of the

current American Psychological Association Committee on Accreditation Handbook [two psychologists on staff (see clause (c) of this subparagraph) and two interns (see clause (x) of this subparagraph) may be met by a consortium formed by two or more independent school districts].

(C) (No change.)

(12) All applicants obtaining experience for the purpose of certification and licensure must adhere to the board's supervision guidelines currently in effect in §465.18 of this title (relating to Time Period for Appealing a Decision) regardless of [employment] setting.

(13) Experience received from a psychologist who is simultaneous under an agreed order or order of the board does not qualify for licensure consideration, regardless of setting.

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 October 16, 1992.

TRD-9214166 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

◆ ◆ ◆
• 22 TAC §463.10

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.10, concerning written examinations required. The amendment specifies the examinations required of doctoral and subdoctoral applicants for certification before the board and specifies that said examinations must be taken prior to the granting of a certificate.

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

Ms. Bizzell Tweedy also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide information about the requirement of the board for applicants to sit for the Examination for the Professional Practice of Psychology and the board's Jurisprudence Examination prior to being certified. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§463.10. Written Examinations Required. All applicants for certification as a psychologist or psychological associate are required to pass the Examination for the Professional Practice of Psychology and the board's Jurisprudence Examination prior to the board granting certificates [The professional practice and jurisprudence examinations shall be required of all applicants for certification as a psychologist or a psychological associate].

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 October 16, 1992.

TRD-9214167 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

◆ ◆ ◆
• 22 TAC §463.14

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.14, concerning cutoff scores. The amendment sets the cutoff scores for both the Examination for the Professional Practice of Psychology and Board Jurisprudence Examination.

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

Ms. Bizzell Tweedy, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to inform the public and applicants of the minimum acceptable scores for the Examination for the Professional Practice of Psychology and Jurisprudence Examination for doctoral and masters level applicants. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules,

not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§463.14. Cutoff Scores. The minimum acceptable score for the Examination for the Professional Practice of Psychology is 70% of questions scored for doctoral level applicants and 55% of questions scored for masters level applicants. All applicants, both doctoral and masters level, must receive a minimum score of 70% of questions scored on the board's Jurisprudence Examination [The minimum acceptable scores for the examinations administered by the board shall be set by the board prior to the examination]. The exam score of applicants for certification who have already sat for the examination for the professional practice of psychology must satisfy the requirements of the board as of the date of application to the board.

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 October 16, 1992.

TRD-9214168 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

Chapter 465. Rules of Practice

• 22 TAC §465.1

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

The Texas State Board of Examiners of Psychologists proposes the repeal of §465.1, concerning consultants. The board is replacing its rule concerning consultants with a rule that reflects the current requirements of the board concerning how non-licensed personnel may be listed.

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

Ms. Bizzell Tweedy, also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that psychologists will no longer have to adhere to this rule. The requirements of this rule have been combined into another board rule con-

cerning advertisements and listings. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The repeal is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§465.1. Consultants.

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 October 16, 1992.

TRD-9214169 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

The Texas State Board of Examiners of Psychologists proposes new §465.1, concerning listings. Clarifies how non-licensed personnel may be listed on professional publications/advertisements.

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

Ms. Bizzell Tweedy, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to require psychologists to adhere to specific guidelines concerning how non-licensed personnel may be listed, so that the consuming public is informed of the professional and/or supervised status of the person providing psychological services. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The new section is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§465.1. Listings.

(a) Psychologists may include the names, degrees, and titles of certified psychologists, psychological associates, and other professionals associated with their practice of psychology on letterhead, business cards, office signs, office doors, in brochures, office literature, and on billing statements. If any of these persons is being supervised by the psychologist, the supervised status must also be included with the listing of the person's name, degree, and title. One of the following must be used:

(1) supervised by (name of licensed psychologist);

(2) under the supervision of (name of licensed psychologist);

(3) the following persons are under the supervision of (name of licensed psychologist);

(4) supervisee of (name of licensed psychologist).

(b) If any person listed is a consultant, the psychologist must have a contractual agreement with the consultant in order to include the listing of the person's name, degree, and title. Only licensed psychologists may be listed in telephone directories under the title of "Psychologists."

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 October 16, 1992.

TRD-9214170 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

• 22 TAC §465.2

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.2, concerning release of patient or client information. The amendment will clarify that raw data belong to the psychologist, not the patient.

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

Ms. Bizzell Tweedy, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to clarify that raw data belong to the psychologist, not the patient. Also to protect the patient from possible misuse of raw data by untrained

persons. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§465.2. Release of Patient or Client Information A psychologist may not intentionally reveal information about a patient or client without written authorization by the patient, client, or guardian, or without a proper court order, or unless a state or federal statute requires it. A psychologist is bound by the provisions of all state and federal laws which require the psychologist to reveal information. Raw data belongs to the psychologist and is not a matter of public record. Raw data may be made available only to another qualified and licensed psychologist as long as proper authorization is received from the patient/client.

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 October 16, 1992.

TRD-9214171 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

◆ ◆ ◆
• 22 TAC §465.3

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

The Texas State Board of Examiners of Psychologists proposes the repeal of §465.3, concerning psychological associates listings and reports. The rule is unnecessary as board requirements concerning this matter are found in another board rule.

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

Ms. Bizzell Tweedy also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that psychologists and psychological associates will no longer have to adhere to this rule. The board's requirements concerning this matter are more clearly identified in another board rule. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The repeal is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§465.3. Psychological Associates Listings and Reports.

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 October 16, 1992.

TRD-9214172 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

◆ ◆ ◆
• 22 TAC §465.32

The Texas State Board of Examiners of Psychologists proposes new §465.32, concerning rules of practice. The new section specifically covers rules of evidence in contested cases.

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

Ms. Bizzell Tweedy also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to describe the process the board uses to gather information in the investigation of complaints. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The new section is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psy-

chologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§465.32. Rules of Evidence in Contested Cases. The rules of evidence described in the Administrative Procedure and Texas Register Act will be followed by the board and its hearing officers. Considering that the board commonly relies upon information presented to it in applications, written responses, and related documentation in the routine conduct of its affairs, including official decision-making in the processing of applications for certification and/or licensure, evidence of a similar type will be considered and may be relied upon by the board and its hearing officers in the conduct of the board's affairs involving official decision-making in all matters relating to certification and/or licensure, including disciplinary matters in contested cases.

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 October 16, 1992.

TRD-9214175 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Proposed date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

◆ ◆ ◆
• 22 TAC §465.34

The Texas State Board of Examiners of Psychologists proposes new §465.34, concerning legal actions reported. The board determined that it is in the public's interest to require licensees/certificands of the board to report legal actions regarding their practice of psychology to the board.

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

Ms. Bizzell Tweedy also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to help assure the ethical and legal practice of psychology by requiring licensees/certificands to report any legal actions involving the practice of psychology to be reported to the board. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The new section is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§465.34. Legal Actions Reported. Any legal action, civil or criminal in nature involving a licensee's practice of psychology must be reported to the board's office within 20 days of the filing of such action with the court. The initial report will contain certified copies of the documents filed in connection with the proceedings. A certified copy of documents subsequently filed, will be submitted within 20 days of filing.

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 October 16, 1992.

TRD-9214177 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Proposed date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

Chapter 471. Renewals

• 22 TAC §471.1

The Texas State Board of Examiners of Psychologists proposes an amendment to §471.1, concerning notification of renewals. The board is combining two rules so that information concerning renewal due dates and notification of renewal is found in one place.

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

Ms. Bizzell Tweedy also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that two rules concerning renewal due dates and the notification of renewal are being combined so that the information is found in one place and is therefore easier to find and understand. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psy-

chologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§471.1. Notification of Renewal. All certificates and licenses issued by the board shall be subject to annual renewal. Annual renewals are due on the last day of each person's birth month. Persons whose psychologists' certification, licensure, specialty certification, or psychological associate certification is about to expire shall be notified once by regular mail [and] at least 30 days before the last day of their birth month each year and shall be notified by registered mail if they fail to renew by the last day of their birth month. The second notice will not be mailed prior to the last day of their birth month.

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 October 16, 1992.

TRD-9214179 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

• 22 TAC §471.6

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

The Texas State Board of Examiners of Psychologists proposes the repeal of §471.6, concerning staggered renewals. The board is incorporating the relevant portion of this rule into another rule.

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

Ms. Bizzell Tweedy also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that by repealing outdated information and incorporating the information concerning due dates for renewals into another board rule, renewal information will be found in one place and be easier to find and understand. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The repeal is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§471.6. Staggered Renewals.

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 October 16, 1992.

TRD-9214180 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 27, 1992

For further information, please call: (512) 835-2036

TITLE 28. INSURANCE Part I. Texas Department of Insurance

Chapter 5. Property and Casualty

Subchapter D. Fire and Allied Lines Insurance Forms Re- quired to be Used for the Property Rating Unit

• 28 TAC §5.3301

The State Board of Insurance of the Texas Department of Insurance proposes an amendment to §5.3301, concerning forms required to be used for the property rating unit. The amendment is needed to eliminate references to Form Numbers 323 Rate Revision Certificate-blue; 368 Sworn Statement of Average Annual Values-white; 368A Sworn Statement of Average Annual Values (to be used with the Texas Multi-Peril Policy)-white; 400 Rate Request Form for Newly Erected Buildings-pink; Rate Request Form-white; Sworn Statement of Average Annual-white; Values for Computation of Average Rate for use with Report Form Number (Form Number 159)-white; Excess Rate Application-white; and Name Rate Application-white. These forms are obsolete and are no longer necessary to the function of the property rating unit. The amendment is also needed to adopt a new Form Number 723 Application for Inspections and Revisions, which replaces forms 323 Rate Revision Certificate, 400 Rate Request Form for Newly Erected Buildings, and Rate Request Form. The new Form Number 723 is formatted to provide a more simplified and efficient method of requesting inspections of new risks or revision of rates

for existing rated buildings. In addition, the name and address of the agency is corrected to reflect that copies of the proposed forms are published and available from the Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.

Lyndon Anderson, deputy commissioner, property/casualty division, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section and there will be no effect on local employment or local economy.

Mr. Anderson, 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 providing the insurance industry and consumers with a uniform and efficient inspection and property rating program to produce base fire insurance rates by inspectors with no financial interest in rate determination. 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 proposed section must be submitted within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78715-9104. An additional copy of the comment should be submitted to Lyndon Anderson, Deputy Commissioner, Property/Casualty Division, Texas Department of Insurance, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104. Requests for a public hearing on this proposal should be submitted separately to the Chief Clerk's Office.

The amendment is proposed under the Insurance Code, Article 5.25, which requires the State Board of Insurance to conduct inspections of commercial property and prescribe a manual of rules and rating schedules for commercial property insurance.

§5.3301. Forms for Distribution by Property Rating Unit.

(a) The State Board of Insurance adopts by reference forms for use in property rating. The forms are more specifically identified as follows:

(1) 723 Application for Inspections and Revisions-white [323 Rate Revision Certificate -blue];

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

[(8) 368 Sworn Statement of Average Annual Values-white;

[(9) 368A Sworn Statement of Average Annual Values (to be used with the Texas Multi-Peril Policy)-white;]

(8)[(10) 368B Protective Devices or Services Information Sheet-white;

(9)[(11) 369 Fire Protection System-Grease Extractor Device-white;

(10)[(12)] 370 Hood and Duct Fire Extinguishing System Installation Inspection Record-white;

(11)[(13)] 371 Hood and Duct Fire Extinguishing System Annual Inspection Report-white;

(12)[(14)] 372 Certificate of Noncombustible Insulation or Interior Finish Material-white;

[(15) 400 Rate Request Form for Newly Erected Buildings-pink;

[(16) Rate Request Form-white;

[(17) Sworn Statement of Average Annual-white;

[(18) Values for Computation of Average Rate for use with Report Form Number (Form Number 158)-white;

[(19) Excess Rate Application-white;

[(20) Name Rate Application-white;]

(13)[(21)] 360 FM[,] Certificate respecting roof deck assembly-white.

(b) These documents are published by and available from the Texas Department [State Board] of Insurance. Copies of these forms may be obtained by contacting the Deputy Insurance Commissioner, Property/Casualty Division [Property Group], Mail Code 103-1A, Texas Department [State Board] of Insurance, 333 Guadalupe [1110 San Jacinto Street], P.O. Box 149104, Austin, Texas 78714-9104 [78786].

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 October 21, 1992.

TRD-9214240

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

Earliest possible date of adoption: November 27, 1992

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

◆ ◆ ◆
**Part II. Texas Workers'
Compensation
Commission**

**Chapter 164. Extra-Hazardous
Employer Program**

• **28 TAC §164.14**

The Texas Workers' Compensation Commission proposes new §164.14, concerning the value of the threshold and other variables used in the calculation to determine extra-hazardous status. This section is necessary to fully explain the way this program will work and to allow employers to calculate the likeli-

hood of being identified. The variables ultimately chosen will enable the commission to make the best use of agency resources in meeting statutory objectives.

Drew Thigpen, director of administration, has determined that for the first five-year period the section is in effect there will be no fiscal implications, beyond those established by the statutory requirements, as a result of enforcing or administering the section. This section will have an effect on the number of employers identified at any one time but will have no effect on the costs of complying for those identified.

Mr. Thigpen 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: fewer job-related injuries, lower costs for workers' compensation insurance, a greater profit margin for the employers and lower prices for consumers. There is no anticipated economic cost to persons who are required to comply with the section as proposed, beyond the costs imposed by the statutory requirements.

The Texas Workers' Compensation Commission will hold a public hearing on Thursday, November 5, 1992, regarding this proposed section. The hearing will be held in the Tippy Foster Meeting Room (910-911) of the Southfield Building, 4000 South IH-35, Austin, beginning at 9 a.m. and continuing until oral testimony is completed. Comments on the proposal will be accepted through Thursday, November 26, 1992, and may be submitted to Ken Forbes, Policy and Rules Administrator, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704-7491.

The new section is proposed under Texas Civil Statutes, Article 8308-2.09(a), which authorize the commission to adopt rules necessary to administer the Act and Article 8308-7.04, which require the commission to develop an extra-hazardous employer program.

§164.14. Values Assigned for Computation of Extra-Hazardous Employer Identification.

(a) The following threshold levels (X) will be used in the identification of employers as extra-hazardous based on the number of employees. For employers of:

(1) 1,000 or more employees, the threshold is 3.1;

(2) 500-999 employees, the threshold is 3.3;

(3) 150-499 employees, the threshold is 3.6;

(4) 50-149 employees, the threshold is five;

(5) 20-49 employees, the threshold is 7.5;

(6) 10-19 employees, the threshold is 15;

(7) five-nine employees, the threshold is 20;

(8) four employees, the threshold is 25;

(9) three employees, the threshold is 34;

(10) two employees, the threshold is 50;

(11) one employee, the threshold is 100.

(b) The value of the variable "Y" used in calculation of the fatality index will be six if an employer's rate of injuries per 100 employees (R) is less than or equal to the expected injury rate (R_{expected}) for that business or industry as defined in §164.1(b)(10) of this title (relating to Criteria for Identifying Extra-Hazardous Employers).

(c) The value of the variable "Y" used in calculation of the fatality index will be 10 if an employer's rate of injuries per 100 employees (R) is greater than the expected injury rate (R_{expected}) for that business or industry as defined in §164.1(b)(10) of this title.

(d) The source of expected injury rate (R_{expected}) information will be 1990 Bureau of Labor and Statistics (BLS) publication *Survey of Occupational Injuries and Illnesses*, Table 1, 1990 Lost Workday Cases column; or, if not available from the BLS publication or its most current equivalent publication, from the 1991 National Safety Council publication *Work Injury and Illness Rates 1991*, 1990 Total Lost Workday Cases column, or its most current equivalent publication. When the published SIC code rate is less than 1.0, a rate of 1.0 will be used.

(e) The initial 12-month period to be used for counting injuries is August 1991-July 1992. Subsequent identification will use a 12-month period designated by the commissioners and published in the *Texas Register*.

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 October 20, 1992.

TRD-9214210 Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: November 27, 1992

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



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 305. Consolidated Permits

Subchapter H. Additional Conditions for Injection Well Permits

• 31 TAC §305.153

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

The Texas Water Commission (TWC) proposes the repeal of §305.153, concerning financial responsibility requirements for underground injection control wells. TWC has proposed the adoption of a new Chapter 331, Subchapter I in the March 27, 1992, issue of the *Texas Register* (17 TexReg 2249) which delineates the financial responsibility requirements for owners and operators of underground injection control wells. The proposed §§331.141-331.147 are intended to replace §305.153. Subchapter I is patterned after rules promulgated by the Environmental Protection Agency pursuant to its authority under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA). The repeal of §305.153 and the adoption of §§331.141-331.147 will provide consistency with existing Texas Administrative Code regulations and clarification of TWC's regulatory intent.

Ms. Norma Nance, director of budgeting and planning, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal. There is no additional fiscal impact or incremental cost attributable to the adoption of the repeal that does not accrue to an affected party currently in compliance with existing requirements.

Ms. Nance also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be enhanced enforcement of the provisions of the Texas Solid Waste Disposal Act and the rules of the commission regarding the regulations of hazardous waste and the protection of the quality of the water resources of 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 repeal as proposed.

Comments on the proposal may be submitted to Samita Mehta, Senior Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

Comments will be accepted until 5 p.m., 30 days after the date of this publication.

The repeal is proposed under the Texas Water Code, §5.103 and §5.105, the Texas Solid Waste Disposal Act, §361.017 and §361.024(a), which provides the commission with the authority to carry out its powers and duties under the Texas Water Code and the Texas Solid Waste Disposal Act and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§305.153. Financial Responsibility.

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 October 20, 1992.

TRD-9214226 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: November 27, 1992

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



Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter A. Industrial Solid Waste and Municipal Hazardous Waste

Management in General

• 31 TAC §335.2, §335.6

The Texas Water Commission (TWC) proposes amendments to §335.2 and §335.6, concerning industrial solid waste and municipal hazardous waste. The sections are proposed in response to a petition for rulemaking filed by the National Solid Waste Management Association, which was presented and considered by TWC at its agenda meeting of May 27, 1992; TWC directed the staff to draft rules in response to this petition.

Section 335.2 is proposed to be amended by adding subsection (h). This new subsection would allow an interim status landfill facility to obtain authorization from the executive director for management of nonhazardous industrial solid waste in an interim status landfill. This subsection includes authority for the executive director to approve or deny the request for authorization or grant the request for authorization subject to certain conditions, which may include public notice and technical requirements as deemed necessary. This subsection further specifically excludes eight categories of wastes from such authorization by the executive director. The rule also provides for termination of such authorization based on termination of interim status, final disposition of the permit application, and/or compliance, or as otherwise provided by law.

As a result of the addition of subsection (h), subsection (a) has been amended such that the reference to the exceptions is changed

from subsections (c)-(g) to subsections (c)-(h).

The existing subsection (h) has been amended such that it is now subsection (i).

The existing subsection (i) has been amended such that it is now subsection (j).

Section 335.6(a) has been amended such that the notification requirements of this subsection will apply to facilities which receive authorization under subsection §335.2(h).

Stephen Minick, division of budget and planning, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. There will be minimal effects on state government and no effects are anticipated for local government. This proposal would allow authorization for disposal of certain nonhazardous industrial wastes in facilities with interim status for disposal of hazardous waste. This proposal would potentially enable a commercial disposal facility operator to increase the amounts of waste received and revenues generated. The actual benefit in any specific circumstance would depend on the prevailing demand for disposal services, the volumes of waste received at any one facility, and the available capacity for disposal. Actual financial impacts would vary on a case-by-case basis and cannot be determined at this time, although it is anticipated that a very limited number of facilities will be affected.

Mr. Minick also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be improvements in the management and disposal of industrial nonhazardous waste. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Sally Jo Hahn, Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted until 5 p.m., 30 days after the date of this publication.

The amendments are proposed under the Texas Water Code, §5.103, which provides TWC with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, the Texas Solid Waste Disposal Act, and other laws of this state.

§335.2. Permit Required.

(a) Except with regard to storage, processing, or disposal to which subsections (c)-(h) [(g)] of this section apply, and as provided in §335.45(b) of this title (relating to Effect on Existing Facilities), and in accordance with the requirements of §335.24 of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials), no person may cause, suffer, allow, or permit any activity of storage, processing, or disposal of any

industrial solid waste or municipal hazardous waste, unless such activity is authorized by a permit, amended permit, or other authorization from the Texas Water Commission or its predecessor agencies, the Texas Department of Health, or other valid authorization from a Texas state agency. No person may commence physical construction of a new hazardous waste management facility without first having submitted Part A and Part B of the permit application and received a finally effective permit.

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

(h) A person may obtain authorization from the executive director for the storage, processing, or disposal of nonhazardous industrial solid waste in an interim status landfill which has qualified for interim status pursuant to 40 Code of Federal Regulations, Part 270, Subpart G and which has complied with the standards set forth in Subchapter E of this chapter (relating to Interim Standards for Owners and Operators of Hazardous Waste Storage Processing, or Disposal Facilities), by complying with the notification and information requirements as set forth in §335.6 of this title (relating to Notification Requirements). The executive director may approve or deny the request for authorization or grant the request for authorization subject to conditions which may include without limitation public notice and technical requirements. In accordance with §335.6 of this title, such person shall not engage in the requested activities if denied by the executive director or unless 90 days' notice has been provided except where express executive director approval has been obtained prior to the expiration of the 90 days. Authorization may not be obtained under this subsection for:

(1) nonhazardous industrial solid waste the storage processing, or disposal of which is expressly prohibited under an existing permit or site development plan applicable to the facility or a portion of the facility;

(2) PCB wastes subject to regulation by 40 Code of Federal Regulations, Part 761;

(3) explosives and shock-sensitive materials;

(4) pyrophorics;

(5) infectious materials;

(6) liquid organic peroxides;

(7) radioactive or nuclear waste materials, receipt of which would require a license from the Texas Department of Health or Texas Water Commission or any other successor agency; and

(8) friable asbestos waste unless authorization is obtained in compli-

ance with the procedures established under §330.136(b)(6)(B)-(E) of this title (relating to Disposal of Special Wastes). Authorizations obtained under this subsection shall be effective during the pendency of the interim status and shall cease upon the termination of interim status, final administrative disposition of the subject permit application, failure of the facility to operate the facility in compliance with the standards set forth in Subchapter E of this chapter, or as otherwise provided by law.

(i)[(h)] Owners or operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit, and, for any unit that receives hazardous waste after July 26, 1982, during any post-closure care period required under 40 Code of Federal Regulations, §264.117 and during any compliance period specified under §335.162 of this title (relating to Compliance Period), including any extension of that period.

(j)[(i)] Upon receipt of the federal Hazardous and Solid Waste Act (HSWA) authorization for Texas Water Commission's (commission) Hazardous Waste Program, the commission shall be authorized to enforce the provisions that the Environmental Protection Agency (EPA) imposed in hazardous waste permits that were issued before the HSWA authorization was granted.

§335.6. Notification Requirements.

(a) A person who intends to store, process, or dispose of industrial solid waste without a permit, as authorized by §335.2(d), (e), [(f)], or (h) of this title (relating to Permit Required) or §335.24 of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials), shall notify the executive director in writing that storage, processing, or disposal activities are planned, at least 90 days prior to engaging in such activities. Such person shall submit to the executive director upon request such information as may reasonably be required to enable the executive director to determine whether such storage, processing, or disposal is compliant with the terms of this chapter. Such information may include, but is not limited to, information concerning waste composition, waste management methods, facility engineering plans and specifications, or the geology where the facility is located. Any information provided under this subsection shall be submitted to the executive director in duplicate form.

(b)-(h) (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 October 21, 1992.

TRD-9214246

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: November 27, 1992

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 11. Food Distribution and Processing

Food Distribution Program

• **40 TAC §11.107**

The Texas Department of Human Services (DHS) proposes an amendment to §11.107, concerning warehousing and distribution of donated foods, in its Food Distribution Program rule chapter. The purpose of the amendment is to change the system DHS uses for the warehousing and distribution of commodities donated by the United States Department of Agriculture (USDA). This change involves implementation by DHS of a commercial warehousing and distribution system. All recipient agencies must operate under the commercial system, except for those that currently receive direct shipments. Agen-

cies that currently receive direct shipments have the option of continuing direct shipments or permanently switching to commercial delivery.

Burton F. Raiford, commissioner, has determined that for the first five-year period the section is in effect there will be fiscal implications for local government as a result of enforcing or administering the section. There will be no fiscal implications for state government. The effect on local government for the first five-year period will be an estimated reduction in cost of \$1,225,000 for fiscal year 1993; \$1,267,875 for fiscal year 1994; \$1,321,126 for fiscal year 1995; \$1,376,614 for fiscal year 1996; and \$1,438,562 for fiscal year 1997.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be improved distribution and warehousing of donated foods that will result in cost savings for recipient agencies. 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.

Questions about the content of the proposal may be directed to Karen Van Reenen at (512) 467-5827 in DHS's Special Nutrition Programs. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-263, 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 33, which provides the department with the authority to administer public and nutritional assistance programs.

§11.107. Warehousing and Distribution of Donated Foods.

(a) The Texas Department of Human Services (DHS) handles, stores, and distributes donated foods according to 7 Code of Federal Regulations, §250.14.

(b) (No change.)

(c) DHS uses a commercial warehousing and distribution system. Recipient agencies must operate under the commercial warehousing and distribution system. Exception: effective January 1, 1993, only recipient agencies that are receiving direct shipments may choose to continue receiving direct shipments. These agencies may also choose to convert to the commercial warehousing and distribution system; however, those that convert to the commercial system may not switch back to direct shipments.

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 October 20, 1992.

TRD-9214223

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

Proposed date of adoption: January 1, 1993

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

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Adopted Sections

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

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

TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

Chapter 5. Quarantines

Sweet Potato Weevil Quarantine

• 4 TAC §§5.63, §§5.65-5.68

The Texas Department of Agriculture adopts amendments to §§5.63 and §§5.65-5.68. Section 5.68 is adopted with changes to the proposed text as published in the July 21, 1992, issue of the *Texas Register* (17 TexReg 5057). Section 5.63 and §§5.65-5.67 are adopted without changes and will not be republished. The amendments are made to provide procedures for the shipment of sweet potatoes in Texas, and into Texas from out of state, in order to lessen the threat of the introduction of the sweet potato weevil into weevil free areas of Texas. The unrestricted shipment of sweet potatoes into and within Texas poses a serious threat to the sweet potato industry from the sweet potato weevil.

Section 5.68, previously applied to the "Official Sweet Potato Weevil Eradication Area" of Texas. The proposed amendment would eliminate the designation of an "Eradication Area" and, instead, make this section applicable to "Weevil Free" areas. Comments were received from sweet potato growers in weevil free areas at the public hearing held on this matter. Growers stated that they do not feel that the November 15 harvest date provided in subsection (d) is appropriate for weevil free areas, and that the imposition of a harvesting deadline would be a hardship, as the great majority of sweet potatoes are not ready to be harvested before November 15.

In addition, growers stated that the setting of any harvest date is not practical, as more often than not, inclement weather conditions would warrant extensions. The department agrees with this position, and has changed subsection (d) by eliminating the November 15 harvesting deadline and providing a more general directive regarding harvesting in weevil free areas. Accordingly, new subsection (g) has been deleted, as it applies to the extension of the harvesting and/or destruction date.

The amendments as adopted, add Ouachita County, Arkansas, to the list of regulated areas; add certain containers to the list of restricted materials and provide provisions for their use; correct the address for sending certificates of inspection to the department; and delete the designation "eradication area".

Public comment was taken on the proposed amendments at a public hearing held by the department in Golden, Texas. Several individual producers appeared at the hearing and provided oral testimony. Comments generally favored the amendments, except for the imposition of a harvesting deadline for weevil free areas, as previously discussed. Producers acknowledged that the sweet potato weevil must be controlled in order to maintain weevil free areas and that containers are a source of contamination and/or infestation if unchecked. In addition to the holding of a public hearing, the department personnel conducting the hearing have, in accordance with the Texas Agriculture Code, §71.006, submitted a report establishing the need to add Ouachita County, Arkansas, to the list of counties regulated under the Sweet Potato Weevil Quarantine.

The amendments are adopted under the Texas Agriculture Code, §71.007, which provides the department with the authority to adopt rules as necessary for the protection of agricultural and horticultural interests; §71.001, which provides the department with the authority to establish quarantines against infested areas outside the state; and §71.006, which provides the department with the authority to adopt rules to establish a quarantine under §71.001 after hearing and submission of a report supporting the quarantining of the infested area.

§5.68. Bedding, Production, and Distribution of Sweet Potatoes and Sweet Potato Slips in Weevil Free Areas.

(a) Source of planting stock. Owners of properties within the weevil free areas shall secure bedding potatoes, plants, vines, and cuttings only from sources and under conditions approved by the state quarantine official.

(b)-(c) (No change.)

(d) Harvest. All sweet potatoes shall be harvested or destroyed.

(e)-(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 October 19, 1992.

TRD-9214181

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: November 10, 1992

Proposal publication date: July 21, 1992

For further information, please call: (512) 463-7583

TITLE 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

Chapter 178. Texas

Community Development Program

Subchapter A. Allocation of Program Funds

• 10 TAC §178.20

The Texas Department of Commerce adopts the repeal of §178.20, concerning colonia fund, without changes to the proposed text as published in the May 22, 1992, issue of the *Texas Register* (17 TexReg 3769).

The administration of the Texas Community Development Program was transferred to the Texas Department of Housing and Community Affairs from Commerce on September 1, 1991, pursuant to Senate Bill 41, 72nd Legislature, Second-Called Session. The Texas Department of Housing and Community Affairs has adopted new rules governing the Colonia Fund 10 TAC §9.9.

The administration of the Texas Community Development Program was transferred to the Texas Department of Housing and Community Affairs from Commerce on September 1, 1991, pursuant to Senate Bill 41, 72nd Legislature, Second-Called Session.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Government Code, §481.021, which provides the Texas Department of Commerce with the authority to adopt and enforce necessary rules.

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

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

TRD-9214220

Sedora Jefferson
General Counsel
Texas Department of
Commerce

Effective date: November 10, 1992

Proposal publication date: May 22, 1992

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

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**TITLE 16. ECONOMIC
REGULATION**

**Part I. Railroad
Commission of Texas**

**Chapter 5. Transportation
Division**

**Subchapter P. Commercial
Zones**

• 16 TAC §5.294

The Railroad Commission of Texas adopts an amendment to §5.294 concerning existing commercial zones, without changes to the proposed text as published in the September 1, 1992, issue of the *Texas Register* (17 TexReg 5993).

The amendment is adopted in order to recognize the local nature of transportation service between Roanoke and the remainder of the Dallas/Fort Worth metropolitan area. The comments amply demonstrated the factors necessary to conclude that Roanoke is adjacent to and commercially a part of the cities of Dallas and Fort Worth.

The amendment is adopted to add the city of Roanoke to the existing Dallas and Fort Worth commercial zones. Transportation between Roanoke and the remainder of the commercial zones, with the exception of transportation by specialized motor carrier, will be considered local and not regulated by the commission.

Comments received indicated that most residents of Roanoke are employed within the commercial zone, that Roanoke is closer to the central cities of Dallas and Fort Worth than other communities included within the zone, that the largest employer in Roanoke is a distribution center serving the metropolitan area, and that there will be no adverse effect on common carriers currently serving the Roanoke area. No comments were received in opposition to the rule.

No groups or associations submitted comments regarding the rule.

The agency does not disagree with the comments regarding the rule.

The amendment is adopted under the Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorize the commission to prescribe rules and regulations for the operations of motor carriers.

§5.294. Existing Commercial Zones. Commercial zones defined and prescribed by the commission after notice and hearing are as follows.

(1) The Dallas commercial zone shall include the following:

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

(C) the following cities and towns which are adjacent to and commercially a part of the City of Fort Worth; Haltom City; Watauga, Richland Hills, North Richland Hills, Hurst, Bedford, Colleyville, Grapevine, Euless, Arlington, Pantego, Dalworth Gardens, Kennedale, Forest Hill, Everman, Burleson, Crowley, Edgecliff, Benbrook, Aledo, White Settlement, Westover Hills, Westworth Village, River Oaks, Sansom Park, Lake Worth Village, Lakeside, Azle, Saginaw, Mansfield, Blue Mound, Keller, and Roanoke;

(D)-(I) (No change.)

(2) The Fort Worth commercial zone shall include the following:

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

(D) the following cities and towns which are adjacent to and commercially a part of the City of Fort Worth: Haltom City, Watauga, Richland Hills, North Richland Hills, Hurst, Bedford, Colleyville, Grapevine, Euless, Arlington, Pantego, Dalworth Gardens, Kennedale, Forest Hill, Everman, Burleson, Crowley, Edgecliff, Benbrook, Aledo, White Settlement, Westover Hills, Westworth Village, River Oaks, Sansom Park, Lake Worth Village, Lakeside, Azle, Saginaw, Mansfield, Blue Mound, Keller, and Roanoke;

(E)-(G) (No change.)

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

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

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

TRD-9214218 Nolan Ward
Hearings Examiner-Legal
Division, General Law
Railroad Commission of
Texas

Effective date: November 10, 1992

Proposal publication date: September 1, 1992

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



TITLE 25. HEALTH SERVICES

**Part I. Texas Department
of Health**

**Chapter 98. HIV and STD
Control**

**Subchapter B. HIV Education
Grant Program**

General Provisions

• 25 TAC §98.67

The Texas Department of Health (department) adopts an amendment to §98.67, concerning the State HIV Education, Prevention, and Risk Reduction Advisory Committee, without changes to the proposed text as published in the May 29, 1992, issue of the *Texas Register* (17 TexReg 3894). The amendment modifies the existing "community-based organization to reach Blacks" membership category to "community-based organization to reach African Americans." The amendment clarifies the membership category.

No comments were received regarding adoption of the amendment.

The amendment is being adopted under the Human Immunodeficiency Virus Services Act, Health and Safety Code, Chapter 85, §§85.031-85.044, which provides the Board of Health with the authority to establish an advisory committee to assist the board in the implementation of the State HIV Education Grant Program; §11.016, which provides the Board of Health with the authority to appoint advisory committees; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

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 October 20, 1992

TRD-9214183 Robert A MacLean, M D
Deputy Commissioner
Texas Department of
Health

Effective date: November 10, 1992

Proposal publication date: May 29, 1992

For further information, please call: (512) 458-7463



TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

• 34 TAC §3.323

The Comptroller of Public Accounts adopts an amendment to §3.323, concerning imports and exports, with changes to the proposed text as published in the August 28, 1992, issue of the *Texas Register* (17 TexReg 5931). The amendment to this section will be effective January 1, 1993.

The amendment sets out new export requirements and references the new section on customs brokers, 34 TAC §3.360.

The changes are to subsections (c)(2) and (5), (e)(1) and (4).

One comment was received from Dresser Industries of Dallas. Dresser questioned the proposed amendment to subsection (c)(4) which stated, "Documentation of exportation provided to the seller by a person other than the original purchaser listed on the seller's records is not acceptable proof of export,...." Dresser stated that the proof of export referred to in subsection (c)(1)(A), (B), and (C) would not ordinarily be in the possession of an exporter's customer. Dresser requested that the rule be changed to allow such documents to be provided by the carrier.

Dresser also questioned the requirement that the seller retain the original invoice of sale. Dresser stated that the customers received the original invoice and that the seller retained a copy.

The comptroller responded that both amendments referred to refund situations. When a customer seeks a refund of sales tax after an item has been exported, documentation of exportation provided to the seller must be presented by the original purchaser. The customer would present to the seller the acceptable proof of export documents listed in subsection (c) along with the purchaser's original receipt or invoice.

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.

§3.323. Imports and Exports.

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

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

(4) Licensed customs broker—A person licensed by the United States Customs Service to act as a custom house bro-

ker and registered with the Comptroller of Public Accounts according to the terms of §3.360 of this title (relating to Customs Brokers).

(b) (No change.)

(c) Exports.

(1) When an exemption is claimed because tangible personal property is exported beyond the territorial limits of the United States, proof of export may be shown only by:

(A) (No change.)

(B) documentation that is valid under the terms of §3.360 of this title provided by a licensed United States customs broker certifying that delivery was made to a point outside the territorial limits of the United States;

(C)-(E) (No change.)

(2) The retailer is responsible for obtaining proof of exportation. Except as provided in §3.358 of this title (relating to Maquiladoras), exemption certificates, affidavits, or statements from the purchaser that the goods will be or have been exported are not sufficient to exempt the sale as an export. The Texas proof of export form is no longer acceptable as proof of export. A passport number taken by a seller from a passport issued by a foreign country is not acceptable as proof of export.

(3) Storing property in Texas by the owner prior to exportation is a use of that property in Texas. Property stored or otherwise used or consumed in Texas by the owner loses its exemption as an export. For example, clothing or jewelry actually worn by the purchaser in Texas is used in Texas; automotive parts installed on the purchaser's motor vehicle in Texas are used in Texas if the vehicle is subsequently driven in Texas; and food ready for immediate consumption that is purchased in Texas is presumed to be used in Texas. Sufficient time will be allowed to arrange for shipping. Property in Texas longer than 30 days from date of purchase will be presumed to have been stored. Any use of the property in Texas by the owner prior to export also causes the loss of the export exemption. Property in the hands of a freight forwarder is not covered by this provision.

(4) (No change.)

(5) If a seller delivers property to a purchaser in Texas, the seller must collect tax at the time of sale. The tax may not be refunded until the property has actually been exported from the territorial limits of the United States and the seller has received valid proof of export as described in this subsection. There is a rebuttable pre-

sumption that a certificate issued by a registered customs broker who complies with §3.360 of this title is valid. Tax not collected will be assessed against the seller. This paragraph does not apply when proof of export is provided to the seller at the time of sale by a maquiladora according to the terms of paragraph (1)(E) of this subsection.

(d) (No change.)

(e) Refunds.

(1) A retailer who collects sales tax on a taxable item which qualifies for exemption under subsection (b) of this section may refund to the original purchaser the sales tax collected upon presentation by the original purchaser of export documentation as required by subsection (c) of this section. Documentation of exportation provided to the seller by a person other than the original purchaser listed on the seller's records is not acceptable proof of export, even if such documentation otherwise meets the requirements of this subsection. A refund issued to a person other than the original purchaser will be assessed against the seller.

(2) (No change.)

(3) A copy of the certified check, company check, money order, credit memo, or signed cash receipt must be attached to the original export documents and maintained in the seller's files.

(4) In an audit, the auditor must be able to tie the export documents to the original taxable transaction. The seller must retain the original invoice of the sale. Cash register receipts and other records of the original taxable transaction that do not include a detailed, specific description of the items purchased are not sufficient to tie the export documents to the original taxable transaction. Refunds made pursuant to undocumented or improperly documented export exemptions will be assessed against the seller.

(f) Records. Please refer to §3.281 of this title (relating to Records Required; Information Required), §3.282 of this title (relating to Auditing Taxpayer Records), and §3.360 of this title.

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

Issued in Austin, Texas, on October 16, 1992.

TRD-9214270

Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: January 1, 1993

Proposal publication date: August 28, 1992

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

• 34 TAC §3.360

The Comptroller of Public Accounts adopts new §3.360, concerning customs brokers, with changes to the proposed text as published in the August 28, 1992, issue of the *Texas Register* (17 TexReg 5934). This new section will be effective January 1, 1993.

The new section sets out the procedures for licensing customs brokers and details their responsibilities in the export process.

No comments were received regarding adoption of the amendment.

Changes were made to subsection (c)(1), (2), and (5). A new paragraph (3) was added to subsection (c). The paragraphs following the new paragraph (3) were renumbered. All paragraphs after paragraph (3) in subsection (d) were renumbered. The primary change in the adopted rule is to require a license for each place of business.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.360. *Customs Brokers.*

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

(1) Licensed customs broker—A United States customs broker who is registered with the comptroller as provided for in this section.

(2) United States customs broker—A person licensed by the United States Customs Service to act as a custom house broker.

(b) Signature needed. Only a licensed customs broker or an employee of a licensed customs broker may issue and sign a valid export certification form as provided for in §3.323 of this title (relating to Imports and Exports).

(c) Customs broker licensing. A United States customs broker may apply to the comptroller for a license to issue export certifications.

(1) To obtain a license, a broker must submit an application in the form prescribed by the comptroller for each location from which goods are certified for export. There is no application fee.

(2) To be accepted, an application for each location must include the following:

(A) a copy of the applicant's United States customs broker's license;

(B) the applicant's name, ad-

dress, telephone number, and social security number;

(C) the names, addresses, telephone numbers, and social security numbers of all employees who are authorized to certify exports in the name of the applicant;

(D) copies of each employee's power of attorney to certify exports in the name of the applicant;

(E) the name of the applicant's business and the address of each location where export certifications are prepared;

(F) the applicant's original signature, together with a certification that the applicant will maintain business records available for inspection by employees of the comptroller on request.

(3) The comptroller must be notified promptly when any information in paragraph (2) of this subsection changes. The comptroller may require that information in paragraph (2) of this subsection be resubmitted periodically.

(4) A license issued under this section will continue in effect until surrendered by the broker or until suspended or revoked by the comptroller.

(5) A license issued under this section must be prominently displayed at each of the broker's places of business. A license must be prominently displayed at each place of business of the broker where export certifications are prepared.

(d) Suspension and revocation of licenses.

(1) The comptroller shall suspend a license issued to a broker whose license to act as a custom house broker has been suspended by the United States Customs Service. The license to issue export certifications will be suspended from the effective date of the suspension issued by the United States Customs Service until the effective date of reinstatement by the United States Customs Service, unless the comptroller determines that a longer period of suspension is necessary for the enforcement of this section.

(2) The comptroller shall revoke a license issued to a broker whose license to act as a custom house broker has been revoked by the United States Customs Service. The license to issue export certifications will be revoked on the effective date of the revocation of the license issued by the United States Customs Service, unless the comptroller determines that it is necessary for the enforcement of this section to

revoke the license at an earlier date.

(3) The comptroller may revoke or suspend a customs broker's license to issue export certifications if the broker has violated a provision of the Tax Code or the comptroller's rules.

(4) Except as provided in paragraph (1) of this subsection, the comptroller may suspend a broker's license:

(A) for not more than 180 days if the broker's license has not been previously suspended or revoked and reinstated;

(B) for not more than 360 days if the broker's license has been previously suspended or revoked and reinstated.

(5) Except as provided in paragraph (2) of this subsection, the comptroller may revoke a broker's license if the broker's license has been suspended at least twice previously or has been previously revoked.

(6) A person whose license the comptroller proposes to revoke or suspend is entitled to 20 days' written notice of the time and place of the hearing on the revocation or suspension. At the hearing the person must show cause why the license should not be suspended or revoked.

(7) The comptroller shall give written notice of the revocation or suspension of a license to the holder of the license. The comptroller may mail the notice to the place designated on the application for a license as the place of business.

(e) Reinstatement of licenses. A United States customs broker whose license to issue export certifications has been revoked under subsection (b) of this section may apply to the comptroller for reinstatement of the license no sooner than three years after the effective date of the revocation. The comptroller may reinstate the license if the comptroller is satisfied that the broker has a good faith intent to comply with the Tax Code and the comptroller's rules.

(f) Export certification stamps.

(1) The comptroller shall design and have printed or manufactured export certification stamps. The comptroller shall determine the design, size, and quantity of stamps manufactured. The stamps shall be manufactured so that they may be easily and securely attached to a licensed customs broker's export certification form. The comptroller may designate the method of identification for the stamps.

(2) The comptroller may change the design of the stamps as often as deemed necessary for the best enforcement of this section. The design of the stamps will be changed at least once each calendar quarter.

(3) A licensed customs broker

may obtain export certification stamps from the comptroller. There is no fee for the stamps.

(4) Only a licensed customs broker may receive the stamps. A broker whose license has been suspended or revoked may not receive stamps.

(5) A stamp is invalid if transferred to a person other than the broker to whom the comptroller originally issued the stamp or to an employee of that broker.

(g) Records required. A licensed customs broker must keep available for inspection by the comptroller books and records that include, at a minimum, the following:

(1) an exact copy of each export certification issued;

(2) a copy of a Mexican passport, a United States visa, or a crossing card

(Mica) attached to each certification issued for an item exported to Mexico;

(3) a ledger that lists sequentially all export certifications issued or voided;

(4) an inventory of export certification stamps received from the comptroller;

(5) a current list of all employees authorized to issue and sign export certifications.

(h) Contents of licensed customs broker export certification. The documentation provided by a licensed United States customs broker must, at a minimum, reflect the following information:

(1) the name and address of the purchaser of the merchandise;

(2) the name and address of the seller of the merchandise;

(3) the name and address of the customs broker;

(4) the date of sale, date of exportation, and location of exportation;

(5) the description of the items exported;

(6) the invoice number and sales price of the items exported;

(7) the broker's license number and an original signature of the broker or the broker's employee, together with a certification that the merchandise has been exported. A copy of the United States customs broker's license is not acceptable in lieu of proper certification;

(8) a valid export certification stamp;

(9) the documentation must be sequentially numbered.

(i) Suggested form of certification. A suggested form for the licensed customs broker's export certification is set out as Attachment A.

Affix export certification stamp here:
Form No. _____

STATE OF TEXAS
LICENSED CUSTOMS BROKER'S EXPORT CERTIFICATION

Customs Broker name Broker license number

Customs Broker address

Purchaser name

Purchaser address

Seller name Date of sale

Seller address

Description of Merchandise Exported

Invoice Number	Quantity	Description	Sale Price

Export location Date and time of export

I declare that I am a licensed United States Customs Broker, and I certify that the merchandise described above was exported from the location and at the date and time specified above.

Sign here Customs Broker Date

Original - Seller Copy - Customs Broker Copy - Purchaser

I certify that the merchandise described above was exported from the location and at the date and time specified above.

Sign here Purchaser Date

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 October 16, 1992.

TRD-9214064
Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: January 1, 1993

Proposal publication date: August 28, 1992

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

Subchapter Q. Franchise Tax

• 34 TAC §3.405

The Comptroller of Public Accounts adopts the repeal of §3.405, concerning surplus, without changes to the proposed text as published in the May 26, 1992, issue of the *Texas Register* (17 TexReg 3824).

This section is being repealed in order that it can be adopted under Texas Administrative Code Title 34, Part I, Chapter 3, Subchapter V. The section will be replaced with a new 34 TAC §3.551, concerning taxable capital: surplus.

No comments were received regarding adoption of the repeal.

The repeal 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 October 20, 1992.

TRD-9214190
Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: November 10, 1992

Proposal publication date: May 26, 1992

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

Subchapter V. Franchise Tax

• 34 TAC §3.551

The Comptroller of Public Accounts adopts new §3.551, concerning taxable capital: surplus, with changes to the proposed text as published in the May 26, 1992, issue of the *Texas Register* (17 TexReg 3830).

This new section replaces 34 TAC §3.405, concerning the same subject matter, which is being repealed in order that it can be adopted under Texas Administrative Code Title 34,

Part I, Chapter 3, Subchapter V. This new section explains surplus for taxable capital purposes.

The change was to subsection (d)(2) for clarification.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.551. Taxable Capital: Surplus.

(a) Effective date. The provisions of this section apply to franchise tax reports originally due on or after January 1, 1988.

(b) Date upon which based. A corporation filing an annual report must report surplus based on its last accounting period ending date in the previous calendar year, or, if there is no accounting period ending in the previous calendar year, then as of December 31 of the previous calendar year.

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

(1) Amortization—The accounting process of allocating the cost of assets to expense in a systematic and rational manner over the period expected to benefit from the use of the assets.

(2) Depletion—The accounting process of allocating the cost of natural resources to expense in a systematic and rational manner over the period during which the natural resources are consumed.

(3) Depreciation—The accounting process of allocating the cost of tangible assets to expense in a systematic and rational manner over the period expected to benefit from the use of the assets.

(4) Investee—An enterprise which issues voting stock held by an investor.

(5) Tax effect—Any change in cumulative federal income tax liability which results from the different accounting treatment of a transaction for franchise tax purposes than that accorded for federal income tax purposes.

(6) Unrealized, estimated, or contingent loss or obligation—An appropriation of retained earnings for any purpose or an account established to record a loss or obligation anticipated to occur and the amount of which is estimated as of the date on which the tax is based (e.g., self-insurance, warranty, litigation).

(7) Write-down of assets—Any reduction or offset of the cost of an asset

through use of a valuation, allowance, reserve, or contra-asset account, or through direct write-off of the asset (except a write-off to reflect the asset's permanent decline in value).

(d) General rules of application.

(1) Accounting methods.

(A) Installment sales. In reporting sales made on an installment basis, the installment sales method of accounting is acceptable for franchise tax purposes only when GAAP (as defined in §3.547 of this title (relating to Accounting Methods)) allows its use.

(B) Partnerships/joint ventures. In reporting an investment in a partnership or joint venture, the equity method of accounting must be used.

(C) Oil and gas corporations. Corporations with \$1 million or more of taxable capital must report all oil and gas exploration and production activities according to the successful efforts or the full cost methods of accounting. Acceptable oil and gas reserve estimating methods to be used in amortizing intangible drilling costs are listed in §3.553 of this title (relating to Methods for Estimating Oil and Gas Reserves). Corporations with less than \$1 million of taxable capital, as determined in accordance with the Tax Code, §171.109(c), may report their oil and gas exploration and production activities using the same method selected to compute their federal income tax.

(D) Other. For more information on methods of accounting for franchise tax purposes, see §3.547 of this title (relating to Accounting Methods).

(2) Tax effect. A surplus adjustment will be reported net of any applicable tax effect.

(3) Intercompany tax accounts. A liability account for income taxes owed by one member of a consolidated group to a second member of the group is excluded from the surplus of the first member only if the related receivable account is included in the surplus of the second member. Intercompany tax accounts must be reported on a consistent basis among members of the same consolidated group.

(4) S corporations. An S corporation must calculate its franchise tax in the same manner as any other corporation. For example, accumulated and other adjustment accounts are included in surplus, as are previously taxed income, accumulated earnings and profits, and all other amounts included in the surplus of any other

corporation. For more information on an S corporation utilizing the method of accounting used on its federal income tax return, see §3.548 of this title (relating to Close and S Corporations).

(e) Specific rules. Specific rules of application include, but are not limited to, the following.

(1) Amortization of goodwill. The amortization of goodwill is excluded from surplus except when goodwill is included in the parent's cost of a subsidiary investment. Investments in subsidiary corporations or other investees must reflect the cost method of accounting in accordance with the Tax Code, §171.109(h).

(2) Deferred investment tax credit. For reports due on or after January 1, 1992, deferred investment tax credit is included in surplus. For reports due between January 1, 1988, and December 31, 1991, deferred investment tax credit may be excluded from surplus.

(3) Foreign currency transactions. Realized gains, unrealized gains, and unrealized losses resulting from foreign currency transactions are included in surplus. Realized losses are excluded from surplus.

(4) Foreign currency translations. Foreign currency translations are disregarded when computing surplus. Unrealized gains resulting from foreign currency translations are not included in surplus. Unrealized losses from foreign currency translations are not allowable reductions to surplus.

(5) Income taxes payable. Amounts accrued in excess of actual liability for income taxes relating to current or prior periods (e.g., amounts accrued which relate to a period under IRS audit which has not been agreed to by the corporation) are included in surplus.

(6) Deferred income taxes. For reports due on or after January 1, 1992, deferred income taxes are included in surplus. For reports due prior to January 1, 1992, deferred income taxes may be excluded from surplus to the extent they are recognized under generally accepted accounting principles.

(7) Employee benefits. Liabilities for employee compensation and benefits (e.g., pensions, bonuses, vacations, retirement, medical, insurance, post retirement, and other similar benefits) are included in surplus to the extent they are not debt as of the accounting year end upon which the return is based.

(8) Public utility corporations. Revenue from temporary or bonded rate increases of a public utility company is included in surplus.

(9) Treasury stock. The amount paid for treasury shares is excluded from

surplus. See also §3.550 of this title (relating to Stated Capital).

(10) Write-off of assets. A direct write-off of all or a portion of the cost of an asset to reflect a permanent decline in the asset's value, the direct cause of which is a specifically identifiable event, is excluded from surplus.

(11) Redeemable preferred stock. Redeemable preferred stock is not included in surplus if it is debt.

(12) Surplus deficit. A surplus deficit can be subtracted from stated capital.

(13) Dividends. Dividends that are not paid within one year from the date of declaration will be included in surplus.

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.

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TRD-9214189

Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 4. Capitol Police

Protection of State Buildings and Grounds

• 37 TAC §§4.1-4.10

The Texas Department of Public Safety adopts new §§4.1-4.10, concerning protection of state buildings and grounds. Sections 4.1-4.3, 4.5-4.8 are adopted with changes to the proposed text as published in the June 30, 1992, issue of the *Texas Register* (17 TexReg 4673). Sections 4.4, 4.9, 4.10 are adopted without changes and will not be published.

The adoption of these sections will ensure the public that state-owned buildings and property are properly secured, accessible to the public, and a safe work environment is provided to state officials and employees. Section 4.1 and §4.2 have been revised to properly set out the name of the State Preservation Board. Section 4.2 has also been amended to provide that public use of the Old General Land Office Building is governed by rules of the State Preservation Board and that the Capitol Police District will provide security for that building. Section 4.3 and §4.8 have

been revised to specify when the public portions of state buildings are open, and to clarify the terminology regarding the person in an agency having authority with regard to building pass cards, electric access cards, and keys. Section 4.5 has been revised to clarify the reporting procedures for fire and safety hazards. Section 4.6 contains a revision to clarify that the section refers to licensed peace officers. Section 4.7 has been revised in response to comments received from the Governor's office relating to placing and distributing literature, material, placards, and banners in state buildings. The revision is made to comply with a recent decision of the United States Supreme Court regarding First Amendment activities in publicly owned facilities.

These sections are necessary to provide safe work environment for state officials and employees; to protect the grounds, public buildings, and property of the state; to regulate entrance to and public use of state-owned buildings; and to investigate criminal activity. These sections further promulgate regulations for evacuations, after-hour entrance, and control of key and lock systems.

One comment was received from an individual, then Chief of Staff, Office of the Governor. The comment referred to a recent United States Supreme Court ruling with regard to soliciting and distribution of pamphlets in certain public areas. The comment suggested a deletion of §4.7(a)(2), or the imposition of reasonable restrictions on the placement or distribution of literature rather than an absolute ban.

The Office of the Governor commented against adoption of these rules.

The department believes that the adoption of reasonable time, place, and manner restrictions is preferable to a lack of regulation of solicitation and distribution of pamphlets, based upon considerations of workplace efficiency and safety. The revised rules addressed the concerns set forth in the comments in a manner which complies with constitutional law requirements.

The new sections are adopted under the Texas Government Code, §411.006(4), which provides the director with the authority to adopt rules, subject to commission approval, considered necessary for the control of the department.

§4.1. General.

(a) All duties and responsibilities of the Capitol Security Police Division of the State Purchasing and General Services Commission were transferred to the Texas Department of Public Safety by action of the State Legislature in 1991. This transfer was accomplished by amending Committee Substitute Senate Bill 9, 72nd Legislature, by striking section §2.19 (g) and (m) and inserting a new subsection (g). Paragraph (1) of this amendment states: "As of the effective date of this Act all the duties, functions, positions, responsibilities, inventory, property, and other items assigned to the Capitol Security Police Division of the State Purchasing and General Services

Commission are transferred to the Texas Department of Public Safety."

(b) Under the authority of the amendment and under Texas Civil Statutes, Article 601b, §4.01 and §4.12, the Texas Department of Public Safety is authorized to protect the grounds, public buildings, and property of the state, to regulate parking, and to control entrance to state-owned buildings; and to regulate displays and other public use of state buildings.

(c) The Texas Department of Public Safety has designated the former Capitol Security Police as the Capitol Police District and placed it under the Traffic Law Enforcement Division of the Texas Department of Public Safety

(d) Within the Capitol Complex, as defined herein, the Department of Public Safety will strive to provide a safe work environment for state officials and employees; to protect the grounds, public buildings, and property of the state; to regulate parking; to regulate entrance to and public use of state-owned buildings; and to investigate criminal activity occurring in these locations.

(e) These rules shall be applicable to state buildings and property within the Capitol Complex as defined in subsection (g) of this section.

(f) The provisions of these rules pertaining to public buildings and grounds do not apply to buildings and grounds of:

(1) institutions of higher education, as defined by Texas Education Code, §61.003, as amended;

(2) state agencies to which control has been specifically committed by law; and

(3) state agencies that have demonstrated ability and competence to maintain and control their buildings and grounds and to which the General Services Commission has delegated that authority.

(g) The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Board—The State Preservation Board

(2) Buildings and state buildings—State-owned buildings and property within the Capitol Complex.

(3) Capitol Complex—An area in the city of Austin, bounded on the south by 10th Street, on the north by Martin Luther King Boulevard, on the east by Trinity Street, on the west by Lavaca Street, and including the William P. Clements Building located at 300 West 15th Street. The term shall also apply to other locations under the jurisdiction of the Capitol Police District as may be approved by the director.

(4) Capitol police—Members of the Capitol Police District of the Texas Department of Public Safety.

(5) Commission—The Texas General Services Commission.

(6) Department—The Texas Department of Public Safety.

(7) Director—The director of the Texas Department of Public Safety

§4.2. Use of Capitol Rotunda and Grounds.

(a) Public use of the Capitol Building, the Capitol Extension, the Capitol Grounds, and the Old General Land Office Building are governed by rules promulgated by the State Preservation Board.

(b) Members of the Capitol Police District are hereby authorized to enforce those rules adopted by the Board.

(c) Members of the Capitol Police District will provide protective and security services to the Capitol Building, the Capitol Extension, the Capitol Grounds, and the Old General Land Office Building in coordination with the board.

§4.3. Access to State Buildings.

(a) Public access. Public access to state buildings is generally unlimited. However, nothing in these rules shall be understood as permitting the use of any public building, in any manner whatsoever, when such use is for a commercial purpose.

(b) Admission to state buildings. The public portions of state buildings are generally open to the public at all times, with the general exception of Saturdays, Sundays, and state holidays, and from 6 p.m. to 7 a.m. on working days. Access to state buildings during the times they are not open to the public shall be by building pass card, electronic access card, special permission, or emergency admission.

(1) Building pass cards and electronic access cards. The chief executive of each agency, in the state building referenced in this subsection shall be responsible for the control of building pass cards and electronic access cards issued for their agency. The chief executive may delegate this responsibility to another person(s) in the agency, provided that the Capitol Police Office is notified in writing of the name(s) with a sample of designees' signatures. Agency designees may not appoint other agency designees.

(2) Card application. Applications for such cards must be signed by the agency designee and completed by the employee. The employee will take the application to the Capitol Police Office for issuance. No card will be issued unless the application is complete and signed by the

agency designee. An employee may have both a building pass card and an electronic access card. When this occurs, separate applications will be required. The electronic access card is not a building pass card and will not be accepted in any other location other than the location for which it was issued.

(3) Agency designee. It is the responsibility of the agency designee to notify the Capitol Police Office immediately of any termination of the employee. The agency designee shall return the employee's card to the Capitol Police Office.

(4) Special permission. Special permission is communicated by an appropriate public official or his representative to the Capitol Police Office specifically approving one-time admission to a named individual. Such authorization should be in writing.

(5) Emergency admission. Emergency admission is solely within the discretion of the officer on duty, and such officer must accompany the admitted individual at all times while he is in the building.

(c) Building register (admission log). A building register for each building shall be kept for the times it is closed to the public, and each person entering the building, except those entering with an electronic access card, must complete the information called for in the register.

§4.5. Fire and Safety Inspections. Members of the Capitol Police District will continually be alert for conditions constituting fire or safety hazards. When such conditions are discovered, a written report will be made and a copy will be forwarded to the appropriate section of the General Services Commission. In areas under the jurisdiction of the Capitol Fire Marshal and State Preservation Board, such reports will also be forwarded to those entities.

§4.6. Prohibited Weapons. Firearms, explosive weapons, illegal knives, clubs, and knuckles, as defined in the Texas Penal Code, §46.01, and prohibited weapons as defined in the Texas Penal Code, §46.06, are not permitted in state buildings or on state grounds covered under these rules, except in the possession of a licensed peace officer. A properly licensed private security officer may possess a firearm or nightstick if he is working under an approved department contract and the contract authorizes the use of an armed guard.

§4.7. Solicitation in State Buildings.

(a) No individual, corporation, association, or organization may be permitted in state buildings for the purpose of:

(1) selling, or offering for sale, any real property, goods or services; or

(2) soliciting gifts of money, or gifts of property, without regard to the charitable nature of such gifts, or the method of solicitation.

(b) Nothing in this section shall be understood to prohibit any agency head from authorizing any or all of the acts in subsection (a) of this section within the confines of that agency's space in state buildings.

(c) The placing or distributing of advertising literature, material, placards, banners, posters, etc., in state buildings is limited to the common areas, such as lobbies, and other areas as designated by the agency head, within the confines of that agency's space in state buildings. The activities described in this subsection shall not be conducted in a manner which disturbs or disrupts work activity or which compromises security of employees, visitors, or state property. Such activities may be conducted only during the times specified in §4.3(b) of this title (relating to Access to State Buildings).

(d) The activities prohibited in subsections (a) and (c) of this section are also prohibited on state parking lots and in state parking garages. Literature may be distributed at the entrances or exits to such facilities if the activity does not impede vehicular or pedestrian traffic.

(e) A state-sponsored fund raising event for a charitable organization may be approved under the following circumstances.

(1) The charitable organization must have tax-exempt status, with the Internal Revenue Service and/or the state comptroller.

(2) The event must be approved by the executive director of each agency housed within the building.

(3) All proceeds from the event must go to the charitable organization.

(4) The event must be organized, directed, and staffed by state employees only.

(5) No commercial advertisements may be displayed.

§4.8. Key and Locksmith Services.

(a) Provisions. The provisions of this section are designed to promote the care, protection, and security of the state buildings in the Capitol Complex. The Capitol Police District shall be responsible for administering the provisions of this section.

(b) Authority. Only the director and/or the commander of the Capitol Police

District shall have the authority to duplicate keys or perform locksmith services for the doors of the state buildings referenced in subsection (a) of this section. In emergency situations such as fire or medical emergencies, it is imperative that Capitol Police personnel have immediate access to all buildings and offices within the Capitol Complex.

(c) Control of interior door keys. The chief executive of each agency in the state buildings referenced in subsection (a) of this section shall be responsible for the control of interior door keys to the space assigned the agency. The chief executive may delegate this responsibility to another person(s) in the agency, provided that the Capitol Police Office is notified in writing of the names of such designees. Agency key designees may not appoint other agency key designees.

(d) Requesting duplicate door keys. Any key designee needing duplicate door keys should notify the commander of the Capitol Police, or his designee, of the request, indicating the building, room number, key number, and the number of keys required.

(e) Receipt of keys. The elected official or state agency chief executive officer or his or her respective designee may obtain the keys requested either for a door re-key or duplication of keys by signing a department service order indicating by his or her signature he or she has received the keys.

(f) Returning keys. Any and all keys issued to an elected official, state agency chief executive, or his or her respective employees must be returned to the Capitol Police Office upon his or her termination of service to the state or upon termination of employment.

(g) Installation and maintenance of locking hardware. Service for the installation and maintenance of all locking hardware must be obtained through the General Services Commission. Installation of new or additional locking hardware must be compatible to and capable of being placed under the Capitol Police District grand master and control system and must be coordinated through the Capitol Police District.

(h) Construction. All construction which involves adding, relocating, removing, or in any way modifying locking hardware that is in a facility that is under the jurisdiction of the Capitol Police must be coordinated through the Capitol Police District and must be compatible to and capable of being placed under the Capitol Police District grand master and control system.

(i) Master keys. Master keys of any level may only be issued by the authority of the director and/or the commander of the Capitol Police District. Any request for a master key must be submitted in writing

indicating the reasons for the request and must be signed by the elected official or the chief executive officer of the agency.

(j) Building entrance door keys. Building entrance door keys may only be issued by the authority of the director and/or the commander of the Capitol Police District. Any request for a building entrance door key must be submitted in writing indicating the reasons for the request and must be signed by the elected official or the chief executive officer of the agency.

(k) Charge for services. A fee may be charged to recover the cost of services rendered. Said fee to be established by the chief fiscal officer of the department and approved by the director.

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 October 16, 1992.

TRD-9214186

James R Wilson
Director
Texas Department of
Public Safety

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Proposal publication date: June 30, 1992

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

Parking and Traffic Administration

• 37 TAC §§4.31-4.46

The Texas Department of Public Safety adopts new §§4.31-4.46, concerning parking and traffic administration. Sections 4.31-4.33, 4.35, 4.36, 4.38, 4.40, 4.41, and 4.43, are adopted with changes to the proposed text as published in the June 30, 1992, issue of the *Texas Register* (17 TexReg 4673). Sections 4.34, 4.37, 4.39, 4.42, 4.44-4.46 are adopted without changes and will not be republished.

The adoption of these sections will ensure the public that equitable and economical parking facilities for state employees, state officials, and the visiting public are provided and violations are properly handled. Section 4.31 has been revised in response to comments from the Texas Governor's Committee on People with Disabilities relating to parking permits for disabled persons. Other changes in that section were made to clarify the definition of open parking and listed exemptions. Section 4.32 was revised in response to a comment from the Secretary of State. The revision clarifies utilization survey procedure. Another revision to that section clarified the language in the sentence concerning individual space assignments and open parking facilities. Section 4.33 was amended to respond to a further comment from the Secretary of State. The revision clarified that one subsection acted as an exception to the previous subsection. Section 4.35 was amended to clarify that the department sets the monthly parking fee. Section 4.36 was amended, in response

to comments from the Texas Governor's Committee on People with Disabilities, to clarify the method by which disabled parking permits are issued. Section 4.38 and §4.41 were amended to delete revisions relating to nonutilization of parking spaces in those provisions are unnecessary under current procedures. Section 4.40 was revised to clarify procedures to be used if hanging parking permits are issued. Section 4.41 was also amended to clarify the procedure for administrative review of citations, and to provide additional means for a person who has received a citation to present evidence with regard to that matter. That section was also revised to clarify that the late charge for payment of a citation is \$2.00. Section 4.43 was revised to provide that impounded vehicles may not be released until only the towing and storage fees have been paid.

These sections promulgate regulations regarding reserved parking, free parking, car pooling, traffic control, parking for the disabled, impoundment of vehicles, penalties for violation, and administrative adjudication. The annual reserved parking fee continues without any change.

The Secretary of State pointed out that §4.33(a) and (b) was in conflict. He also requested a detailed explanation of weekly utilization surveys referred to in §4.32(c) and information obtained during peak utilization periods referred to in §4.32(f). He further asked for an explanation of the circumstances referred to in §4.32(f) that would warrant adjustments in the number of permitted assignments. His written comments also requested a public hearing. At the public hearing, held on October 13, 1992, written comments were received from the executive director of the Texas Governor's Committee on People with Disabilities. Those comments suggested language relating to compliance with the Americans with Disabilities Act and the federal rules relating to that act. The comments also suggested language with regard to eligibility for reserved disabled parking spaces, and exemption from the nonutilization provisions, and enforcement of the disabled parking permit.

The Secretary of State, and Texas Governor's Committee on People with Disabilities commented against the adoption.

The department disagrees with the comments of the Secretary of State with regard to the conflict between §4.33(a) and (b). The department interprets subsection (b) as being an exception to subsection (a), but has revised the provisions upon adoption to clarify the point. With regard to the comments from the Texas Governor's Committee on People with Disabilities, the department disagreed with the exact language proposed by the committee, but adopted major portions of the suggested changes. The department disagrees with the proposal regarding nonutilization, since that section has been deleted. The department also believes that the current procedure for providing disabled persons parking permits should not be made more stringent on the person seeking such a permit.

The new sections are adopted under Texas Government Code, §411.006(4), which pro-

vides the director with the authority to adopt rules, subject to commission approval, considered necessary for the control of the department.

§4.31. General.

(a) Objective.

(1) The overall objective is to provide for the most equitable and economical parking facilities for state employees, state officials, and the visiting public in accordance with the general law as set out in Texas Civil Statutes, Article 601b, §4.12 and §4.14. Parking is administered by the parking administration with full authority to carry out the responsibilities of the Texas Department of Public Safety.

(2) In addition to a limited number of reserved parking spaces, these sections allow for free parking for other employees. Assignments for free parking will be made to locations as near as possible to the employee's work location. Parking in these locations will be on a first-come basis.

(3) In an effort to conserve energy and to alleviate traffic congestion in the Capitol Complex, car pooling will be encouraged by the assignment of free reserved parking.

(4) Under the provisions of the Americans with Disabilities Act (ADA) and 29 Code of Federal Regulations Part 1630.2, a qualified employee with a disability will be assigned a free reserved parking space that meets the specifications of the ADA Accessibility Guidelines. As a reasonable accommodation for employees with significant mobility impairments, a free reserved space as near as possible to the building where the employee is employed shall be designated, whether in space assigned to the employing agency or in space managed by the department.

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

(1) Availability for assignment—Refers to the status of a lot or garage, either a part or the whole of which is used for open parking assignment and shows a utilization of its open parking areas of less than 100% during peak use hours.

(2) Open parking—The assignment of a right to park anywhere within a specific parking lot or garage except in those spaces marked as "reserved." No monthly charge is made for open parking.

(3) Parking administration—A section of the Capitol Police District, Texas Department of Public Safety.

(4) Reserved parking—Assignment of a specific parking space to a state

official or to an employee. The spaces will be marked by signs and/or yellow painted curbs or stops.

(c) Exemptions. The following areas will not be regulated under these parking sections except as noted:

(1) Texas Employment Commission parking facility under the management and control of the Texas Employment Commission;

(2) the parking garage in the capitol extension project and the parking spaces on the grounds of the Capitol. However, the department may enforce the parking regulations established by the State Preservation Board;

(3) parking areas outside the Capitol Complex. State parking lots and garages outside the Capitol Complex will not be regulated by the department except under the authority of individual contracts and agreements approved by the director of the Texas Department of Public Safety.

(d) Agency parking coordinator. Each occupying agency will designate one of its employees to be the parking coordinator, and the parking administration will provide each coordinator with detailed instructions for the proper administration of these guidelines.

§4.32. Assignment to a Reserved Space or Open Facility.

(a) The assignment to a reserved space or open facility is considered a privilege which can be revoked at any time for nonpayment or noncompliance with the parking regulations. In addition, this privilege may be revoked to permit implementation of changes in the parking system or these rules as mandated by the department. Revocation because of department mandate will give the employee losing an assignment a priority for reassignment to a space or facility as near as possible to the employee's work location. The acceptance and use of a parking assignment constitutes acceptance of all sections and regulations regarding such assignment. The department shall designate lots or garages for use by employees of particular buildings in order to give better distribution to parking utilization, subject to the priority of assignment established in Texas Civil Statutes, Article 601b, §4.12(c), and §4.36 of this title (relating to Priority of Assignments).

(b) Employees of state agencies are eligible for assigned parking so long as they office four hours or more a day during the normal state workweek between the hours of 7 a.m. and 6 p.m. within the Capitol Complex. If the department enters into a contract or agreement to administer the parking for an area outside the Capitol Complex, the same rules will apply.

(c) Employees, upon request, will be placed on a waiting list for an open parking assignment to a lot or garage in close proximity to their work location. They can be placed on the list for not more than two locations, applicable only to those lots or garages designated for use by the building where the applicant is employed. Weekly utilization surveys of open parking areas will be conducted to determine the number of available spaces in all lots and garages. Such surveys will be conducted at times, and during months, which have been observed by the parking administration as typically having the largest number of vehicles using open parking. When utilization surveys show a pattern of available spaces in an open parking location, the parking administration will make available a number of open parking assignments, after taking into consideration the pattern of utilization and the number of current assignments for the particular location. Eligible employees will be notified in writing. The employee will be given five working days in which to accept or decline the assignment. When notification letters have been mailed, employees are automatically removed from the waiting list for the lot or garage designated in the notification letter. Once a parking assignment has been accepted by an employee, that employee is automatically removed from all waiting lists. New applications, not immediately assignable, shall be dated and time stamped as they are received by the department and placed on the respective lists in chronological order. Assignments from the waiting list will be made on a "first-on, first-off" basis, refer to the exceptions for new lots or garages described in §4.33 of this title (relating to New Lots/Garages).

(d) All assignments relinquished, cancelled, terminated, or forfeited shall become reassignable in accordance with these sections on the effective date of relinquishment, cancellation, termination, or forfeiture.

(e) The department may designate and request the commission to mark parking spaces for state-owned vehicles and visitors parking in the Capitol Complex, or on other state property outside the Capitol Complex when said property is administered by the department as provided in §4.31 of this title (relating to General).

(f) In making assignments to open parking facilities, individual space assignments are not permitted. The department may assign more individuals to park in the lot or garage than there are spaces available. Determination of the number of assignments to such an area, allowed by this subsection, shall be based upon information obtained during peak utilization periods. Adjustments in the number of permitted assignments may be made from time to time

as circumstances warrant, in an effort to obtain full utilization of state parking facilities.

(g) Each state agency housed in the Capitol Complex, or on other state property administered by the department, is allotted a number of reserved spaces based on the needs of the agency and the availability of spaces. The department will ensure that all agencies are allocated at least one space for individual assignment. Each state agency is responsible for assignment of these spaces and for notifying the parking administration of all reserved assignments, additions, and deletions. A monthly charge shall be paid quarterly in advance for each assigned reserved space within a lot or garage as described in §4.35 of this title (relating to Monthly Parking Charges, Payment, and Refunds). All other spaces whether a part or the whole of a lot or garage shall be marked for open assignment in accord with these sections.

§4.33. *New Lots/Garages.*

(a) Whenever a new lot or parking garage is opened for operation, assignments will be made as near as possible to the employee's work location.

(b) Provided that whenever a new garage is opened that is connected to or part of a building, whether by new construction or by purchase of an existing facility, assignments to that location will be first made to the employees occupying the building.

(c) Additional and further assignments will be made in accordance with these sections.

§4.35. *Monthly Parking Charges, Payment, and Refunds.*

(a) **Charges.** Monthly charge for assigned parking will be at the rate set by the state legislature, or if no rate is set, at a rate set by the department. The department sets the rate at \$10 for individual employees assigned reserved spaces within a lot or garage.

(b) **Payment.** Monthly charges shall be paid quarterly in advance, due on the first day of September, December, March, and June. The payment is considered delinquent on the 10th of the month, at which time a notice is sent to the employee advising him or her to remit payment within five working days of the date of notice.

(c) **Partial payments.** Payment for partial quarters will be allowed only when a state employee receives a parking assignment in mid-quarter. Parking assignments made prior to the 15th of the month require the full payment for the month. Assignments made on or after the 15th of the month will have the payment applied to the next month's lease.

(d) **Refunds.** Employees who cancel their assignment will be issued refunds as follows:

(1) full refund for cancellations prior to the 15th of the first month of the quarter;

(2) Two-month refund for cancellations prior to the 15th of the second month, but after the 16th of the first month of quarter;

(3) one-month refund for cancellations prior to the 15th of the third month, but after the 16th of the second month of quarter;

(4) no refund for cancellations after the 15th of the third month of quarter.

(e) **Imprest account.** Under the authority of the State Appropriations Act, "appropriations for parking fees," the parking administration will maintain a \$500 imprest account for payment of refunds. This account will be funded from parking revenue and will be administered in accordance with approved procedures established for petty cash accounts by the Comptroller of Public Accounts.

§4.36. *Priority of Assignments.*

(a) When the legislature is in session, the department shall assign and have marked, for unrestricted use by members and administrative staff of the legislature, the reserved parking spaces in the Capitol Complex requested by the respective houses of the legislature. A request for parking spaces reserved pursuant to this subsection shall be limited to spaces in the capitol area and the additional spaces in state parking lots proximately located to the Capitol.

(b) When the legislature is not in session, the department shall, at the request of the respective legislative bodies, assign and have marked the spaces requested for use by members and administrative staff of the legislature, in the areas described in subsection (a) of this section.

(c) The department may assign parking spaces to elected state officials and appointed heads of state agencies who occupy space in state buildings located within the bounds set forth in Texas Civil Statutes, Article 601b, §4.12(a).

(d) The department will assign parking spaces to state employees with disabilities. See §4.31 of this title (relating to General).

(1) A state employee will be considered eligible for permanent assignment to a free reserved disabled persons parking space if:

(A) the person holds a Texas Department of Transportation disabled per-

son parking privilege issued by a county tax assessor-collector; or

(B) the nature of the disability impairs mobility to the degree that walking any appreciable distance to the employee's work station would be difficult, or impossible, for the employee to accomplish.

(2) The application for a disabled permit must be accompanied by evidence that the person holds a Texas Department of Transportation disabled parking privilege issued by a tax assessor-collector, or acceptable medical proof from a licensed physician that the state employee is currently disabled.

(3) Qualified employees with a disability shall be entitled to a free reserved space as near as possible to their work location.

(4) State employees who are ill, or who have been injured, may receive a free reserved space for up to 30 days without medical proof from a licensed physician.

(e) If spaces are available, the department may assign parking spaces to car pools. See §4.39 of this title (relating to Car Pools).

(f) The department may assign an appropriate number of reserved parking spaces to state agencies housed in the Capitol Complex, or in other state facilities administered by the department whether or not located in the City of Austin. See §4.32 of this title (relating to Assignment to a Reserved Space or Open Facility).

(g) All remaining parking facilities under the charge and control of the department in the area described in subsection (f) of this section, may be made available for use by state employees. Such employees shall be those working for agencies who occupy space in state buildings, located within the area specified in subsection (f) of this section.

(h) To implement the requirements of this section, the department shall not be required to assign all of the spaces available. The department by discretion may make use of any unassigned spaces designated under this section, so long as that use is in accordance with Texas Civil Statutes, Article 601b, §4.12 and these sections.

§4.38. Sublease and Utilization. Subleasing an assignment shall not be permitted and is a violation of these sections. It is possible for an employee who pays for his or her individual space assignment to allow another state employee to use that assignment during vacations, absences due to illness, or official travel, provided the parking administration office is notified in advance,

but charging a fee for this favor is a violation of these sections.

§4.40. Parking Permits.

(a) All vehicles utilizing open parking must display a current parking permit. One permit will be issued to each employee. This will allow the employee to use the permit regardless of who owns the vehicle. The department is authorized to issue either decal permits or hanging permits.

(1) Decal permits shall be applied to the vehicle according to instructions provided at the time of issuance.

(2) Hanging permits will normally be hung from the rearview mirror when the vehicle is parked in a state parking lot or garage. If no mirror post is available, the permit may be taped to the front windshield, in the lower center, or otherwise displayed so that it is readily visible from outside the vehicle. If hanging permits are issued, one permit will be issued to each eligible employee. The employee may use the hanging permit on any vehicle which the employee drives to work.

(b) An employee who is issued a permit will be responsible for any parking violations on vehicles bearing the permit.

(c) Employees with unpaid charges recorded in their name shall be ineligible to receive a parking permit while such charges remain unpaid.

(d) All permits will expire and be renewed on a biennial basis.

(e) Change in parking assignment requires the return of the parking permit before any new parking assignment can be obtained.

(f) Permits must be surrendered upon termination of employment and the permit returned to the parking administration.

(g) Lost or stolen permits must be reported immediately to the parking administration office.

§4.41. Enforcement.

(a) Department officers are responsible for enforcing these parking regulations and traffic violations on state property. For purposes of enforcing the parking rules only, the department may assign either commissioned officers or noncommissioned security workers. The assignment of security workers shall only be made with the written approval of the commander of the Capitol Police District.

(1) To carry out this responsibility and authorization, the department may issue two types of citations for any parking violations occurring within the jurisdiction of the parking administration.

(A) Administrative citations issued by the Capitol Police District are subject to administrative adjudication.

(B) Court appearance citations constitute a notice to appear in either a municipal court or a justice court. Failure to discharge a court appearance citation may result in the issuance of a warrant of arrest.

(C) The department reserves the right to issue a court appearance ticket for any violation.

(D) Administrative citations will generally be issued for violation of these parking regulations.

(2) When a court appearance citation is issued for any violation, the penalty shall be assessed by the court in accordance with statutory law.

(b) Whenever an administrative citation is issued for an violation of these sections, the administrative fine shall be \$10.

(c) The following procedures will apply for administrative citations.

(1) Any person who is issued an administrative citation shall pay the fine, in person or by mail, to the parking administration office, no later than the 10th calendar day after the citation is issued. If payment is not received or postmarked within the 10 days, a \$2.00 late charge will be assessed.

(2) If a person wishes to appeal a citation, he/she may do so in accordance with subsection (f) of this section.

(3) Unpaid charges for parking offenses will be recorded in the name of the permit holder or in the name of the registered owner of the vehicle as shown in the records of the Texas Department of Transportation.

(4) Unpaid charges for other violations will be recorded in the name of the person driving the vehicle.

(5) Persons with unpaid charges recorded in their name shall be subject to the following actions.

(A) If the unpaid charges are in the name of a person who has a parking privilege, forfeiture of that privilege will be initiated under §4.42 of this title (relating to Forfeiture of Parking Privilege).

(B) If the unpaid charges are in the name of a person who does not have a parking privilege, the person shall be given a written notice that the vehicle is

placed on an impoundment list and will be impounded if found on state property under §4.42 of this title.

(d) The following acts, when committed within the Capitol Complex or within other areas under the administration and control of the department as provided by §4.31 of this title (relating to General) shall constitute parking violations for which either an administrative or court appearance citation may be issued:

(1) parking overtime in a space which is limited in time by meters or signs, or parking overtime in a loading zone;

(2) moving a barricade or parking within any barricaded area;

(3) parking on any lawns, curb, sidewalk, or any area which creates an obstruction to vehicular or pedestrian traffic;

(4) parking in a "No Parking" area;

(5) parking within 15 feet of a fire plug or within a fire zone;

(6) failing to park within a lined parking space. Vehicles shall be parked within the boundaries of the designated lined spaces. The fact that other vehicles are parked improperly shall not constitute an excuse for parking with any part of the vehicle over the line;

(7) parking in a loading zone except while loading or unloading;

(8) parking over 18 inches from the curb or parking stop, measured from any part of the car body facing the curb or parking stop;

(9) parking with the rear of the vehicle facing the curb or parking stop;

(10) parking in a space or facility other than the one assigned, unless authorization has been obtained;

(11) parking in a designated parking area without displaying proper permit;

(12) parking upon any unmarked or unimproved area which has not been designated for parking;

(13) double-parking;

(14) parking in a handicapped space without displaying a proper permit;

(15) possession or use of a lost/stolen or forged permit;

(16) possession or use of a current permit that has been defaced or altered;

(17) oversized vehicle in a stall marked for small or compact vehicles;

(18) blocking or impeding a crosswalk, driveway, or alley; or

(19) parking in a state parking facility by an employee who has lost his/her parking privileges due to forfeiture.

(e) The following shall constitute other traffic violations for which the penalty shall be a fine not to exceed \$200 in accordance with applicable law:

(1) speeding, i.e., operating a motor vehicle on state property in excess of 15 miles per hour;

(2) other violations of Texas Civil Statutes, Article 6701d, not otherwise specified in this section.

(f) Any person who has received an administrative citation may appeal the citation in accordance with this section.

(1) Administrative review.

(A) Any person who has received an administrative citation may request that the citation be reviewed by the parking administration office. If the request is not made within 10 days, the citation is deemed final.

(B) The review will be made by the supervisor of Parking Administration or his designee. The person who received the citation may request that the review be done in person, and may bring evidence or witness(es) to present to the person conducting the review. The person may also request that the department officer who issued the citation be present to provide evidence.

(C) After reviewing the circumstances of the administrative citation, the supervisor of parking administration or his designee may order the payment of the administrative fine or the cancellation of such charges. If the citation is upheld and the appealing party fails to pay the charges or to request an appeal within 10 calendar days of the decision, a \$2.00 late charge will be assessed on the citation.

(i) If on reviewing a citation for a violation of subsection (d)(11) of this section, parking in a designated area without displaying proper permit, the supervisor of parking administration or his designee determines that the employee had in fact been issued a permit for the area that was valid at the time the citation was issued, and the same violation had not been committed within the past six months, he/she shall dismiss the citation.

(ii) A second violation within a six-month period will not be dismissed under clause (i) of this subparagraph.

(D) The appealing party will be notified in writing of the decision regarding the review.

(2) Court appeal from administrative review decision.

(A) Any person who has requested a review of an administrative citation and who is not satisfied with the decision may file a written request for a court hearing. If a court hearing is requested, the appeal will be to the court, either municipal or justice, in which the department is currently filing court appearance citations.

(B) Any person who wishes a court hearing must file a written request within 10 calendar days from the decision date shown on the review decision form. When the request is received, parking administration will file a complaint with the appropriate court and issue a court appearance citation. A copy of the citation will be mailed to the appealing party along with information on how and when to contact the court.

(3) Failure to discharge administrative citation. If a person fails to discharge an administrative citation, either by payment of the fine or by appropriate appeal, the unpaid charges will be entered under his name and he will become subject to forfeiture of his parking privilege under §4.42 of this title and/or §4.43 of this title (relating to Impoundment of Vehicles).

§4.43. Impoundment of Vehicles.

(a) When an impound violation has occurred or when necessary to protect the public health, safety, or welfare or to promote and protect a critical state function, the department may impound or cause to be removed any vehicle presenting such an obstacle.

(b) The department may also impound or cause to be removed any permitted or nonpermitted vehicle which has received one or more state citations which have not been timely paid, or any state employee's vehicle whose parking privileges have been forfeited. When unpaid charges are recorded or an employee's parking privileges have been forfeited, the department will send a letter to the last known address of the person.

(c) A vehicle left on state property for a period of more than 48 hours without the approval of the parking administration will be considered abandoned. This does not apply to state-owned vehicles.

(d) Vehicles shall be impounded by or at the direction of the department. The vehicle impounded shall not be released until all towing and storage fees have been paid.

(e) The department shall not be responsible for any fees, costs, or damages resulting from vehicle removal and impoundment.

(f) The term "impoundment" includes removal or immobilization of the vehicle in question.

(g) A vehicle is subject to impoundment under the following circumstances:

(1) parking in a handicapped or reserved space without displaying proper permit;

(2) possession or use of a lost, stolen, or forged permit;

(3) parking on a state parking facility when parking privileges have been forfeited;

(4) parking within any barricaded area;

(5) parking a vehicle on a curb or sidewalk, or in any manner which creates an obstruction to vehicular or pedestrian traffic; or

(6) parking in a "No Parking" zone or fire zone.

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 October 16, 1992.

TRD-9214187

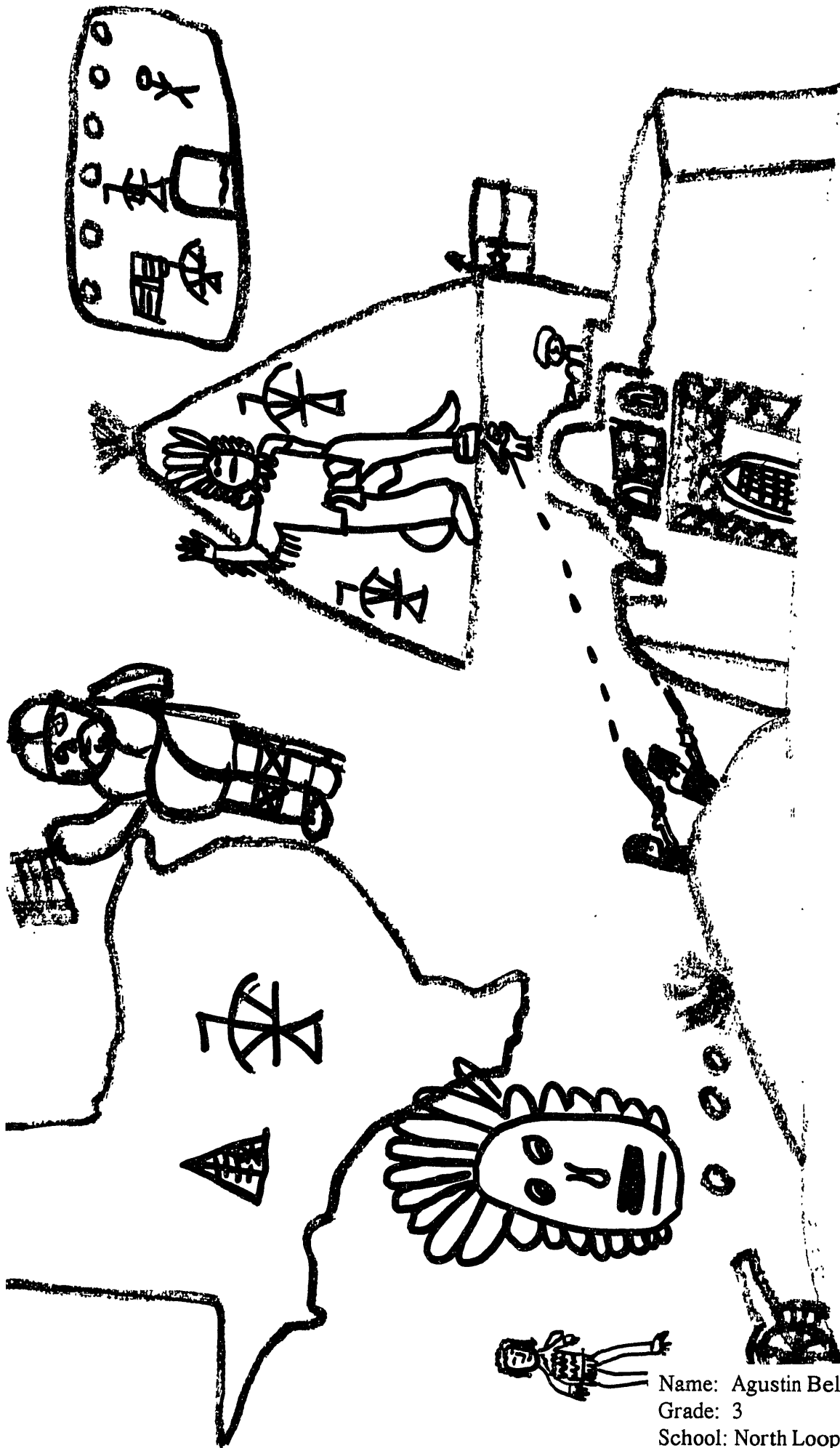
James R. Wilson
Director
Texas Department of
Public Safety

Effective date: November 10, 1992

Proposal publication date: June 30, 1992

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

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Name: Agustin Belyontes
Grade: 3
School: North Loop Elementary, Ysleta I.S.D.

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 Air Control Board

Thursday, October 29, 1992, 8 a.m. The Permits Oversight Committee's Permit Workshop of the Texas Air Control Board will meet at 12124 Park 35 Circle, Room 201A (Annex), Austin. According to the complete agenda, the committee will hold a workshop on the development of a strategic plan to streamline permit requirements and procedures; and consider and act on recommendation of a strategic plan to streamline permit requirements and procedures.

Contact: Lane Hartsock, 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1451.

Filed: October 21, 1992, 3:11 p.m.

TRD-9214271

Texas Commission for the Blind/Texas Rehabilitation Commission

Monday-Tuesday, November 2-3, 1992, 9 a.m. The State Independent Living Council of the Texas Commission for the Blind/Texas Rehabilitation Commission will meet at the Doubletree Hotel, 6505 IH-35 North, Austin. According to the agenda summary, the council will call the meeting to order; presentation from Health and Human Services Commissioner Richard Ladd; agency reports from Texas Commission for the Blind and Texas Rehabilitation Commission; hear public comments; discuss future locations of independent living services; and tour facilities. On Tuesday, the council will report on five-year plan progress; update on independent living survey; and elect officers.

Contact: Robert Packard, TCB, P.O. Box 12866, Austin, Texas 78711, (512) 459-2588, and Mel Fajkus, TRC, 4900 North Lamar Boulevard, Austin, Texas 78751-2316, (512) 483-4133.

Filed: October 21, 1992, 4:32 p.m.

TRD-9214288

Coastal Coordination Council

Wednesday, October 28, 1992, 9 a.m. The Executive Committee of the Coastal Coordination Council will meet at the William B. Travis Building, Room 1-111, 1701 North Congress Avenue, Austin. According to the agenda summary, the committee will consider status of Coastal Management Program activities; discuss preliminary CMP boundary; sand mining issue; regulations regarding freshwater inflows to bays and estuaries; agenda items for CCC meeting scheduled for November 5, 1992; and public comment period. Agencies and public given opportunity to comment on each agenda item (three minute limit).

Contact: Janet Fatheree, 1700 North Congress Avenue, Room 730, (512) 463-5385.

Filed: October 20, 1992, 4:28 p.m.

TRD-9214222

Texas Cosmetology Commission

Saturday, November 7, 1992, 1 p.m. The Texas Cosmetology Commission will meet at the Doubletree Hotel, 6505 IH-35 North, Austin. According to the complete agenda, the commission will call the meeting to order; make introductions; discuss agreed orders; Loretta Guthrie-Cambridge College

of Cosmetology; Renea L. Keish-Mobile Salons; personnel manual; open questions and answer period with inspection force; and adjourn.

Contact: Alicia Ayers, P.O. Box 26700, Austin, Texas 78755-0700, (512) 454-4674.

Filed: October 22, 1992, 9:20 a.m.

TRD-9214290

Texas Department of Criminal Justice

Friday, October 23, 1992, 10 a.m. (Rescheduled from 9 a.m.). The Board of Criminal Justice, Parole Subcommittee of the Texas Department of Criminal Justice will meet at 816 Congress Avenue, Suite 500, Austin. According to the emergency revised agenda summary, the subcommittee will have a presentation by Dr. Tony Fabelo of the Criminal Justice Policy Council—"The Criminal Justice System: Where we are and why we are going"; and hear testimony from interested organizations or persons on the problems with parole. The emergency status was necessary as the meeting time changed from 9 a.m. to 10 a.m. due to a scheduling conflict for some of the attendees.

Contact: Jackee Cox, 816 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 463-9988.

Filed: October 21, 1992, 4:33 p.m.

TRD-9214289

Texas Commission for the Deaf and Hearing Impaired

Friday, October 30, 1992, 9:30 a.m. The Texas Commission for the Deaf and Hearing Impaired will meet at 1524 South IH-35, #200, Commission Conference Room, Austin. According to the complete agenda, the commission will call the meeting to order; hear chairperson's report and discuss approval of minutes; Operations Projects report on strategic planning and budgeting; budget/financial issues; Program Projects report on interpreter certification, task force and committee reports, service provider reports, camp sign report and TCDHI human rights policy; information items; commission meeting for December 11; adjourn and hold a public hearing.

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

Filed: October 22, 1992, 10 a.m.

TRD-9214308

Texas Planning Council for Developmental Disabilities

Thursday, November 5, 1992, 9:30 a.m. The Executive Committee of the Texas Planning Council for Developmental Disabilities will meet at the Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Room 4240, Austin. According to the complete agenda, the committee will call the meeting to order; discuss approval of the minutes of October 8, 1992, meeting; recommendations for associate members; designated agency discussion; possible funding activity; review of stipends applications; budget status report; and adjourn.

Contact: Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4081.

Filed: October 20, 1992, 2:37 p.m.

TRD-9214208

Thursday-Friday, November 5-6, 1992, 1:30 p.m. and 9 a.m., respectively. The Texas Planning Council for Developmental Disabilities will meet at the Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Public Hearing Room, Austin. According to the agenda summary, on Thursday, the council will call the meeting to order; introduce council members and staff; hear public comments; discuss approval of minutes; advocacy and public information; hear executive committee report; executive committee report; grantee presentation; and on Friday, the council will discuss planning and evaluation committee report; grants monitoring committee report;

chairman's report; executive director's report; hear public comments; grantee presentation; and adjourn.

Contact: Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4081.

Filed: October 20, 1992, 2:37 p.m.

TRD-9214209

Interagency Council on Early Childhood Intervention

Wednesday, November 4, 1992, 9 a.m. The Interagency Council on Early Childhood Intervention will meet at 1100 West 49th Street, Texas Department of Health, Room M-652, Austin. According to the complete agenda, the council will receive public comments; discuss approval of the minutes of October 7, 1992 meeting; discuss and possibly act on: advisory committee report; funding alternatives for distribution of increased federal funding as of January 1, 1993; issues for local providers relating to entitlement; plans to continue early childhood intervention services at Fort Worth State School; and staff recommendations on respite services.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: October 21, 1992, 3:38 p.m.

TRD-9214278

Texas Education Agency

Wednesday, November 4, 1992, 2 p.m. The Proprietary School Advisory Commission of the Texas Education Agency will meet at the John H. Reagan Building, 15th and Congress Avenue, Room 106, Austin. According to the complete agenda, the commission will discuss approval of the minutes of the May 12 and October 6, 1992 meetings; discuss review of process for developing legislative recommendations and report of current status; proposed legislative items with need for further consideration: compliance with all local, city, county, municipal, state and federal regulations; issuance of a "license to operate" as opposed to a certificate of approval; and criminal penalty for failure to routinely pay refunds.

Contact: Dee Bednar, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-3454.

Filed: October 21, 1992, 9:35 a.m.

TRD-9214250

Texas Employment Commission

Tuesday, October 27, 1992, 8:30 a.m. The Texas Employment Commission will meet at the TEC Building, Room 644, 101 East 15th Street, Austin. According to the emergency revised agenda summary, the commission will meet in executive session to discuss relocation of agency headquarters; and actions, if any, resulting from executive session. The emergency status is necessary to comply as nearly as possible with legislative mandate regarding relocation, at least expense to state.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: October 21, 1992, 4:13 p.m.

TRD-9214284

Texas Feed and Fertilizer Control Service

Thursday, November 12, 1992, 1 p.m. The Advisory Committee of the Texas Feed and Fertilizer Control Service will meet at the Texas A&M University Campus, Rudder Tower, Room 401, College Station. According to the agenda summary, the committee will review fiscal year 1992 operations; summarize fiscal year 1993 plans; discuss regulation of fumonisin in feed and feed ingredients; and elect executive council members.

Contact: Dr. George W. Latimer, Jr., P.O. Box 3160, College Station, Texas 77841-3160, (409) 845-1121.

Filed: October 22, 1992, 9:25 a.m.

TRD-9214294

Governor's Task Force on Economic Transition

Thursday-Friday, October 29-30, 1992, 9 a.m. The Governor's Task Force on Economic Transition will meet at the Bell Helicopter Textron Conference Room, 600 East Hurst Boulevard, Fort Worth. According to the complete agenda, on Thursday, the task force will hear staff report; review of defense appropriations fiscal year 1993 possibilities for Texas; review and edit Volume II recommendations regarding: worker transition, community transition, federal actions market transition, technology transition; discuss survey results from defense contractors; and on Friday, hear staff report; review; review comments of small defense sub-contractor Edit Volume II recommendations; and vote on Volume II recommendations.

Contact: Katy Davis, P.O. Box 13824, Austin, Texas 78711, (512) 463-9932.

Filed: October 21, 1992, 10:52 a.m.

TRD-9214265



Texas Department of Health

Monday, November 2, 1992, 8:30 a.m. The Texas State Board of Examiners of Marriage and Family Therapists of the Texas Department of Health will meet at the Exchange Building, Room S-400, 8407 Wall Street, Austin. According to the complete agenda, the board will discuss approval of the minutes of the October 5, 1992, board meeting; discuss and possibly act on report of Sunset Advisory Commission on health care licensing boards; and other issues concerning licensed marriage and family therapists.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6657. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: October 21, 1992, 9:42 a.m.

TRD-9214252



Texas Department of Housing and Community Affairs

Wednesday, October 30, 1992, 10 a.m. The Texas Weatherization Policy Advisory Council of the Texas Department of Housing and Community Affairs will meet at 811 Barton Springs Road, Board Room, Austin. According to the agenda summary, the committee will discuss weatherization funding outlook; FFY 93 Texas weatherization state plan schedule; subcommittee reports; utilities; and health and safety. Individuals requiring auxiliary aids and services for this meeting should contact Aurora Carvajal at (512) 475-3322 or Relay Texas 1 (800) 735-2999.

Contact: J. Al Almazuer, 811 Barton Springs, Austin, Texas 78704, (512) 475-3866.

Filed: October 20, 1992, 10:02 a.m.

TRD-9214182



Texas Department of Insurance

Friday, October 30, 1992, 10 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth

Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider an appeal of Brown's Limousine Crew Car, Inc., and Brown's Personnel Services, Inc. from a decision of the Texas Workers' Compensation Insurance Facility. Docket Number 1950.

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

Filed: October 20, 1992, 3:23 p.m.

TRD-9214215

Friday, October 30, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Optimum Re Insurance Company, Dallas, to acquire control of Windsor Life Insurance Company, Dallas, pursuant to the provisions of Texas Insurance Code Article 21, 49-1, Section 5. Docket Number 11585.

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

Filed: October 20, 1992, 3:23 p.m.

TRD-9214216

Wednesday, November 4, 1992, 9 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will consider personal umbrella rate filing by Horace Mann Insurance Company; consider filing by Old Republic Insurance Company for a premium rate for the Stamp Surety Bond; filing by Insurance Company of Evanston of commercial general liability endorsements CL-520, additional insureds; CL-521, medical payments/athletic participants; and CL-102, Supplement to Section IV.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 20, 1992, 2:18 p.m.

TRD-9214206

Monday, November 16, 1992, 10 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will hold a public hearing concerning residential property, homeowners, dwelling, farm and ranch and farm and ranch owners insurance benchmark rate and flexible band setting. Docket Number 1946.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 21, 1992, 4 p.m.

TRD-9214283

Thursday, November 19, 1992, 10 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will hold a public hearing concerning residential and commercial property insurance rates concerning the Texas Catastrophe Property Insurance Association. Docket Number 1947.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 21, 1992, 4 p.m.

TRD-9214282

Monday, November 30, 1992, 10 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will hold a public hearing concerning private passenger and commercial automobile insurance benchmark rate and flexible bank setting. Docket Number 1945.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 21, 1992, 4 p.m.

TRD-9214281

Thursday, December 10, 1992, 10 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will hold a public hearing concerning Promulgation of Title Insurance Premium Rates and Amendments to the Basic Manual of Rules, Rates and Forms for the writing of title insurance in the state of Texas. Docket Number 1951 and 1951A.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 21, 1992, 3:59 p.m.

TRD-9214280



Lamar University System, Board of Regents

Tuesday, October 20, 1992, 1:30 p.m. The Board of Regents of Lamar University System met at 4205 Park Avenue, Orange. According to the emergency revised agenda summary, the board met in executive session, pursuant to the provisions of Vernon's Civil Statutes, Article 6252-17, §2(e) legal; (g) personnel; and 2(r) conference with em-

ployees; and reconvened in open meeting, action, if any, on discussion of matters in executive session. (This was supplemental to posting October 16, 1992. All other business was conducted in workshop type session and no action was taken.) The emergency status was due to urgent public necessity.

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: October 20, 1992, 10:43 a.m.

TRD-9214191

Wednesday, October 21, 1992, 9:30 a.m. The Lamar University System met at the Brown Center, 4205 Park Avenue, Orange. According to the complete emergency revised agenda, the system met in executive session, pursuant to the provisions of Vernon's Civil Statutes, Article 6252-17, §2(e) legal; (g) personnel; and 2(r) conference with employees; discussed lawsuit with the attorney pursuant to Article 6252-17, §2(e); conferred with Mr. Janik, a person employed by the Lamar Regents for the purpose of receiving information from him and to ask questions of him; and reconvened in open meeting to discuss matters raised with Mr. Janik in executive session. (This was a workshop type session and no action was taken). The emergency status was due to urgent public necessity.

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: October 20, 1992, 1:52 p.m.

TRD-9214204

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Texas Department of Licensing and Regulation

Friday, October 30, 1992, 9 a.m. The Inspections/Investigations; Tow Trucks of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for James Allman doing business as Alpha-Omega for violation of Vernon's Texas Civil Statutes, Articles 6687-9b, Section 2 and 4, 9100, 6252-13a, and 16 TAC Chapter 80.

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

Filed: October 21, 1992, 4:18 p.m.

TRD-9214287

Thursday, November 19, 1992, 9 a.m. The Inspections/Investigations; Auctioneers of

the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Third Floor Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Shera Edwina "Puffy" Swope-Bedell for violation of Vernon's Texas Civil Statutes, Article 8700 7(a)(5) and 7(b) and Article 9100.

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

Filed: October 21, 1992, 4:17 p.m.

TRD-9214286

Thursday, November 19, 1992, 1 p.m. The Inspections/Investigations; Auctioneers of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Third Floor Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Patricia Connor doing business as Pat Connor's Auctioneers for violation of Vernon's Texas Civil Statutes, Article 8700, Section 7(a)(4), 7(a)(6), and 7(a)(7) and 7(b), 16 TAC §67.101(2)(4).

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

Filed: October 21, 1992, 4:18 p.m.

TRD-9214285

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Texas Parks and Wildlife Department

Thursday, October 29, 1992, 2 p.m. The Finance Committee of the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at Building B, First Floor, 4200 Smith School Road, Austin. According to the agenda summary, the committee will discuss approval of the minutes from August 25, 1992 meeting; discuss proposed legislative appropriations request; update on bond issue and approval of amended bond motion; reimbursement policy for state stamps and prints; and other business.

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

Filed: October 21, 1992, 9:36 a.m.

TRD-9214251

Texas Public Finance Authority

Wednesday, October 28, 1992, 2:15 p.m.

The Board of the Texas Public Finance Authority will meet at 105 West 15th Street, Meeting Room 101, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of the minutes of August 25, 1992 and September 25, 1992 board meetings; consider a resolution authorizing the issuance of bonds to refinance projects for the Texas National Research Laboratory Commission through refunding bonds of the Texas Public Finance Authority; the execution and delivery of documents in connection therewith, and the taking of action to effect the sale and delivery of the bonds and resolving related matters; consider a resolution authorizing the issuance, sale and delivery of Texas Public Finance Authority building revenue and revenue refunding bonds, Series 1992 and approving and authorizing instruments and procedures relating thereto; consider adjustment of bond counsel fees for revenue bond refunding and issuance; consider a resolution authorizing issuance of \$14,000,000 Texas Public Finance Authority Texas State Technical College System Building Revenue and refunding revenue bonds, Series 1992; prescribing the terms and form thereof; providing for the payment of the principal thereof and interest thereon; awarding the sale of the bonds and authorizing execution of a purchase contract; ratifying the use of a preliminary official statement and authorizing the preparation and distribution of an official statement to be used in connection with the sale of the bonds; authorizing the defeasance of certain outstanding bonds, the execution and delivery of an escrow agreement, the purchase of certain securities and the use of certain funds related to the bonds to be refunded; authorizing escrow verification; making other provisions regarding such bonds and matters incident thereto; consider a resolution authorizing the issuance of bonds to refund certain previously issued bonds and to finance projects for the Texas Parks and Wildlife Department, the execution and delivery of documents in connection therewith, and the taking of action to effect the sale and delivery of the bonds and resolving related matters; consider a request for financing from Texas Department of Mental Health and Mental Retardation; consider a request for financing from Texas Department of Criminal Justice; consider approval and proceeding with 1992 Series B commercial paper program; approval of a liquidity provider for Series B commercial paper program; hiring bond counsel for Series B commercial paper program (proposals sent directly to board members); proposal for a stand alone private placement refinancing and financing of equipment leases; hiring bond counsel for

stand alone private placement refinancing and financing of equipment leases (proposals sent directly to board members); resolution authorizing the deputy director to execute and sign for the authority in the absence of the executive director any documents required to be signed by the executive director; and adjourn.

Contact: Teresa McCleary, 300 West 15th Street, Suite 411, Austin, Texas 78701, (512) 463-5544.

Filed: October 20, 1992, 4:26 p.m.

TRD-9214221

Public Utility Commission of Texas

Wednesday, October 28, 1992, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11287-application of Kaufman County Electric Cooperative, Inc. to amend certificate of convenience and necessity for proposed transmission line within Kaufman County.

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

Filed: October 20, 1992, 3:12 p.m.

TRD-9214212

Friday, October 30, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11520-petition of the General Counsel for an inquiry into the reasonableness of the rates and services of Southwestern Public Service Company.

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

Filed: October 20, 1992, 3:14 p.m.

TRD-9214214

Friday, November 6, 1992, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11270-joint application of Southwestern Electric Power Company, Central Power and Light Company, Houston Lighting and Power Company, and Texas Utilities Electric Company for certificate of convenience and necessity for 345-KV transmission line.

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

Filed: October 21, 1992, 3:34 p.m.

TRD-9214273

Monday, November 9, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11515-petition of the Office of Public Utility Counsel for inquiry into the reasonableness of the rates and services of Southwestern Bell Telephone Company.

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

Filed: October 20, 1992, 3:11 p.m.

TRD-9214211

Tuesday, December 8, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a rescheduled hearing on the merits in Docket Number 11362-application of Southwestern Bell Telephone Company to introduce caller identification services (caller ID).

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

Filed: October 21, 1992, 3:35 p.m.

TRD-9214274

Monday, January 11, 1993, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 11494-application of Livingston Telephone Company to revise tariff.

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

Filed: October 20, 1992, 3:13 p.m.

TRD-9214213

State Securities Board

Tuesday, November 17, 1992, 9 a.m. The Enforcement Division of the State Securities Board will meet at the State Office for Administrative Hearings, 300 West 15th Street, Fourth Floor, Room 408, Austin. According to the agenda summary, the division will hold a hearing to determine

whether the registration of Dinah Parker Fonseca as a securities agent should be revoked.

Contact: John Morgan, 221 West Sixth Street, Suite 700, Austin, Texas 78701, (512) 474-2233.

Filed: October 20, 1992, 10:20 a.m.

TRD-9214185

The Texas A&M University System, Board of Regents

Saturday, October 24, 1992, 9 a.m. The Executive Committee of the Board of Regents of the Texas A&M University System met at the Board of Regents Meeting Room, Texas A&M University Campus, College Station. According to the complete agenda, the committee received reports from the administration including an update on state affair activities and searches for the positions of Deputy Chancellor for Academic and Research Program and the Dean of Engineering at Texas A&M University.

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

Filed: October 20, 1992, 10:24 a.m.

TRD-9214188

Texas Council on Vocational Education

Wednesday, November 4, 1992, 1:30 p.m. The Texas Council on Vocational Education will meet at the Council Office, 1717 West Sixth Street, Suite 360, Austin. According to the agenda summary, the council will conduct a working session to review and edit its report evaluating vocational education in the prison system. Time permitting, the council will also begin working on its vision statement.

Contact: Lynda S. Rife, P.O. Box 1886, Austin, Texas 78767, (512) 463-5490.

Filed: October 20, 1992, 1:07 p.m.

TRD-9214201

Thursday, November 5, 1992, 8:30 a.m. The Texas Council on Vocational Education will meet at the Sheraton Hotel, 500 North IH-35, Austin. According to the agenda summary, the council will hear public testimony on vocational education issues; discuss approval of the minutes of its September 17-18 meeting; hear reports on conferences attended by council members; finalize its report evaluating vocational education in the prison system; finalize its biennial report to the Governor and Legislature; finalize its strategic plan; receive a report on the task force on vocational education

field agents; receive an update on the master plan for vocational education; receive an update on the Legislative session; discuss the JTPA/Vocational Education evaluation; discuss plans for the Vocational Education Awards Banquet; discuss the integration of academic and vocational education; discuss upcoming meetings; discuss the council's schedule-of-work and budget; and conduct other business.

Contact: Lynda S. Rife, P.O. Box 1886, Austin, Texas 78767, (512) 463-5490.

Filed: October 20, 1992, 1:08 p.m.

TRD-9214202

Texas Hospital Equipment Financing Council

Thursday, October 29, 1992, 10 a.m. The Board of Trustees of the Texas Hospital Equipment Financing Council will meet at the Texas State Treasury, 200 East 10th Street, Room 227, Austin. According to the complete agenda, the board will discuss approval of the minutes of the April 13, 1992 meeting; financial report; state auditor's report regarding status of audit; authorization for chairman to execute any and all documents pertaining to the THEFC audit and annual report; discuss and possibly select a liquidity facility; alternative investment of the debt service reserve fund proceeds; and discuss agenda for next meeting.

Contact: Rose-Michel Munguia, 200 East 10th Street, #309, Austin, Texas 78701, (512) 463-5971.

Filed: October 21, 1992, 12:54 p.m.

TRD-9214266

Texas Southern University

Wednesday, October 28, 1992, 4 p.m. The Building and Grounds Committee of the Board of Regents of the Texas Southern University will meet at 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider construction change orders; payments to architects contractors and engineers; authorize and ratify contracts and awards; and discuss status of on going construction and current contractual relations.

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

Filed: October 21, 1992, 9:25 a.m.

TRD-9214239

University of North Texas/Texas College of Osteopathic Medicine

Tuesday, October 27, 1992, 9 p.m. The Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine will meet at the University of North Texas, Administration Building, Board Room, Denton. According to the complete agenda, the board will meet in executive session to discuss: employee briefing-legislative appropriations request; real estate-conference center/hotel and UNT golf course (lease); open meeting-legislative appropriations request; conference center/hotel and UNT golf course. TCOM: meet in executive session to discuss: employee briefing-legislative appropriations request; and in open meeting-legislative appropriations request.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: October 21, 1992, 9:25 a.m.

TRD-9214238

Texas Water Commission

Thursday, October 29, 1992, 8:30 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the complete agenda, the commissioners will attend an all day seminar on the principles of water utility regulations.

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

Filed: October 21, 1992, 3:57 p.m.

TRD-9214279

Thursday, October 29, 1992, 9:30 a.m. The Water Well Driller's Advisory Council of the Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the council will consider the approval of the minutes of its August 13, 1992 and September 11, 1992 meeting; consider whether to set the following complaints for a formal hearing or take appropriate legal action; James Fleck, Johnny Folmar, Earl Haberman, Jr., Jerry A. Jasek, Dwight Northcutt, Gerald Rankin, Jack Burns, Charles Ryan, Herbert Walker, Mike Winstead; consider the certification of applicants for registration; consider the applications for driller-trainee registration; consider Ed Thomas's request for reinstatement of his license; and consider staff reports.

Contact: May Meaderis, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-8069.

Filed: October 21, 1992, 9:28 a.m.

TRD-9214245

Texas Workers' Compensation Insurance Fund

Wednesday, October 28, 1992, 8:30 a.m. The Board of Directors of the Texas Workers' Compensation Insurance Fund will meet at the Four Seasons Hotel, First Street at San Jacinto, Austin. According to the agenda summary, the board will call the meeting to order; take roll call; discuss approval of minutes; public participation call; fund activity reports; report on facility depopulation; update on status of strategic plan and budget projections for 1993; meet in executive session; consider contract for premium audit (action item); discuss potential service contract with the facility (discussion only); status report on rate and reserve studies (discussion only); discuss emerging legislative issues; make announcements; and adjourn.

Contact: Jodie Bowen, 100 Congress Avenue, Suite 300, Austin, Texas 78701, (512) 322-3851.

Filed: October 20, 1992, 3:32 p.m.

TRD-9214217

Texas Workers' Compensation Research Center

Thursday, November 5, 1992, 3 p.m. The Board of Directors of the Texas Workers' Compensation Research Center will meet at the Stephen F. Austin Building, Room 119, 1700 North Congress Avenue, Austin. According to the complete agenda, the board will discuss and act on the following items: call meeting to order; oath of office; discuss approval of minutes of meeting of September 15, 1992; announcements; research progress report-delivery of benefits-timeliness; presentation-UT Center for the Study of Human Resources Workplan for Contract on Vocational Rehabilitation; development of a resource database; consider proposals and possible award of contract on nonsubscription project; meet in executive session-development of an evaluation procedure for executive director; confirm schedule for future meeting; and adjourn.

Contact: Annette Gula, 3636 Executive Center Drive, Austin, Texas 78731, (512) 346-6197.

Filed: October 22, 1992, 9:47 a.m.

TRD-9214303

Regional Meetings

Meetings Filed October 20, 1992

The Deep East Texas Regional Mental Health and Mental Retardation Services will meet at the Ward R. Burke Community Room-Administration Facility, 4101 South Medford Drive, Angelina County, Lufkin, October 27, 1992, at 3 p.m. Information may be obtained from Sandra J. Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9214205.

The Golden Crescent Service Delivery Area Private Industry Council, Inc. met at 2401 Houston Highway, Victoria, October 21, 1992, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9214203.

The Kendall Appraisal District Board of Directors met at 121 South Main Street, Kendall Appraisal District, Boerne, October 23, 1992, at 11:30 a.m. Information may be obtained from J. P. Davis, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9214192.

The Upper Leon River Municipal Water District The Board of Directors met at the General Office of the Filter Plant, Comanche County, Lake Proctor, October 22, 1992 at 6:30 p.m. Information may be obtained from Gary D. Lacy, P.O. Box 67, Comanche, Texas 76442, (817) 879-2258. TRD-9214184.

The Wood County Appraisal District Appraisal Review Board met at the Wood County Appraisal District, 217 North Main Street, Conference Room, Quitman, October 26, 1992, at 9 a.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 951, Quitman, Texas 75783-0951, (903) 763-4891. TRD-9214200.

Meetings Filed October 21, 1992

The Alamo Area Council of Governments Board of Directors will meet at 118 Broadway Street, Suite 420, San Antonio, October 27, 1992, at 1 p. m. Information may be obtained from Al J. Notzon III, 118 Broadway Street, San Antonio, Texas 78205, (512) 225-5201. TRD-9214235.

The Alamo Area Council of Governments Community Affairs Committee will meet at 118 Broadway Street, Suite 420, San Antonio, October 27, 1992, at 3 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway Street, San Antonio, Texas 78205, (512) 225-5201. TRD-9214237.

The Brazos Valley Quality Work Force Planning Committee will meet at 301 Post Office, Bryan, October 27, 1992, at 11:30 a.m. Information may be obtained from Patty Groff, 301 Post Office Street, Bryan, Texas 77801. TRD-9214233.

The Hunt County Appraisal District Appraisal Review Board will meet at the Hunt County Appraisal District, Board Room, 4801 King Street, Greenville, November 2nd-30th, 1992, at 8:20 a.m. Information may be obtained from Shirley Gregory, P.O. Box 1339, Greenville, Texas 75403, (903) 454-3510. TRD-9214253.

The Lubbock Regional Mental Health and Mental Retardation Center Board of Trustees met at 3801 Avenue J, Board Room, Lubbock, October 26, 1992, at noon. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 766-0202. TRD-9214272.

The Permian Basin Quality Work Force Planning Committee (PBQWFPC) will meet at the Ramada Inn, 3100 West Wall, North Ballroom, Midland, October 27, 1992, at 11:30 a.m. Information may be obtained from Georgia D. Hankins, P.O. Box 60660, Midland, Texas 79711, (915) 563-1301. TRD-9214247.

The Sabine River Authority of Texas Board of Directors will meet at the Fredonia Hotel, Nacogdoches, October 29, 1992, at 10:30 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, (409) 746-3200. TRD-9214269.

The Trinity River Authority of Texas Board of Directors will meet at 5300 South Collins, Tarrant County, Arlington, October 28, 1992, at 10:30 a.m. Information may be obtained from J. Sam Scott, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9214320.

Meetings Filed October 22, 1992

The Alamo Area Council of Governments Area Judges will meet at 118 Broadway

Street, Suite 420, San Antonio, October 27, 1992, at 10:30 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway Street, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9214307.

The Ark-Tex Council of Governments Executive Committee will meet at the Naples Motor Inn Restaurant, Naples, October 29, 1992, at 5:30 p.m. Information may be obtained from Laurie Dean, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9214301.

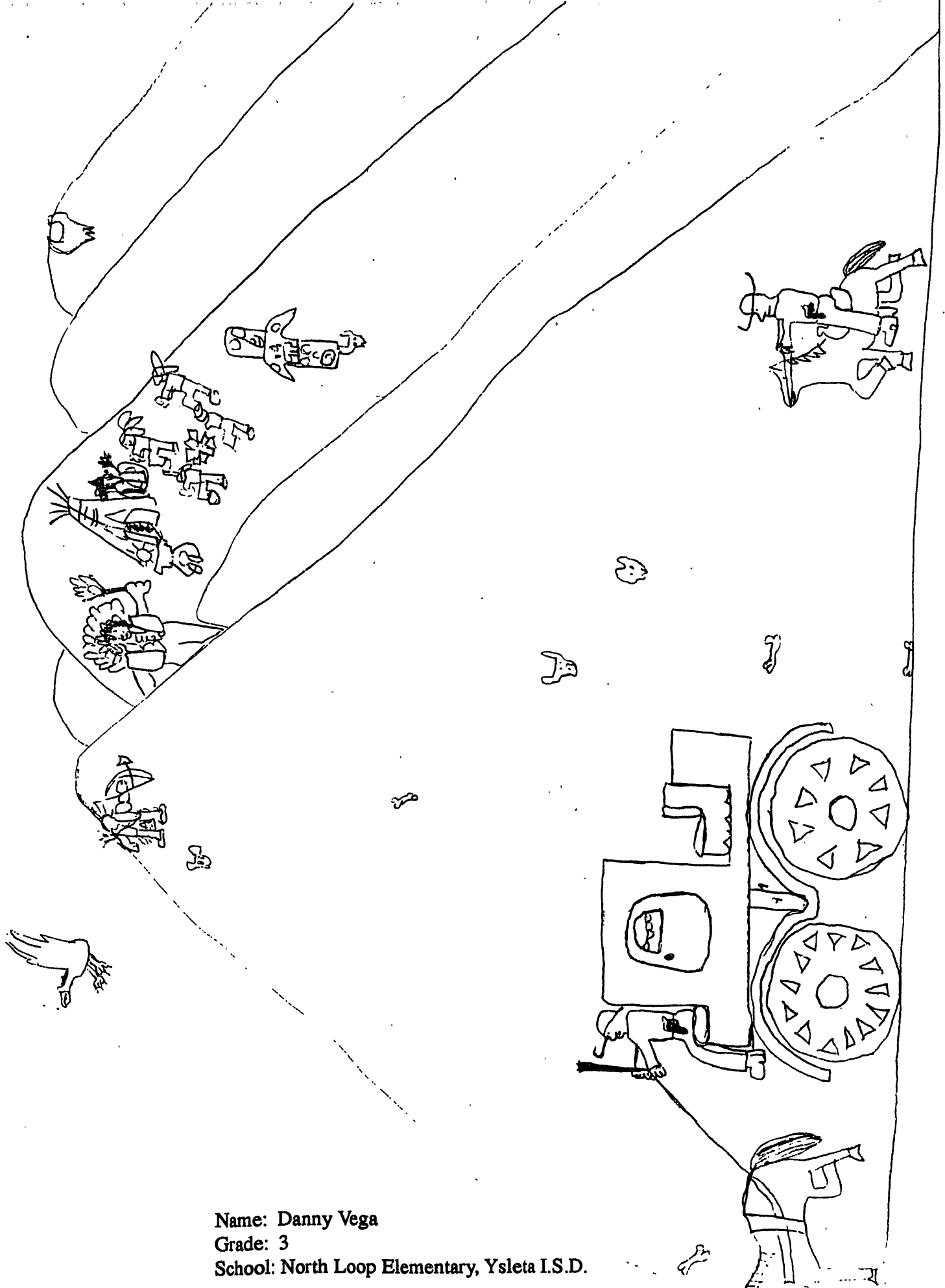
The Callahan County Appraisal District Board of Directors will meet at the Callahan County Appraisal District Office, 130-A West Fourth Street, Baird, October 29, 1992, at 7 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1165. TRD-9214306.

The Education Service Center Region XV Board of Directors will meet at the ESC Region XV, 612 South Irene Street, Conference Room One, San Angelo, October 29, 1992, at 1:30 p.m. Information may be obtained from Clyde Warren, 612 South Irene, San Angelo, Texas 76902, (915) 658-6571. TRD-9214305.

The El Oso Water Supply Corporation Board of Directors met at their office, FM 99, Karnes City, October 24, 1992, at 8 a.m. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (512) 780-3539. TRD-9214298.

The Nolan County Central Appraisal District Board of Review will meet at the Nolan County Courthouse, Third Floor, Sweetwater, October 28, 1992, at 9 a.m. Information may be obtained from Steven G. Beck, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9214302.

The San Antonio-Bexar County Metropolitan Planning Organization Transportation Steering Committee met at the Administration Office, Second Floor Conference Room, San Antonio Convention Center (Alamo and Market), San Antonio, October 26, 1992, at 1:30 p.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, Suite 205, San Antonio, Texas 78205, (512) 227-8651. TRD-9214295.



Name: Danny Vega
Grade: 3
School: North Loop Elementary, Ysleta I.S.D.

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 Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Air Control Board (TACB) announces that E. H. Pechan and Associates was awarded the contract for consulting services to study the possible adoption of the California Low Emission Vehicle (LEV) Program in Texas. The consultant proposal request was published in the June 26, 1992, issue of the *Texas Register* (17 TexReg 4623).

Description of Services. The TACB is required to evaluate the adoption of the California LEV Program in accordance with the requirements of Senate Bill 2 of the 72nd Texas Legislature. The study will cover various issues related to the possible implementation of the LEV Program in Texas, including an estimation and analysis of emission reductions, an estimation of the costs of implementing and administering the LEV Program in Texas, a benefit analysis, and conclusions. The TACB is then required to report to the next session of the legislature.

Name and Address of Consultant. The contract was awarded to E. H. Pechan and Associates, 5537 Hempstead Way, Springfield, Virginia 22151.

Term and Amount of Contract. The contract period is from September 2, 1992, to September 30, 1992. Total value of the contract is \$39,927. For further information, please contact Al Giles at (512) 908-1451.

In compliance with the Americans with Disabilities Act, this document may be requested in alternate formats by contacting the Air Quality Planning Program staff at (512) 908-1457, (512) 908-1500 FAX or 1-800-RELAY-TX (TDD), or by writing or visiting the Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753.

Issued in Austin, Texas on October 15, 1992.

TRD-9214255 Lane Hartsock
Deputy Director
Texas Air Control Board

Filed: October 21, 1992

Texas Department of Banking Notice of Hearing

The hearing officer of the Texas Department of Banking will conduct a hearing on November 9, 1992, at 2601 North Lamar Boulevard, Austin, on the application of White's Funeral Home, Inc., 130 Houston Street, Weatherford, Texas 76086, to withdraw excess earnings from prepaid funeral contract trust deposits pursuant to the authorization contained in Texas Civil Statutes, Article 548b, §4(4).

Anyone desiring to appear at the hearing must file a written notice of intent to appear, including a brief statement of position, with this office at least 10 days prior to the hearing. A copy of this notice, and all other pleadings, must be sent to each party to the hearing.

Additional information may be obtained from D'Ann Johnson, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1302.

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

TRD-9214153 Larry J. Craddock
Hearings Officer
Texas Department of Banking

Filed: October 20, 1992

Comptroller of Public Accounts Consulting Services Request

Notice of Request for Proposals. Pursuant to Texas Civil Statutes, Article 6252-11c, the Comptroller of Public Accounts announces its Request for Proposals (RFP) for consulting services to review selected elements of the organizational structure of the Central Education Agency (the agency). The purpose of the RFP is to solicit the review of the organizational structure of the agency insofar as the structure is involved in the dissemination of information and expenditure of resources by the State Department of Education to, between, and among regions within the state. The Comptroller also intends that the study determine whether these elements of the agency's structure are conducive to the improvement of student performance and of the public education system itself, and make recommendations for organizational restructuring which will improve coordination of the agency's functions between and among statewide and regional levels. The review will include a review of the procedures currently in place governing the allocation of agency resources to regional levels, and will analyze efficiency of the administrative structure currently in place in this context.

Contact. Parties interested in submitting a proposal should contact Sandy Randolph, General Counsel's Office, Office of the Comptroller of Public Accounts, 111 East 17th Street, Room 113, Austin, Texas 78774, (512) 463-4670, for a complete copy of the RFP. The RFP will be available for pickup at the above address on Tuesday, October 27, 1992, between 4 p.m. and 5 p.m. (CST), and during normal business hours thereafter.

Closing Date. Proposals must be received in the General Counsel's Office no later than 4 p.m. (CST), on November 11, 1992. Proposals received after this date and time will not be considered.

Award Procedure. All proposals will be subject to evaluation by a committee based on the evaluation criteria set

forth in the RFP. The committee will determine which proposal best meets these criteria and will make a recommendation to the Deputy Comptroller. The Deputy Comptroller will review the recommendation of the committee, and make a recommendation to the Comptroller, who will make the final decision. A proposer may be asked to clarify its proposal, which may include making an oral presentation or site visit, prior to final selection.

The Comptroller's Office reserves the right to accept or reject any or all proposals submitted. The Comptroller's Office is under no legal or other requirements to execute a resulting contract on the basis of this notice or the distribution of the RFP. Neither this notice nor the RFP commits the Comptroller's Office to pay for any costs incurred prior to the execution of a contract.

The anticipated schedule of events is as follows: RFP available-October 27, 1992, 4 p.m. (CST); Proposers Conference-November 5, 1992, 3:30 p.m. (CST) Proposers due-November 11, 1992, 4 p.m. (CST).

Issued in Austin, Texas on October 21, 1992.

TRD-9214256 Arthur F. Lorton
Senior Legal Counsel, General Law
Section
Comptroller of Public Accounts

Filed: October 21, 1992

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**Texas Department of Criminal Justice,
Pardons and Paroles Division
Request for Proposal**

Notice of invitation for proposals. Pursuant to Texas Code of Criminal Procedures Article 42.18, §25 and §23, and other applicable state laws, the Texas Department of Criminal Justice, Pardons and Paroles Division, hereby requests all interested parties to submit a proposal for the design and construction or renovation, operation and management of a secure Intermediate Sanction Facility (ISF) to be located in the Greater Houston Area. Such a facility would house 400 male technical parole violators in custody under a blue warrant as authorized by the Board of Pardons and Paroles. The proposers will be required to provide programs for the detention, training, education, rehabilitation, and other associated programs for technical parole violators under the jurisdiction of the Division in accordance with governing laws and policies.

The proposers shall provide for or arrange site selection, site acquisition, facility design, renovation or construction, permitting, and financing. The facility and operations shall be required to comply with applicable federal constitutional mandates and meet or exceed, and comply with requirements established by the Texas Commission on Jail Standards.

Person to be contacted by persons who wish to submit proposals. For questions relating to this request or to obtain a complete copy of the detailed Request for Proposals contact Melinda H. Bozarth, Director of Community Services, Texas Department of Criminal Justice, Pardons and Paroles Division, P.O. Box 13401, Austin, Texas 78711, (512) 406-5750. The division may require that specific questions be submitted in writing.

Procedure for contract award (contingent upon available funding). Upon review of the proposals submitted, the Board of Criminal Justice may select the proposal most advantageous to the Department and proceed to negotiate a

final definitive contract. Such a determination shall be solely in the discretion of the Texas Board of Criminal Justice.

If the Board of Criminal Justice approve the awarding of a contract, the following criteria will be used, to determine which, if any, proposal to accept: the proposer's demonstrated ability to safely and successfully operate such a facility; and the extent to which the proposal as submitted complies with the required standards, as stated in the RFP; and the extent to which the programmatic activities included in the proposal offer the best chance of reducing recidivism; and whatever the proposal submitted is the most advantageous to the prospective clients and the Texas Department of Criminal Justice, Pardons and Paroles Division, as determined by cost and quality of facilities proposal, cost and quality of the services offered, and the general reputation and performance capabilities of the proposer.

All representations made by the Division are subject to the availability of legislative appropriations and do not represent an obligation on the part of the State of Texas, the Texas Department of Criminal Justice, the Division, or the Texas Board of Criminal Justice.

Closing date for receipt of proposals. Sealed proposal must be received by the Division by 3 p.m. on December 18, 1992. No proposals will be accepted after the date and time set for receipt of proposals.

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

TRD-9214254 Jackee Cox
General Counsel
Texas Department of Criminal Justice

Filed: October 21, 1992

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**Texas Commission for the Deaf and
Hearing Impaired
Request for Proposal**

Pursuant to the authority provided in the Human Resources Code, §81.013, the Texas Commission for the Deaf and Hearing Impaired (commission) plans to implement an outdoor training program for students who are deaf and hearing impaired during the summer of 1993. In compliance with Texas Civil Statutes, Article 6252-11c, the commission is requesting proposals for the operation of a one-week summer camp program for children who are deaf and hearing impaired ages 8-17.

The program should be designed to provide a broad range of recreational and educational activities. In addition to camping experiences and leadership training, the commission desires to include a counselor-in-training (CIT) program focused on the development and preparation of future camp counselors ages 16-17.

Requirements of Respondents. Respondents should be licensed by the Texas Department of Health; have comprehensive campsite insurance; safe, comfortable, and well-maintained facilities that can accommodate at least 120 campers and required staff; and provide three meals daily and snacks (such as fresh fruits and frozen ices) every mid-afternoon and evening.

A one-day orientation program should be conducted on the camp site for counselors the day prior to the opening of Camp Sign. The camp should begin noon on Sunday and end at noon the following Saturday.

The respondents must also employ two full-time nurses who are skilled in the use and understanding of sign language. These individuals will be approved by the commission. A physician should be available on-call 24 hours a day during the camp session for emergency purposes.

Camp counselors employed must have a working knowledge of sign language and experience working with children who are deaf and hearing impaired. The desired ratio is a minimum of one staff person to every four children.

The respondent must have a director who has experience supervising counselors, planning activities, and working with children who are deaf and hearing impaired. All staff as described previously will be reviewed and approved by the commission.

Description of Recommended Services. Respondents should provide a broad spectrum of camping activities including, but not limited to, water sports, i.e., swimming, fishing, canoeing, tubing, etc., in a natural water setting; horseback riding, with enough horses to accommodate 20-25 riders at one time; riflery on a National Riflery Association or equivalent affiliated rifle range; arts and crafts; nature trail hikes; evening programs, i.e., skits, captioned movies, campfire stories, etc.; life-long sports, i.e., golf, tennis, soccer; and other related camping experiences. Activities should include leadership training experiences and educational activities.

Funding. Proposals should include an estimated budget of all expenditures and the necessary costs per camper to attend. The respondents should submit a three-part payment schedule with specific tasks to be completed for each 1/3 of the allocation amount awarded. In no event will the third and final payment be made until the program is completed and a detailed financial report submitted and approved by the commission. No advance payments or deposits will be made.

The amount available through state appropriation is \$40,705. Fees will be collected from campers whose parents' income is in excess of a scale determined by the commission. These collected fees may supplement the appropriated funds to provide additional programs or services required by the commission. (Collections may range from \$5,000 to \$12,000.)

Deadline for Proposals. Proposals must be postmarked no later than 5 p.m. on Friday, November 20, 1992. Proposals postmarked after this established deadline cannot be considered for selection. Proposals are to be addressed to: Texas Commission for the Deaf and Hearing Impaired, P.O. Box 12904, Austin, Texas 78711, Attention: Billy Collins.

Proposal Evaluation Criteria and Selection. Criteria for evaluation will include: submission of proposal on or before the established deadline; number of campers allowed within specified budgets; respondents' demonstrated ability to provide a sound, high quality recreational and educational program specifically directed to, and suited for youngsters who are deaf and hearing impaired; willingness of respondent to employ staff with knowledge of and experience in working with people who are deaf or hearing impaired as recommended by the commission; ability to provide a program within the monetary limits established. Final selection will be made by the TCDHI commissioners in open meeting. Contract award will not necessarily be made to the respondent offering the lowest cost, but to the proposal determined to be the best for the provision of required services.

Issued in Austin, Texas, on October 12, 1992.

TRD-9214139

Caria Stephenson
Interim Director
Texas Commission for the Deaf and
Hearing Impaired

Filed: October 19, 1992

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**Texas Education Agency
Consultant Contract Award**

Description. This notice is filed under Texas Civil Statutes, Article 6252-11c. After publication of a consultant proposal request in the July 21, 1992, issue of the *Texas Register* (17 TexReg 5148), the Texas Education Agency on September 11, 1992, executed a contract with the Center for Assessment and Demographic Studies, Gallaudet University, Washington, D.C., to assist the agency's Division of Services for the Deaf in the refinement and continued implementation of an objective, data-based accountability system for measuring educational outcomes within the regional day school program for the deaf.

Cost and dates. The total amount of the contract is \$40,000. The beginning date of the contract is September 1, 1992, and the ending date is August 31, 1993.

Due dates of documents. The delivery date of the final report is October 31, 1993.

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

TRD-9214248

Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: October 21, 1992

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Correction of Error

The Texas Education Agency proposed an amendment to 19 TAC §141.27, concerning teacher certification. The rule appeared in the September 22, 1992, *Texas Register* (17 TexReg 6530). Due to a proofreading error by the *Texas Register* the section begins with subsection (f). The section should begin with the sentence: "(a)-(e) (No change.)"

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Request for Proposal #701-92-056

This request for proposal is filed in accordance with Public Law 100-297, Elementary and Secondary Education Act (ESEA), Chapter 2.

Eligible proposers. The Texas Education Agency (TEA) is requesting proposals (RFP #701-92-056) from regional education service centers, institutions of higher education, or a consortia of the foregoing, private companies, non-profit entities, for-profit entities, or individuals, etc. for the research and development of a data base to analyze specific effective school practices in middle schools.

Description. Some programmatic data needed by the Middle School Education Unit are not available in the TEA Public Education Information Management System (PEIMS). The need for data on school practices is critical to establishing networks and designing school improvement initiatives. The major objective of this project is to

provide district administrators and state planners with an objective analysis of specific effective school practices in middle schools. In order to identify academic delivery systems and organizational characteristics that result in improved student performance, an additional data base is needed to combined with current PEIMS and assessment data. These data and analysis will enhance the services of TEA and activities targeting excellence and equity in middle school.

Dates of project. The Research of Middle School Practices Project will be implemented during the 1992-1993 school year. Proposers should plan for a starting date no earlier than December 18, 1992, and an ending date no later than August 31, 1993.

Project amount. One contractor will be selected. The total amount available for the proposal is \$46,500. The project is 100% funded from ESEA, Chapter 2, federal funds.

Selection criteria. Selection of the contract will be based upon the ability of the proposer to carry out all requirements contained in the request for proposal. The TEA reserves the right to select from the highest ranking proposals the proposal that has demonstrated sufficient planning in providing the data and analysis required.

Requesting the proposal. A copy of the complete Request for Proposal #701-92-056 may be obtained by writing or calling the: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304. Please refer to the RFP Number in your request.

Further information. For clarifying information about this request, contact Dr. Melody Johnson or Sharon Ledbetter in the Middle School Education Unit, Texas Education Agency, (512) 463-9223.

Deadline for receipt of proposals. The deadline for submitting a proposal is 5 p.m., Monday, November 30, 1992.

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

TRD-9214249 Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: October 21, 1992

Governor's Budget and Planning Office

Consultant Contract Award

The Governor's Office furnished this notice of a consulting services contract award to prepare and negotiate with the federal government, under the provisions of OMB Circular A-87, the State of Texas' consolidated statewide cost allocation plan for the fiscal year ending August 31, 1994, and to prepare a full cost recovery plan under the provisions of state law. The notice for request for proposals was published in the August 25, 1992, issue of the *Texas Register* (17 TexReg 5811).

Description of Services. The contractor will develop a cost allocation plan that enables eligible state agencies to recover the maximum indirect costs possible from federal programs and ascertain indirect costs from state funds to provide state services.

Effective Date and Value of Contract. The contract will be effective from date of final execution (expected to be

on or about October 21, 1992) until August 31, 1994. The total cost of the contract is \$38,000.

Name of Contractor. The contract has been awarded to David M. Griffith and Associates, Limited, 8100 Springwood Drive, Suite 200, Irving, Texas 75063.

Persons with questions concerning this award may contact Tom Adams, Governor's Budget and Planning Office, P.O. Box 12428, Austin, Texas 78711, (512) 463-1778.

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

TRD-9214126 David A. Talbot, Jr.
General Counsel
Governor's Budget and Planning Office

Filed: October 19, 1992

Texas Department of Health Emergency Impoundment Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Chaparral Inspection Company (licensee-L03139) of Odessa to surrender to the bureau for impoundment all radioactive material in its possession in Texas. The order was issued because the licensee, who was no longer authorized to possess and use radioactive material, had abandoned its only authorized storage location, and was storing radioactive material at an unauthorized location.

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

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

TRD-9214194 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: October 20, 1992

Examination of Marriage and Family Therapists Request for Proposal

The Texas State Board of Examiners of Marriage and Family Therapist invites proposals in response to the request for proposal entitled "Marriage and Family Therapy Licensing Examination Generation, Production, Scoring" from entities experienced in examination development, generation and scoring to develop and generate a written examination for marriage and family therapists. The written examination will consist of a minimum of 200 test items to be answered on electronic scannable answer sheets.

Approximately 200 candidates are expected to take the examinations scheduled three times a year in Austin, Texas, or any other mutually agreeable test location. The contractor will be developing, generating, and scoring examinations beginning in 1993 with the option of being considered for each calendar year thereafter.

Selection of the contractor will be based on the contractor's competence in examination development, generation and score reporting. Examination administration will be done through utilization of personnel of the Texas Department of Health under the direction of the department's psychometrician. Proposals shall indicate total examina-

tion costs as well as a breakdown to reflect actual costs per examinee.

Entities interested in submitting a proposal shall contact Dr. Jim Zukowski, Assistant Director, Professional Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 834-6628 or (512) 834-6677 (FAX) for information regarding the full proposal. Proposals will not be considered from bidders failing to obtain this information.

A bidders conference will be held on November 10, 1992, at 1 p.m. in Room S-400, 8407 Wall Street, Austin, to provide further information and specification prior to acceptance of any written proposals. Proposals may be delivered by mail to the address listed in the preceding paragraph or in person to Room S-420, Texas Department of Health Annex, 8407 Wall Street, Austin, Texas 78758. Proposals are due in this office no later than November 30, 1992.

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

TRD-9214199 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: October 20, 1992

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**Notice of Emergency Cease and Desist
and Impoundment**

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Allen Inspection Service (licensee-L03003) of Odessa to cease and desist using any sources of radiation requiring a license at any location in Texas, and to surrender to the bureau for impoundment all radioactive material in its possession in Texas. The order was issued because the licensee no longer occupied or controlled the authorized radioactive material storage location, and was storing radioactive material at an unauthorized location.

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

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

TRD-9214193 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: October 20, 1992

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**Notice of Intent to Revoke Certificates
of Registration**

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 Texas Administrative Code, §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: William F. Kendall, Ph.D., Bedford, R14802; James C. Love, D.V.M., Tyler, R15952.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants to

present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

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

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

TRD-9214198 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: October 20, 1992

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**Notice of Intent to Revoke a Radioactive
Material License**

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 Texas Administrative Code, §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed a complaint against the following licensee: Hazardous Materials Detection Services, Rotan, L04044.

The department intends to revoke the radioactive material license; order the licensee to cease and desist use of such radioactive material; order the licensee to divest himself of the radioactive material; and order the licensee to present evidence satisfactory to the bureau that he has complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of the complaint, the department will not issue an order.

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

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

TRD-9214197 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: October 20, 1992

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 Texas Administrative Code, §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed a complaint against the following licensee: Tracer Laboratory of Midland, Inc., Midland, L03298.

The department intends to revoke the radioactive material license; order the licensee to cease and desist use of such radioactive material; order the licensee to divest himself of the radioactive material; and order the licensee to present evidence satisfactory to the bureau that he has complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of the complaint, the department will not issue an order.

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

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

TRD-9214196 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: October 20, 1992

Notice of Revocation of a Radioactive Material License

The Texas Department of Health, having duly filed a complaint pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code, §289.112), has revoked the following radioactive material license: Chaparral Inspection Company, Odessa, L03139, October 2, 1992.

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

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

TRD-9214195 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: October 20, 1992

Texas Department of Human Services Notice of Public Hearing

The Texas Department of Human Services (TDHS) will conduct a public hearing to receive comments on the

department's proposed reimbursement rates for the Targeted Case Management Services for Infants and Toddlers with Developmental Disabilities program. The hearing is held in compliance with 40 TAC §24.102(j), which requires a public hearing on proposed reimbursement rates for medical assistance programs. The public hearing will be held on November 5, 1992, at 9 a.m. in Room 103W on the first floor of the West Tower of the John H. Winters Center (701 West 51st Street, Austin). Interested parties may request to have mailed to them or may pick up a briefing package concerning the proposed reimbursement rates on or after October 22, 1992, by contacting Terry Beattie, MC W-516, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4124.

Issued in Austin, Texas, October 20, 1992.

TRD-9214224 Nancy Murphy
Agency Liaison, Policy and Document
Support Department
Texas Department of Human Services

Filed: October 20, 1992

Texas Department of Insurance Notice of Public Hearing

Notice is hereby given that the State Board of Insurance of the Texas Department of Insurance will conduct public hearings, under Docket Number 1951, beginning at 10 a.m. on December 10, 1992, and continuing thereafter at dates, times and places designated by the board until conclusion. The purpose of the hearing will be consideration of the adoption premium rates and any and all rate rules for the writing of title insurance in the State of Texas, consideration of possible revision of the formula for division of premium revenues between title insurance companies and title insurance agents, and consideration of possible amendments to Title 28 of the Texas Administrative Code, §9.1 and to the Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas, which the State Board of Insurance has adopted under Title 28, Chapter 9, Texas Administrative Code. The deadline for the filing of premium rate agenda items is November 10, 1992. The board may also consider such other matters and subjects relative to the regulation of the business of title insurance as the board shall determine necessary or proper.

On August 14, 1992, a call for proposed title rate rules was issued by the agency whereby a deadline for submittal of rules was set as September 11, 1992. No proposed rate rules were received by the stated deadline. The deadline is hereby extended until November 10, 1992. Rate rules, if any, received in response to the extended call will be considered in a new docket to be designated Docket Number 1951A prior to consideration of rates under Docket Number 1951. Depending upon the receipt of proposed rate rules, it may be necessary to recess and continue the hearing until a later time.

The hearings will be held in the Board Hearing Room 100 on the first floor of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin.

Notice of a Pre-Hearing Conference. Notice is hereby given that a pre-hearing conference will be held before the General Counsel or other designated representative of the State Board of Insurance at 2:30 p.m. on November 6, 1992, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin.

The pre-hearing conference will be held for the following purposes: consideration of formulation and simplification of issues; identification of expert witnesses and stipulations as to their respective qualifications; consideration of making admissions of certain averments of fact or stipulations concerning the use by parties of matters of public record; consideration of procedures at the hearing; agreement to limit, where possible, the number of witnesses; and agreeing to such other matters as may aid in the simplification of the proceedings, and in the disposition of matters in controversy, including discovery matters.

Among other matters which the General Counsel may determine at the pre-hearing conference will be all decisions on the admission of parties, grouping of agenda items and grouping of parties with similar interests who may be required to make a common presentation through representation by one attorney or one speaker at the regular hearing. Anyone wishing to participate in the hearing as a party must, by 5 p.m. on November 4, 1992, present a written motion for admission as a party to the Office of the General Counsel, Texas Department of Insurance, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104. The motion must contain a full explanation of the interest and contribution which would constitute justification for granting the motion for admission as a party. Without an extensive showing of exceptional circumstances, the board will not accept any motion for admission as a party after November 13, 1992, and any decision on admission or consolidation of parties at the pre-hearing conference will be final, subject to review by the Board.

Authority and Jurisdiction. The State Board of Insurance has jurisdiction over the promulgation of rules and premium rates, over amendments to or promulgation of approved forms, and over other matters to be considered in the writing of title insurance in the State of Texas pursuant to the Texas Insurance Code, Articles 1.02, 1.04, 9.01, 9.02, 9.07, 9.21, and 9.30, and pursuant to the Texas Administrative Code, Title 28, §9.1 and §9.401.

Statutes and Rules Involved. The Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a) and the Rules of Practice and Procedure Before the State Board of Insurance (Texas Administrative Code, Title 28, Chapter 1, Subchapter A) set forth the nature and requirements of procedures available for the consideration of proposed rates and rules to be presented to the State Board of Insurance at the public hearings.

Reference is further made to the statutes and rules cited in other paragraphs of this notice of hearing and to Chapter 9 and other Articles of the Texas Insurance Code, to Chapter 9 and other sections of Title 28 of the Texas Administrative Code, and to the Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas (the "Basic Manual") to the extent of specific provisions which are applicable to any proposed rule, rate or other matter asserted.

Matters Asserted. The deadline for the filing of premium rate agenda items is November 10, 1992. No proposed rate rules or amendments to rules were received. However, if you have proposed rate rules to submit at this time, proposed rules will be accepted until November 10, 1992. A supplemental notice will be issued pursuant to Article 9.07 listing the proposed agenda items. Please direct inquiries regarding the agenda items to Fabian S. Gomez, III, Texas Department of Insurance Title Insurance Manager,

Mail Code 104-1C, P.O. Box 149104, Austin, Texas 78714-9104, or telephone (512) 322-3470.

Procedure at the Hearing. Ratemaking, and rate implications of agenda items concerning rule changes, will be considered on a contested case basis as provided in the Administrative Procedure and Texas Register Act. Other rules changes will be considered under the rulemaking provisions of the Administrative Procedure and Texas Register Act. The Rules of Practice and Procedure before the State Board of Insurance and the Commissioner of Insurance will apply in all cases. Different rules will apply depending on whether the matter under consideration is ratemaking or rulemaking. Please note that rules with rate implications will be taken up prior to consideration of rates under Docket Number 1951.

Please note §1.9 of the Rules of Practice and Procedure before the State Board of Insurance and the Commissioner of Insurance:

Section 1.9. Failure to Appear at Hearing. Even though some or all of the parties fail to appear in person or through their duly authorized representatives, the Board, the Commissioner, or the Fire Marshal may consider fully and dispose of the matter pending if notice has been given in accordance with law. Such consideration and decision shall be on the basis of the entire record in the proceedings.

Each page of any exhibit offered in evidence must be numbered and on 8 1/2" by 11" paper, three-hole punched along the left margin. The front page of each exhibit should indicate that it would be part of the record of a public hearing before the State Board of Insurance and should identify the subject of the hearing, the docket number, the hearing date, and the party offering the exhibit. The front page of an exhibit should also provide a description of the exhibit and a space for numbering the exhibit. For example:

Public Hearing before the State Board of Insurance
Subject of Hearing: Rates and Rules for Title Insurance

Docket No. _____

Date: December 10, 1992

Party: _____

Exhibit # _____

Description of Exhibit:

Each prospective party shall file with the Chief Clerk of the Texas Department of Insurance, no later than noon, December 2, 1992, 12 copies of each exhibit that will be offered at the hearing. A prospective party that files its exhibits with the Chief Clerk in a timely manner is entitled to obtain from the Chief Clerk before the date of the hearing, one copy of each of the exhibits submitted by the other parties. Address all filings to Linda K. Von Quintus-Dorn, Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

Additional statements, briefs, arguments, and statistical information may be submitted at the hearing.

A party offering exhibits into evidence at the hearing should be prepared to furnish the following: the original exhibit and one copy will be given to the Chief Clerk. The original shall be marked and retained for the official record, and the parties shall thereafter use an exact photo-

copy of such marked exhibit in the examination of witnesses; one copy for the Chief Clerk; one copy for each Board member, for their use in ruling on the admissibility of the exhibit; two copies for the General Counsel; one copy for the Title Insurance Manager; one copy for each other party admitted to the hearing.

After identification of the exhibit and any use of it by a witness, the original of each exhibit should be returned to and retained by the Chief Clerk as a part of the record in the hearing.

Please direct all inquiries regarding the hearing to Gloria Leal, General Counsel, Mail Code 113-2A, Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701.

Issued in Austin, Texas, October 21, 1992.

LRD-9214241 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: October 21, 1992



Notice is hereby given that a hearing under Docket Number 1947 will be held before the State Board of Insurance beginning at 10 a.m. on November 19, 1992, and continuing thereafter at dates, times, and places designated by the board until conclusion. The purpose of the hearing will be consideration of revision of the manual rates for commercial classes of risks and rates applicable to residential risks written by the Texas Catastrophe Property Insurance Association. The rates to be established in Docket Number 1947, are related to the benchmark rates set for residential property in Docket Number 1946. Consequently, if the parties have not had sufficient time to analyze the disallowed expense data, by November 16, 1992, which is the scheduled date of hearing for Docket Number 1946, then Docket Number 1947 will also be recessed and continued until a date following the reconvening and completion of Docket Number 1946. The hearing will be held in the Board Hearing room on the first floor of the William P. Hobby, Jr., State Office Building, 333 Guadalupe Street, Austin, Texas 78701.

Authority and Jurisdiction. The State Board of Insurance has jurisdiction over the promulgation and revision of Residential and Commercial Extended Coverage Rates for the Texas Catastrophe Property Insurance Association ("Catpool"), amendments to the General Basis Schedules, and all other matters pertinent to the writing of Windstorm and Hail Insurance required to be offered by the "Catpool" in designated areas, in the state of Texas pursuant to Texas Insurance Code, Articles 1.02, 1.04, and 21.49, as well as the Texas Insurance Code, Chapter 5, Subchapter C.

Article 21.49, §8(h), Texas Insurance Code provides that: Rates, including extended coverage rates covering risks or classes of risks written by the Association before December 31, 1995, may not exceed the benchmark rates promulgated by the board under Subchapter M, Chapter 5, Insurance Code, for noncommercial lines of insurance. Rate for noncommercial lines of insurance written by the association on or after December 31, 1995, may not exceed the manual rate promulgated by the board under Subchapter C, Chapter 5, Insurance Code. Notwithstanding Article 5.13-2, Insurance Code, the board shall promulgate a manual rate for commercial risks and classes of risks written by the association in accordance with Subchapter C, Chapter 5, Insurance Code. Article

5.13-2, Insurance Code, does not apply to the rates of insurance written by the association.

Motions for Admission as a Party. Anyone who wishes to participate in the hearing as a party must, by 5 p.m. on Monday, November 2, 1992, present a motion for admission as a party to the Office of the General Counsel of the Texas Department of Insurance in Tower One, 13th floor of the State Insurance Building at 333 Guadalupe, Austin, Texas 78714-9104. The motion must be in writing and must contain a full explanation of the identifiable separate interest and separate contribution which would constitute sufficient justification for granting the motion for admission as a party. Without a showing of good cause, the board will not accept any motion for admission as a party after the 5 p.m. November 6, 1992, and any decision on admission or consolidation of parties at the prehearing conference will be final, subject to review by the board.

Prehearing Conference. An initial prehearing conference will be held before the General Counsel as hearing officer for the State Board of Insurance at 11:30 a.m. on November 5, 1992, in Room 100 of the Texas Department of Insurance Building at 333 Guadalupe in Austin. Prehearing conferences are held pursuant to Title 28 §1.37, Texas Administrative Code and may be held for specific purposes as outlined in §1.37. The prehearing conference will be held for, but not limited for, the following purposes: considering the formulation and simplification of issues; considering the procedure at the hearing; considering admissions of certain averments of fact or stipulations concerning the use by parties of matters of public record; considering agreements to limit, where possible, the number of witnesses; ruling on such other matters as may aid in the simplification of the proceedings; and setting a deadline for discovery and prefiling of testimony; and among other matters that will be subject to final determination by the general counsel at this prehearing conference will be all decisions on the admission of parties.

Subsequent prehearing conferences will be scheduled upon request and as necessary to rule on late-filed motions for intervention for good cause, to group parties with similar interests who may be required or allowed to make a common presentation at the hearing, to resolve prehearing disputes, or to rule on other matters as may aid in the simplification of the proceedings.

Statutes and Rules Involved. The Rules of Practice and Procedure before the State Board of Insurance applicable to contested cases (Texas Administrative Code, Title 28, Chapter 1, Subchapter A) and the contested case provisions of Texas Civil Statutes, Article 6252-13a (the Administrative Procedure and Texas Register Act), will govern the procedural aspects of the hearing which deal exclusively with the revision and promulgation of rates.

Your attention is called to the Rules of Practice and Procedure before the State Board of Insurance and the Commissioner of Insurance, Rule Number 1.9:

Rule 1.9. Failure to Appear at Hearing. Even though some or all of the parties fail to appear in person or through their duly authorized representatives, the board, the commissioner or the fire marshal may consider fully and dispose of the matter pending if notice has been given in accordance with law. Such consideration and decision shall be on the basis of the entire record in the proceedings.

Additional statements, briefs, arguments, and statistical information may be submitted at the hearing. Each page of

any exhibit offered in evidence at a hearing before the State Board of Insurance, including prefiled testimony, must be on 8 1/2" by 11" paper, and must be on paper three-hole-punched along the left margin. The front page of each exhibit should indicate that the exhibit would be part of the record of a public hearing before the State Board of Insurance and should identify the subject of the hearing, the docket number, the date of the hearing, and the party offering the exhibit. On the front page, the party offering the exhibit should also describe the exhibit and leave a space for numbering the exhibit. For example:

Public Hearing before the State Board of Insurance.

Subject of Hearing: Comm. Prop. Insurance Rates-CAT POOL.

Docket No. _____

Date: _____

Party: _____

Exhibit # _____

Description of Exhibit _____

Each party to the hearing shall file with the Chief Clerk of the State Board of Insurance, by the respective deadlines as established at a prehearing conference, six copies of each exhibit that the party will offer as an exhibit at the hearing, including prefiled testimony. A prospective party that files its exhibits with the Chief Clerk in a timely manner is entitled to obtain from the Chief Clerk before the date of the hearing one copy of each of the exhibits submitted by the other parties. Address filings to Chief Clerk, State Board of Insurance, 333 Guadalupe, Tower One, 13th Floor, Austin, Texas 78701.

A party offering exhibits into evidence at the hearing should be prepared with sufficient copies of each proposed exhibit to furnish the following: the original exhibit, which will be tendered to the Chief Clerk for marking and retention for the official record, after which the attorneys shall use an exact photocopy of such marked exhibit in the examination of the witness; and one copy for the Chief Clerk; a copy to be tendered to each of the three Board Members for their use in ruling on the admissibility of the exhibit; two copies for use by the General Counsel; and one copy each for every other party admitted to the hearing.

After identification of the exhibit and any use of it by a witness, the original of each exhibit should be returned to and retained by the Chief Clerk as a part of the record in the case.

All deadlines in this notice are subject to change at the board's discretion except for items requiring statutory notice.

The proceedings, or any part of them will be transcribed upon written request by any party and the agency may assess the cost to one or more parties.

In contested cases, all parties are entitled to the assistance of their counsel before administrative agencies. This right may be expressly waived.

Please direct inquiries regarding this hearing to Ms. Gloria Leal, General Counsel, Mail Code 113-2A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104, telephone (512) 463-6331.

Issued in Austin, Texas, October 21, 1992.

TRD-9214242

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

Filed: October 21, 1992



Notice is hereby given that a hearing under Docket Number 1945 will be held before the State Board of Insurance beginning at 10 a.m. on November 30, 1992, and continuing thereafter at dates, times, and places designated by the board until conclusion. The purpose of the hearing is to establish benchmark rates and flexibility bands for private passenger and commercial automobile insurance and to consider such other matters as may properly be brought before the board, including the spreading of the benchmark rates among relevant classifications and territories. The hearing will be held in the board hearing room on the first floor of the William P. Hobby, Jr., State Office Building, 333 Guadalupe Street, Austin, Texas 78701.

Authority, Jurisdiction, and Statutes and Rules Involved.

Texas Insurance Code, Article 1.04, Duties and Organization of the State Board of Insurance.

Texas Insurance Code, Article 5.101, Flexible Rating Program for Certain Insurance Lines.

Texas Insurance Code, Article 5.06, Policy Forms and Endorsements.

Texas Insurance Code, Article 5.10, Rules and Regulations.

Texas Insurance Code, Article 5.96, Promulgated Lines.

Rules of Practice and Procedure before the State Board of Insurance and the Commissioner of Insurance. The order and procedure of presentation at the hearing on the determination of a benchmark rate and flexibility band under Docket Number 1945 will be governed by the Rules of Practice and Procedure before the State Board of Insurance (Texas Administrative Code, Title 28, Chapter 1, Subchapter A) and by the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a). Adoption and revision of statistical plans and manual rules, and related matters including spreading of the benchmark rates among classifications and territories, will be governed by the Rules of Practice and Procedure before the State Board of Insurance and the procedures outlined in Texas Insurance Code, Article 5.96. Reference is hereby made to the above cited statutes, and to the Texas Insurance Code, Chapter 5, Subchapters A-L and Subchapter M, and the manual entitled Texas Automobile Rules and Rating Manual commonly called the Texas Automobile Manual, and the rules entitled Automobile Liability Experience Rating Plan, as statutes or rules applicable to automobile insurance which may be involved.

Motions for Admission as a Party. Anyone who wishes to participate in the hearing as a party must, by the close of business on Monday, November 2, 1992, present a motion for admission as a party to the Office of the General Counsel of the Texas Department of Insurance in Tower One, 13th floor of the State Insurance Building at 333 Guadalupe, Austin. The motion must be in writing and must contain a full explanation of the identifiable separate interest and separate contribution which would constitute sufficient justification for granting of the motion for ad-

mission as a party. Without a showing of good cause, the board will not accept any motion for admission as a party after the close of business on Friday, November 13, 1992, and any decision on admission or consolidation of parties at the prehearing conference will be final, subject to review by the board.

Pre-Hearing Conference. An initial prehearing conference will be held before the General Counsel as hearing officer for the State Board of Insurance at 1:30 p.m. on November 5, 1992, in Room 100 of the Texas Department of Insurance Building at 333 Guadalupe in Austin. Prehearing conferences are held pursuant to Title 28 Texas Administrative Code, §1.37, and may be held for specific purposes as outlined in §1.37. The prehearing conference will be held for, but not limited for, the following purposes: considering the formulation and simplification of issues; considering the procedure at the hearing; considering admissions of certain averments of fact or stipulations concerning the use by parties of matters of public record; considering agreements to limit, where possible, the number of witnesses; and ruling on such other matters as may aid in the simplification of the proceedings.

Among other matters that will be subject to final determination by the general counsel at this prehearing conference will be all decisions on the admission of parties.

Subsequent prehearing conferences will be scheduled upon request and as necessary to rule on late-filed motions for intervention for good cause, to group parties with similar interests who may be required or allowed to make a common presentation at the hearing, to resolve prehearing disputes, or to rule on other matters as may aid in the simplification of the proceedings.

Discovery and Prefiling of Testimony. Each party to the hearing will be required to respond in writing to requests for information served on it in writing by other parties to the hearing, during the period from November 6, 1992-November 23, 1992. Each party will have ten days to respond to any such request for information duly served.

Each party to the hearing shall be required to designate, by no later than November 16, 1992, each expert witness who is expected to testify on such party's behalf at the hearing.

Each party to the hearing shall prefile with the Chief Clerk of the Texas Department of Insurance, and with every other party, by no later than the applicable deadlines set forth below, the testimony such party intends to offer at the hearing, together with related exhibits and supporting work papers: November 18, 1992-Parties prefile their direct cases, November 23, 1992-Parties prefile their rebuttal cases.

Such prefiled testimony shall meet, and shall be filed in accordance with, the requirements for hearing exhibits that are set forth under Conduct of the Hearing herein.

Matters to be Considered. Under Docket Number 1945, the State Board of Insurance will consider testimony presented and information filed for the consideration of the Board by insurers, the Office of Public Insurance Counsel and other interested parties relating to the determination of benchmark rates and flexibility bands for private passenger and commercial automobile insurance, including the spreading of the benchmark rate among relevant classifications and territories. The State Board of Insurance has the statutory authority and duty pursuant to the Texas Insurance Code, Article 5. 101 to promulgate a benchmark rate and a flexibility band for each line of insurance subject to Article 5.101, including private passenger and commercial

automobile insurance, after notice and hearing pursuant to the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a).

The State Board of Insurance must set the benchmark rate and the flexibility band for each subject line of insurance in a range that promotes stability and that will produce rates that are just, reasonable, adequate, and not excessive for the risks to which they apply, and not confiscatory. In determining the benchmark rate and the flexibility band, the State Board of Insurance may give due consideration to the factors listed in Article 5.101, §3(b).

You are also notified that the State Board of Insurance will, under its own discretion with or without a formal motion, or on the motion of any party, consider such other matters as filed of record with the Chief Clerk pertaining to the setting of benchmark rates if the State Board of Insurance determines that such consideration is necessary for it to make an informed decision on the matters pending before the board in this docket.

Conduct of the Hearing. The benchmark rates and the flexibility bands for private passenger and commercial automobile insurance will be considered in accordance with the Administrative Procedure and Texas Register Act and the Rules of Practice and Procedure before the State Board of Insurance. See statutes and rules involved regarding related matters.

Your attention is called to the rules of practice and procedure before the State Board of Insurance and the Commissioner of Insurance, Rule Number 1.9:

Rule 1.9. Failure to Appear at Hearing. Even though some or all of the parties fail to appear in person or through their duly authorized representatives, the board, the commissioner or the fire marshal may consider fully and dispose of the matter pending if notice has been given in accordance with law. Such consideration and decision shall be on the basis of the entire record in the proceedings.

Additional statements, briefs, arguments, and statistical information may be submitted at the hearing.

Each page of any exhibit offered in evidence at a hearing before the State Board of Insurance, including prefiled testimony, must be on 8 1/2" by 11" paper, and must be on paper three-hole-punched along the left margin. The front page of each exhibit should indicate that the exhibit would be part of the record of a public hearing before the State Board of Insurance and should identify the subject of the hearing, the docket number, the date of the hearing, and the party offering the exhibit. On the front page, the party offering the exhibit should also describe the exhibit and leave a space for numbering the exhibit. For example:

Public Hearing before the State Board of Insurance

Subject of Hearing: Benchmark Rate and Flexibility Band for Private Passenger and Commercial Automobile Insurance

Docket No. _____

Date: _____

Party: _____

Exhibit # _____

Description of Exhibit _____

Each party to the hearing shall file with the Chief Clerk of the State Board of Insurance, by the respective deadlines

as established at a prehearing conference, six copies of each exhibit that the party will offer as an exhibit at the hearing, including prefiled testimony. A prospective party that files its exhibits with the Chief Clerk in a timely manner is entitled to obtain from the Chief Clerk before the date of the hearing one copy of each of the exhibits submitted by the other parties. Address filings to Chief Clerk, State Board of Insurance, 333 Guadalupe, Tower One, 13th Floor, Austin, Texas 78701.

Parties offering exhibits into evidence at the hearing should be prepared with sufficient copies of each proposed exhibit to furnish the following: the original exhibit, which will be tendered to the Chief Clerk for marking and retention for the official record, after which the attorneys shall use an exact photocopy of such marked exhibit in the examination of the witness; and one copy for the Chief Clerk; a copy to be tendered to each of the three board members for their use in ruling on the admissibility of the exhibit; two copies for use by the General Counsel; and one copy each for every other party admitted to the hearing.

After identification of the exhibit and any use of it by a witness, the original of each exhibit should be returned to and retained by the Chief Clerk as a part of the record in the case.

Attached to this notice is a copy of the timetable for Private Passenger and Commercial Automobile Insurance.

All deadlines in this notice are subject to change at the board's discretion except for items requiring statutory notice.

The proceedings, or any part of them will be transcribed upon written request by any party and the agency may assess the cost to one or more parties.

In contested cases, all parties are entitled to the assistance of their counsel before administrative agencies. This right may be expressly waived.

Please direct inquiries regarding this hearing to Gloria Leal, General Counsel, Mail Code 113-2A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104 Austin, Texas 78714-9104, telephone (512) 463-6331.

Issued in Austin, Texas, October 21, 1992.

TRD-9214243 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of Insurance

Filed: October 21, 1992



Notice is hereby given that a hearing under Docket Number 1946 will be held before the State Board of Insurance beginning at 10 a.m. on November 16, 1992, and continuing thereafter at dates, times, and places designated by the Board until conclusion. The purpose of the hearing is to establish a benchmark rate and flexibility band for residential property, homeowners, dwelling, farm and ranch, and farm and ranch owners insurance and to consider such other matters as may properly be brought before the board, including the spreading of the benchmark rates among relevant classifications and territories. The disallowed expense data call is not due until October 30, 1992. After receipt of the data, preparation of the data for the hearing may not allow sufficient time for the parties to analyze the submitted data. Therefore, it may be necessary to convene

the hearing on November 16, 1992, and recess to a later date as specified by the board. The hearing will be held in the board hearing room on the first floor of the William P. Hobby, Jr., State Office Building, 333 Guadalupe Street, Austin, Texas 78701.

Authority, Jurisdiction, and Statutes and Rules Involved. The State Board of Insurance has the authority and jurisdiction to prescribe, fix, determine, and promulgate benchmark rates and flexibility bands applicable to the writing of residential property insurance pursuant to the Texas Insurance Code, Articles 1.04, 5.96, and 5.101.

Rules of Practice and Procedure before the State Board of Insurance and the Commissioner of Insurance. The order and procedure of presentation at the hearing on the determination of a benchmark rate and flexibility band under Docket Number 1946 will be governed by the Rules of Practice and Procedure before the State Board of Insurance (Texas Administrative Code, Title 28, Chapter 1, Subchapter A) and by the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a). Adoption and revision of statistical plans and manual rules, and related matters including spreading of the benchmark rates among classifications and territories, will be governed by the Rules of Practice and Procedure before the State Board of Insurance and the procedures outlined in the Texas Insurance Code, Article 5.96. Reference is hereby made to the above cited statutes, and to the Texas Insurance Code, Chapter 5, Subchapters A-L and Subchapter M, and the manuals and General Basic Schedules for all residential property lines.

Motions for Admission as a Party. Anyone who wishes to participate in the hearing as a party must, by 5 p.m. on Monday, November 2, 1992, present a motion for admission as a party to the Office of the General Counsel of the Texas Department of Insurance in Tower One, 13th floor of the State Insurance Building at 333 Guadalupe, Austin. The motion must be in writing and must contain a full explanation of the identifiable separate interest and separate contribution which would constitute sufficient justification for granting of the motion for admission as a party. Without a showing of good cause, the board will not accept any motion for admission as a party after 5 p.m. on Friday, November 6, 1992, and any decision on admission or consolidation of parties at the prehearing conference will be final, subject to review by the board.

Prehearing Conference. An initial prehearing conference will be held before the General Counsel as hearing officer for the State Board of Insurance at 10 a.m. on November 5, 1992, in Room 100 of the Texas Department of Insurance Building at 333 Guadalupe in Austin. Prehearing conferences are held pursuant to Title 28 Texas Administrative Code, §1.37, and may be held for specific purposes as outlined in §1.37. The prehearing conference will be held for, but not limited for, the following purposes: considering the formulation and simplification of issues; considering the procedure at the hearing; considering admissions of certain averments of fact or stipulations concerning the use by parties of matters of public record; considering agreements to limit, where possible, the number of witnesses; ruling on such other matters as may aid in the simplification of the proceedings; and setting a deadline for discovery and prefiling of testimony; and among other matters that will be subject to final determination by the general counsel at this prehearing conference will be all decisions on the admission of parties.

Subsequent prehearing conferences will be scheduled upon request and as necessary to rule on late-filed motions for intervention for good cause, to group parties with similar interests who may be required or allowed to make a common presentation at the hearing, to resolve prehearing disputes, or to rule on other matters as may aid in the simplification of the proceedings.

Matters to be Considered. Under Docket Number 1946, the State Board of Insurance will consider testimony presented and information filed for the consideration of the board by insurers, the Office of Public Insurance Counsel and other interested parties relating to the determination of benchmark rates and flexibility bands for residential property insurance, including the spreading of the benchmark rate among relevant classifications and territories. The State Board of Insurance has the statutory authority and duty pursuant to the Texas Insurance Code, Article 5.101, to promulgate a benchmark rate and a flexibility band for each line of insurance subject to Article 5.101, including residential property insurance, after notice and hearing pursuant to the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a).

The State Board of Insurance must set the benchmark rate and the flexibility band for each subject line of insurance in a range that promotes stability and that will produce rates that are just, reasonable, adequate, and not excessive for the risks to which they apply, and not confiscatory. In determining the benchmark rate and the flexibility band, the State Board of Insurance may give due consideration to the factors listed in Article 5.101, §3(b).

You are also notified that the State Board of Insurance will, under its own discretion with or without a formal motion, or on the motion of any party, consider such other matters as filed of record with the Chief Clerk relating to the setting of benchmark rates if the State Board of Insurance determines that such consideration is necessary for it to make an informed decision on the matters pending before the board in this docket.

Conduct of the Hearing. The benchmark rates and the flexibility bands for residential property insurance will be considered in accordance with the Administrative Procedure and Texas Register Act and the Rules of Practice and Procedure before the State Board of Insurance. See statutes and rules involved regarding related matters.

Your attention is called to the Rules of Practice and Procedure before the State Board of Insurance and the Commissioner of Insurance, Rule Number 1.9:

Rule 1.9. Failure to Appear at Hearing. Even though some or all of the parties fail to appear in person or through their duly authorized representatives, the board, the commissioner or the fire marshal may consider fully and dispose of the matter pending if notice has been given in accordance with law. Such consideration and decision shall be on the basis of the entire record in the proceedings.

Additional statements, briefs, arguments, and statistical information may be submitted at the hearing.

Each page of any exhibit offered in evidence at a hearing before the State Board of Insurance, including prefiled testimony, must be on 8 1/2" by 11" paper, and must be on paper three-hole-punched along the left margin. The front page of each exhibit should indicate that the exhibit would be part of the record of a public hearing before the State Board of Insurance and should identify the subject of the hearing, the docket number, the date of the hearing, and

the party offering the exhibit. On the front page, the party offering the exhibit should also describe the exhibit and leave a space for numbering the exhibit. For example:

Public Hearing before the State Board of Insurance
Subject of Hearing: Benchmark Rate and Flexibility Band for Residential Property Insurance

Docket No. _____

Date: _____

Party: _____

Exhibit # _____

Description of Exhibit _____

Each party to the hearing shall file with the Chief Clerk of the State Board of Insurance, by the respective deadlines as established at a prehearing conference, six copies of each exhibit that the party will offer as an exhibit at the hearing, including prefiled testimony. A prospective party that files its exhibits with the Chief Clerk in a timely manner is entitled to obtain from the Chief Clerk before the date of the hearing one copy of each of the exhibits submitted by the other parties. Address filings to Chief Clerk, State Board of Insurance, 333 Guadalupe, Tower One, 13th Floor, Austin, Texas 78701.

Parties offering exhibits into evidence at the hearing should be prepared with sufficient copies of each proposed exhibit to furnish the following: the original exhibit, which will be tendered to the Chief Clerk for marking and retention for the official record, after which the attorneys shall use an exact photocopy of such marked exhibit in the examination of the witness; and one copy for the Chief Clerk; a copy to be tendered to each of the three board members for their use in ruling on the admissibility of the exhibit; two copies for use by the General Counsel; and one copy each for every other party admitted to the hearing.

After identification of the exhibit and any use of it by a witness, the original of each exhibit should be returned to and retained by the Chief Clerk as a part of the record in the case.

All deadlines in this notice are subject to change at the board's discretion except for items requiring statutory notice.

The proceedings, or any part of them will be transcribed upon written request by any party and the agency may assess the cost to one or more parties.

In contested cases, all parties are entitled to the assistance of their counsel before administrative agencies. This right may be expressly waived.

Please direct inquiries regarding this hearing to Gloria Leal, General Counsel, Mail Code 113-2A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104 Austin, Texas 78714-9104, telephone (512) 463-6331.

Issued in Austin, Texas, October 21, 1992.

TRD-9214244 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of Insurance

Filed: October 21, 1992



Texas Parks and Wildlife Department Cancellation of Hearing

Notice is hereby given that a hearing originally scheduled for October 29, 1992, at 9 a.m., State Office of Administrative Hearings, 300 West 15th Street, Suite 408, Austin, Texas 78701, concerning the application of Sanchez-O'Brien Oil and Gas Corporation, P.O. Box 2986, Laredo, Texas 78044-2986 for an easement to construct two drillsite pads for oil and gas exploration on the Falcon State Park in Starr County has been cancelled.

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

TRD-9214207 Paul M. Shinkawa
General Counsel
Texas Parks and Wildlife Department

Filed: October 20, 1992

Public Utility Commission of Texas Notice of Joint Filing for Extended Area Service

Southwestern Bell Telephone Company (SWBT) and Yoakum exchange have filed with the Public Utility Commission of Texas (PUC) a joint petition for proposed tariff revisions including rate additives for optional two-way flat rate extended area service (EAS) between the Yoakum and Victoria exchanges.

If the proposal is approved, customers residing in the Yoakum exchange who elect to subscribe to EAS will pay current rates for basic local exchange service plus EAS rate additives, as follows, listed by class of service and EAS additive: one party residence-\$28; one party business-\$60; multi-line hunting-\$70.80; PBX trunk-\$70.80; hotel/motel trunk-\$60.

The proposal is being made through the joint petition before PUC on behalf of SWBT, the City of Yoakum, and unincorporated areas of the Yoakum exchange. PUC has assigned Project Number 11462 to this filing.

Persons who wish to intervene or otherwise participate in this proceeding should notify the commission as soon as possible. A request to intervene, participate, or for further information should be mailed to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, 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).

The deadline to intervene in the docket will be 60 days from the date public notice is completed.

Copies of the joint filing may be obtained from the Public Utility Commission of Texas, or from Southwestern Bell Telephone Company, 1616 Guadalupe, Room 600, Austin, Texas 78701, Attention: T. Michael Payne.

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

TRD-9214137 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 19, 1992

Center for Rural Health Initiatives Request for Proposal

The Texas Center for Rural Health Initiatives (CRHI) invites proposals from interested parties for the development of Medicare certified Rural Health Clinics in medically underserved areas of rural Texas. The CRHI will contract with up to 20 projects that are either in the development stages of becoming a Medicare certified Rural Health Clinic or are already certified and in the first six months of operation. Funding under the Rural Health Clinic Development Program will begin January 1, 1993, and end August 31, 1993.

Background. The medically underserved areas of rural Texas and specifically the Medicaid/Medicare population continue to face barriers in accessing primary medical care. The 71st Legislature, in passing House Bill 18 in 1989, opened the door for the establishment of Medicare certified Rural Health Clinics in Texas by allowing physicians to delegate prescriptive authority to a physician assistant, certified nurse mid-wife or advanced nurse practitioner practicing in the medically underserved areas of Texas. There was one Certified Rural Health Clinic in Texas in 1989. Today there are more than 90 certified clinics with many in the certification process. The most often noted barrier with the establishment of a Rural Health Clinic is the amount of time between the certification date and the date of the first reimbursement received from the federally funded programs of Medicaid and Medicare. The average period of this delay has been three to four months which creates a financial hardship.

Contract period. The proposed contract between the CRHI and the selected applicants will begin no later than January 1, 1993, and run through August 31, 1993.

Budget limitations. The CRHI will provide a maximum of \$25,000 each for up to 20 Rural Health Clinics. This contract can be used to cover the costs of Rural Health Clinic staff salaries, facility interior remodeling, and supplies necessary to develop a Rural Health Clinic. Proposals with a total request in excess of \$25,000 shall be rejected as non-responsive. Availability of funds for the program will depend on the merits of the contractors' proposals. These funds may not be used to retire debt incurred with respect to any capital expenditures made prior to the date of this application.

Program description. The purpose of the Rural Health Clinic Development Program is to offer financial assistance in the development of Rural Health Clinics that are in the certification process or have been certified for less than six months.

Eligibility requirements. An applicant requesting funding through the Rural Health Clinic Development Program must have completed a feasibility study or be in one of the following phases of the process of certification for a Medicare certified Rural Health Clinic: submitted a completed certification application packet to the Texas Department of Health (TDH); requested a certification survey; have received approval recommendation by TDH as a certified Rural Health Clinic and is awaiting final certification by the United States Department of Health and Human Services (USDHHS); or have been certified by the USDHHS as a Rural Health Clinic within six months of the date of publication of this RFP in the *Texas Register*.

Application packets may be obtained by contacting Melissa L. Kemp, Rural Health Specialist, Center for

Rural Health Initiatives, 211 East Seventh Street #915, P.O. Drawer 1708, Austin, Texas 78767-1708, (512) 479-8891.

Submission address. Proposals must be mailed or delivered to Laura M. Jordan, Acting Executive Director, Center for Rural Health Initiatives, 211 East Seventh Street #915, P.O. Drawer 1708, Austin, Texas 78767-1708.

Deadline for submission. Proposals must be received by 4:30 p.m., November 23, 1992. Late responses shall automatically be disqualified from further consideration. The method of delivery shall be at the discretion of the applicant and shall be at the applicant's sole risk to assure delivery at the designated office.

Proposal contents. Proposals must be in the prescribed format as described in the application packet. The applicant is specifically notified that failure to comply with any part of the Request for Proposals may result in rejection of the proposal as non-responsive. Three unbound copies of each proposal should be submitted.

Evaluation of proposal. Each proposal will be evaluated and ranked according to relative need based on the following: the applicant has fully identified and documented the need for the project based on the percentage of Medicaid/Medicare recipients, service area demographics and availability of primary care services; the applicant has demonstrated a financial need; the applicant has demonstrated the financial feasibility of the clinic based on feasibility study summary.

Priority will be given to proposals that demonstrate community support.

Awards. Review of the proposals shall be completed within 15 working days following the close of filing and applicants will be notified in writing within five working days of the review period if they are designated as a funded project. All applicants will be notified of the disposition of the Rural Health Clinic Development Program proposals within 25 working days following the close of the proposals review period. The contracts developed will be based on the Request for Proposal, responses to the request, the Uniform Grant and Management Standards, and the standard Texas Department of Health contract provisions.

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

TRD-9214234 Liberty R.O. Daniels
Executive Assistant
Center for Rural Health Initiatives

Filed: October 21, 1992

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Texas Water Commission

Request for Proposals

The Texas Water Commission (TWC) announces that it wishes to retain the services of a consultant to perform remedial investigation/feasibility studies (RI/FS) at two State Superfund sites. These sites are known as the JCS Company and Jerrell B. Thompson Battery State Superfund sites located in Van Zandt County. Contingent upon approval by the TWC, the consultant's services may be extended to include follow-on architectural/engineering activities at one or both of the sites if and when funds become available. This project will be conducted by the TWC pursuant to the Texas Solid Waste Disposal Act, §361.185, Texas Health and Safety Code, §361.001 et seq

(Vernons Supplement 1990); as well as any rules promulgated pursuant to this section by the TWC in Chapter 335 of the Texas Administrative Code, concerning the hazardous waste facility assessment and remediation program, commonly referred to as State Superfund.

The TWC may negotiate with potentially responsible parties (PRPs) to execute activities in this solicitation. Accordingly, all future TWC activities are subject to the outcome of those negotiations with the PRPs.

Objective. The objectives of the investigation and feasibility studies are to: characterize and identify the site in terms of wastes present; lateral and vertical extent of contamination in surface waters, ground waters, sediments, and soils; rate and direction of waste migration; target receptors (population at risk, threatened resources, sensitive ecosystems); site geology and hydrology; and develop and evaluate alternative remedial measures considering economic feasibility, technological feasibility, environmental impacts, and timeliness of completion, and offer recommendations regarding the most feasible remedial alternatives.

Budget and schedule. The maximum budget allowable will be consistent with the specific scope of work as determined by the TWC. Budgeted funds to perform each RI/FS is \$380,000 for the JCS Company site and \$310,000 for the Jerrell B. Thompson Battery site for a combined total of \$690,000.

Submittal information. Microfiche copies of relevant files are available through Beth Wigham, Records and Library Services Section, (512) 908-2920. A copy of the request for proposal (RFP) may be obtained in three ways: by sending a regular or certified letter requesting a copy of the RFP to: Scott T. Crouch, Superfund Investigation Section, Pollution Cleanup Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. Upon receipt, the TWC will transmit the RFP to the potential offeror by certified mail; by sending an overnight or expedited delivery letter requesting a copy of the RFP to Scott T. Crouch, Superfund Investigation Section, Pollution Cleanup Division, Texas Water Commission, Technical Park Center, Messenger Building B, 12118 IH-35 North, Suite 101, Austin, Texas 78753, with a prepaid self-addressed overnight or expedited delivery return envelope to accommodate approximately five pounds of 8-1/2 by 11 inches material; or in person with a signed letter of receipt at Technical Park Center, Messenger Building B, 12118 IH-35 North, Suite 101, Austin.

Mr. Crouch is the designated person to whom proposals may be made. Additional information may be obtained by calling (512) 908-2486. Six copies of each proposal must be received at the address listed in the above items before 5 p.m., November 17, 1992, which is the closing date for offers. All statements submitted in response to this request must address the items as described the RFP. Any and all information submitted by an offeror in variance with the RFP instructions will not be reviewed or evaluated. All contracting procedures shall be conducted in accordance with all applicable state laws.

Upon submittal, the proposals shall become the property of the State of Texas. The contents of the proposal shall be considered as part of the public record unless otherwise identified by the consultant. The submittal of confidential or proprietary information should be made under separate cover on or before the due date. Confidential submittals should be limited and must include an explanation of the basis for confidentiality. TWC reserves the right to reject or return confidential information.

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

TRD-9214225

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Filed: October 20, 1992



The Texas Water Commission (TWC) announces that it wishes to retain the services of a consultant to perform remedial investigation/feasibility studies (RI/FS) at two State Superfund sites. These sites are the Butler Ranch State Superfund Site located in Karnes County and the Hagerson Road State Superfund Site located in Fort Bend County. Contingent upon approval by the TWC, the consultant's services may be extended to include follow-on architectural/engineering activities at one or both of the sites if and when funds become available. This project will be conducted by the TWC pursuant to the Texas Solid Waste Disposal Act, §361.185, Texas Health and Safety Code, §361.001 et seq (Vernons Supplement 1990); as well as any rules promulgated pursuant to this section by the TWC in Chapter 335 of the Texas Administrative Code, concerning the hazardous waste facility assessment and remediation program, commonly referred to as State Superfund.

The TWC may negotiate with potentially responsible parties (PRPs) to execute activities in this solicitation. Accordingly, all future TWC activities are subject to the outcome of those negotiations with the PRPs.

Objective. The objectives of the investigation and feasibility studies are to characterize and identify the site in terms of wastes present; lateral and vertical extent of contamination in surface waters, ground waters, sediments, and soils; rate and direction of waste migration; target receptors (population at risk, threatened resources, sensitive ecosystems); site geology and hydrology; and develop and evaluate alternative remedial measures considering economic feasibility, technological feasibility, environmental impacts, and timeliness of completion, and offer recommendations regarding the most feasible remedial alternatives.

Budget and schedule. The maximum budget allowable will be consistent with the specific scope of work as determined by the TWC. Budgeted funds to perform each RI/FS is \$355,000 for the Butler Ranch site and \$265,000 for the Hagerson Road site for a combined total of \$620,000.

Submittal information. Microfiche copies of relevant files are available through Beth Wigham, Records and Library Services Section, (512) 908-2920. A copy of the request for proposal (RFP) may be obtained in three ways: by sending a regular or certified letter requesting a copy of the RFP to: Byron J. Ellington, Superfund Investigation Section, Pollution Cleanup Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. Upon receipt, the TWC will transmit the RFP to the potential offeror by certified mail; by sending an overnight or expedited delivery letter requesting a copy of the RFP to Byron J. Ellington, Superfund Investigation Section, Pollution Cleanup Division, Texas Water Commission, 12118 North IH-35, Messenger Building B, Suite 101, Austin, Texas 78753, with a prepaid self-addressed overnight or expedited delivery return envelope to accommodate approximately five pounds of 8-1/2 by 11 inches material; or in person with a signed letter of receipt at Technical Park Center, Messenger Building B, 12118 IH-35 North, Suite 101, Austin.

Mr. Ellington is the designated person to whom proposals may be made. Additional information may be obtained by calling Mr. Ellington at (512) 908-2490. Six copies of each proposal must be received at the address listed in the above items before 5 p.m., November 17, 1992, which is the closing date for offers. All statements submitted in response to this request must address the items as described the RFP. Any and all information submitted by an offeror in variance with the RFP instructions will not be reviewed or evaluated. All contracting procedures shall be conducted in accordance with all applicable state laws.

Upon submittal, the proposals shall become the property of the State of Texas. The contents of the proposal shall be considered as part of the public record unless otherwise identified by the consultant. The submittal of confidential or proprietary information should be made under separate cover on or before the due date. Confidential submittals should be limited and must include an explanation of the basis for confidentiality. TWC reserves the right to reject or return confidential information.

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

TRD-9214227

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Filed: October 20, 1992



1992 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the September-December 1992 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on February 28, November 6, December 1, and December 29. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
66 Tuesday, September 1	Wednesday, August 26	Thursday, August 27
67 Friday, September 4	Monday, August 31	Tuesday, September 1
68 Tuesday, September 8	Wednesday, September 2	Thursday, September 3
69 *Friday, September 11	Friday, September 4	Tuesday, September 8
70 Tuesday, September 15	Wednesday, September 9	Thursday, September 10
71 Friday, September 18	Monday, September 14	Tuesday, September 15
72 Tuesday, September 22	Wednesday, September 16	Thursday, September 17
73 Friday, September 25	Monday, September 21	Tuesday, September 22
74 Tuesday, September 29	Wednesday, September 23	Thursday, September 24
75 Friday, October 2	Monday, September 28	Tuesday, September 29
76 Tuesday, October 6	Wednesday, September 30	Thursday, October 1
77 Friday, October 9	Monday, October 5	Tuesday, October 6
Tuesday, October 13	THIRD QUARTERLY INDEX	
78 Friday, October 16	Monday, October 12	Tuesday, October 13
79 Tuesday, October 20	Wednesday, October 14	Thursday, October 15
80 Friday, October 23	Monday, October 19	Tuesday, October 20
81 Tuesday, October 27	Wednesday, October 21	Thursday, October 22
82 Friday, October 30	Monday, October 26	Tuesday, October 27
83 Tuesday, November 3	Wednesday, October 28	Thursday, October 29
Friday, November 6	NO ISSUE PUBLISHED	
84 Tuesday, November 10	Wednesday, November 4	Thursday, November 5
85 Friday, November 13	Monday, November 9	Tuesday, November 10
*86 Tuesday, November 17	Tuesday, November 10	Thursday, November 12
87 Friday, November 20	Monday, November 16	Tuesday, November 17
88 Tuesday, November 24	Wednesday, November 18	Thursday, November 19
89 Friday, November 27	Monday, November 23	Tuesday, November 24
Tuesday, December 1	NO ISSUE PUBLISHED	
90 Friday, December 4	Monday, November 30	Tuesday, December 1
91 Tuesday, December 8	Wednesday, December 2	Thursday, December 3
92 Friday, December 11	Monday, December 7	Tuesday, December 8
93 Tuesday, December 15	Wednesday, December 9	Thursday, December 10
94 Friday, December 18	Monday, December 14	Tuesday, December 15

95 Tuesday, December 22	Wednesday, December 16	Thursday, December 17
96 Friday, December 25	Monday, December 21	Tuesday, December 22
Tuesday, December 29	NO ISSUE PUBLISHED	
1 Friday, January 1	Monday, December 28	Tuesday, December 29

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