

Texas Register

Volume 17, Number 82, October 30, 1992

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*1991 - 1992 Readers' Choice Award
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- Emergency Sections** - sections adopted by state agencies on an emergency basis
- Proposed Sections** - sections proposed for adoption
- Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Sections** - sections adopted following a 30-day public comment period
- Open Meetings** - notices of open meetings
- In Addition** - miscellaneous information required to be published by statute or provided as a public service

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

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

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

Texas Administrative Code

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

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

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

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

Texas Register Publications



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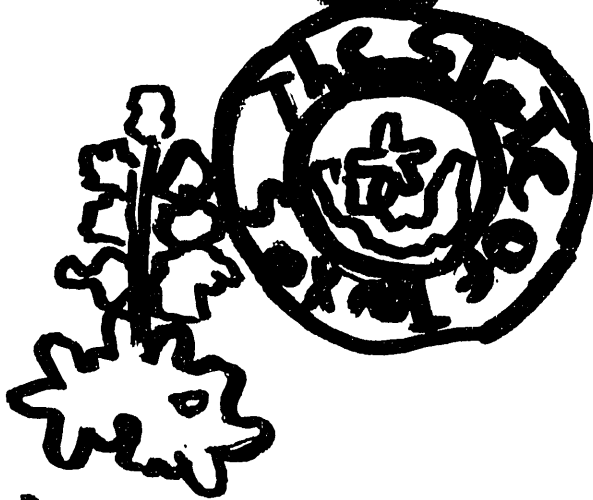
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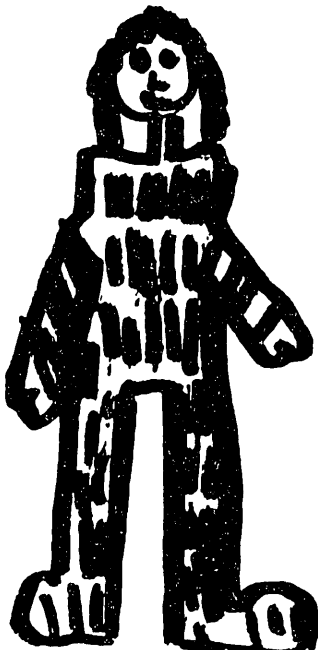


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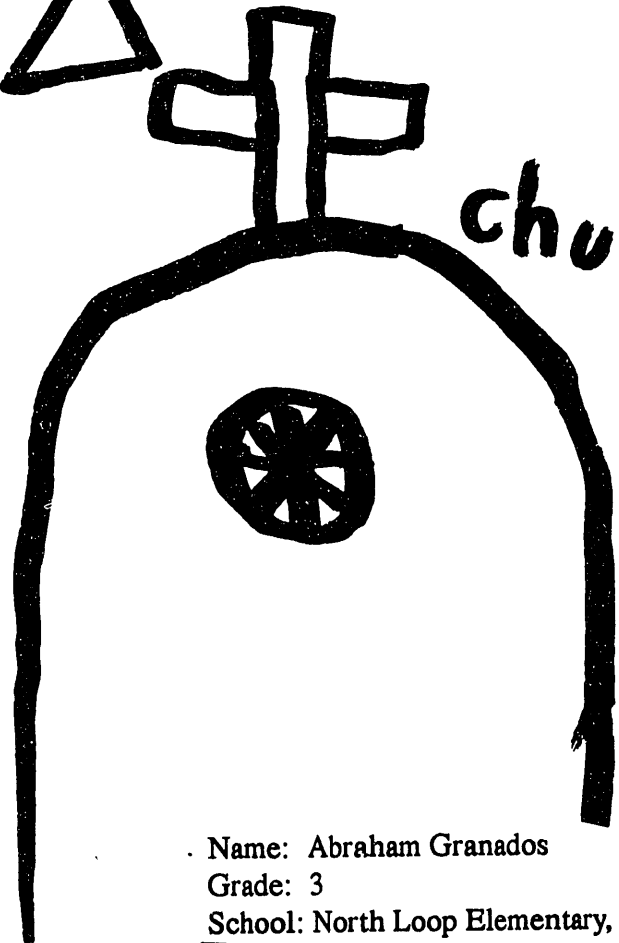


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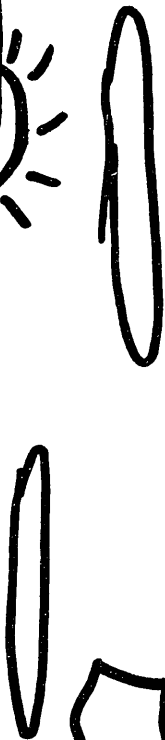
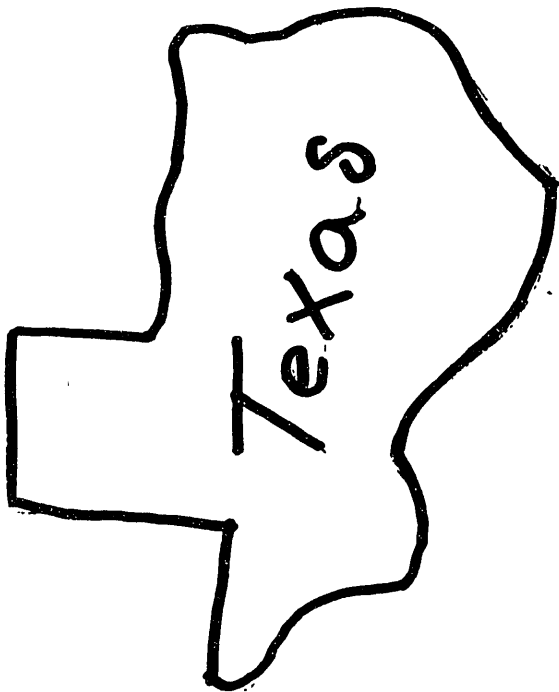
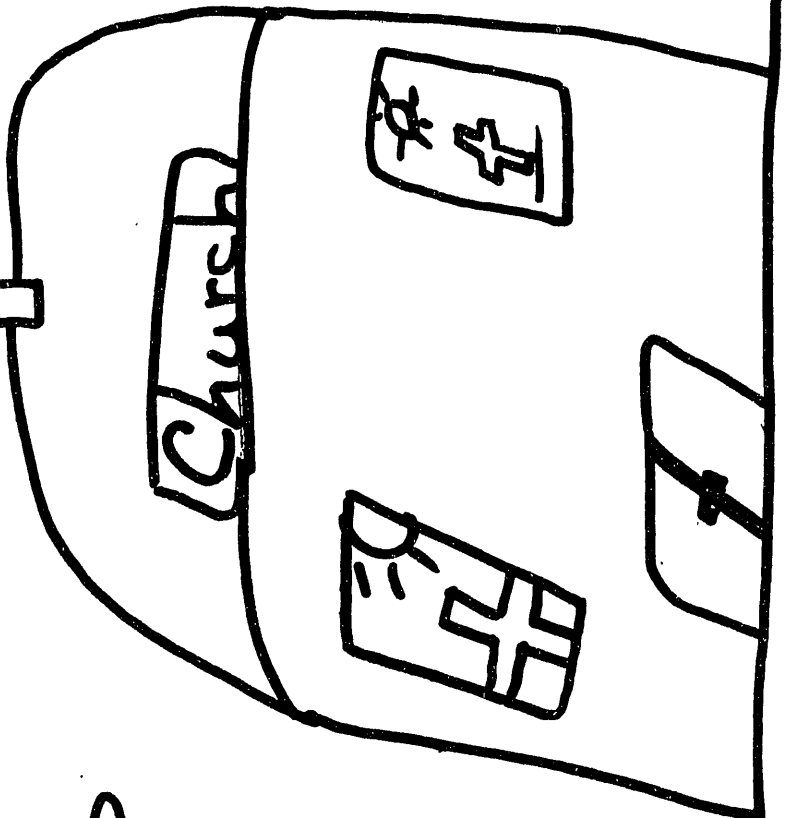
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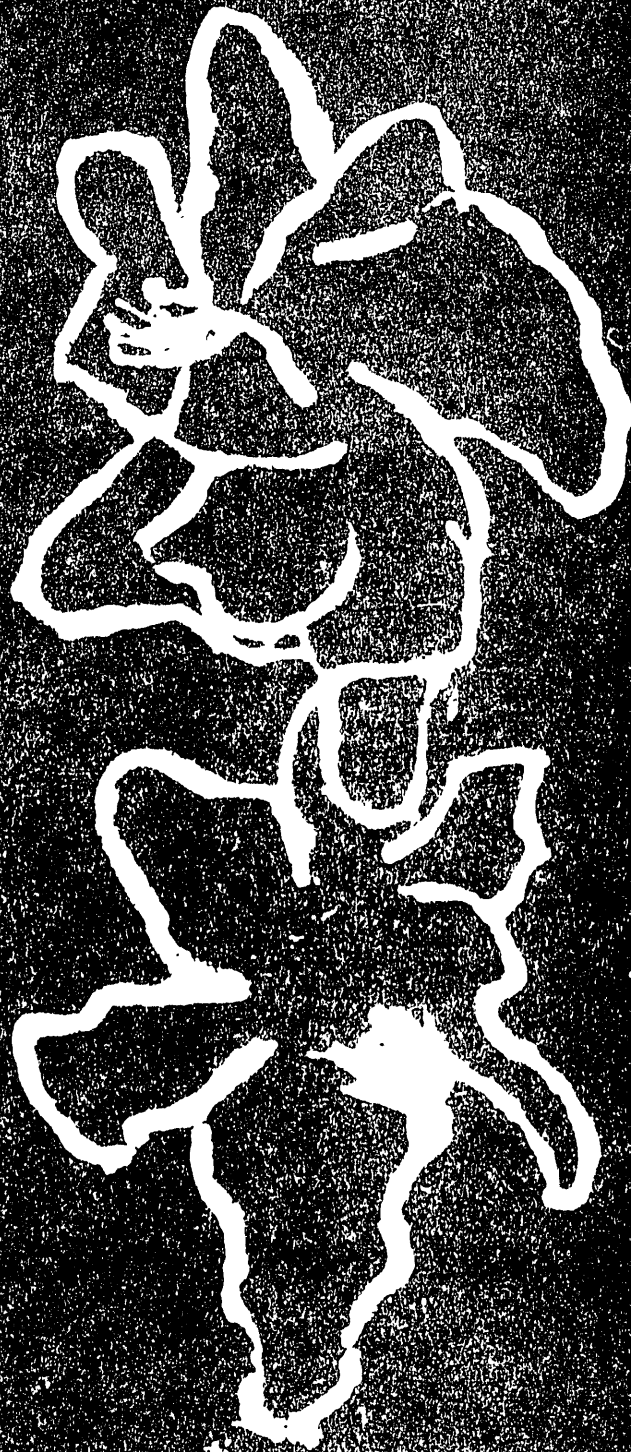
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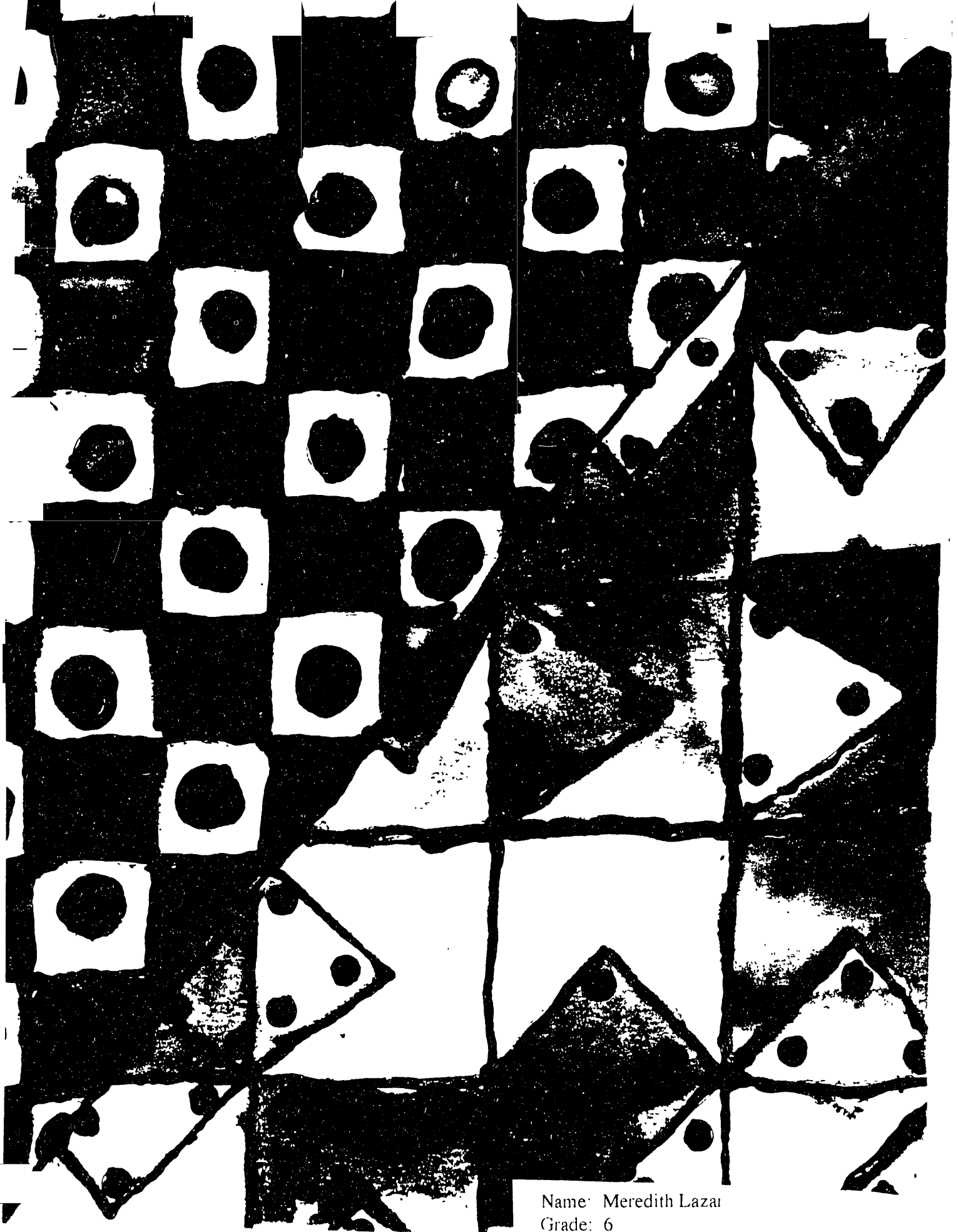
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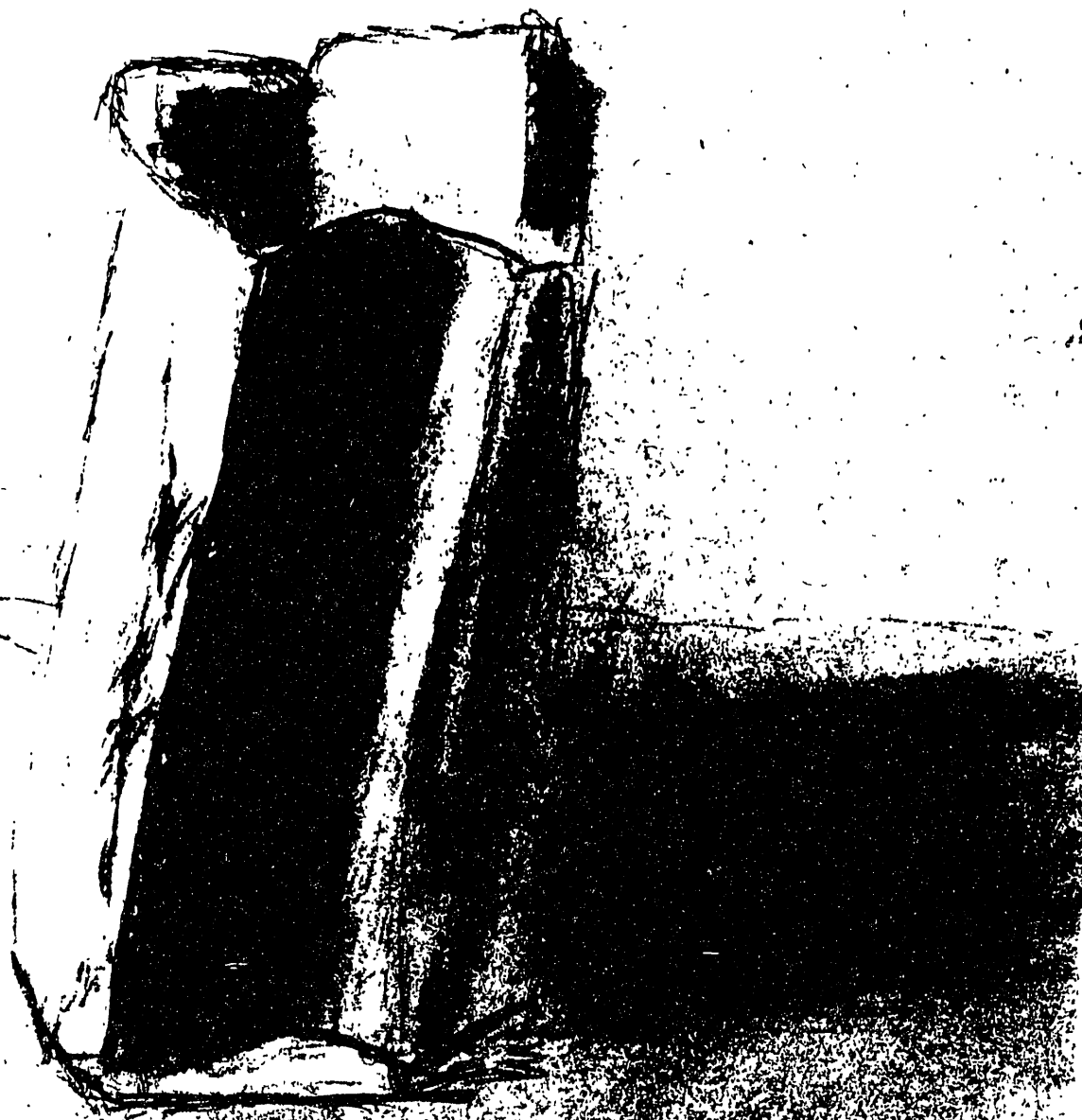
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Proposed Sections

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 13. CULTURAL RESOURCES

Part III. Texas

Commission on the Arts

Chapter 31. Agency Procedures

• 13 TAC §§31.3, 31.4, 31.6

The Texas Commission on the Arts proposes amendments to §§31.3, 31.4, and 31.6, concerning meetings, committees, and the advisory panel process. The amendments redefine the standing committees of the commission to reflect current priorities and practices, and clarify internal procedures regarding meetings and the regrant portion of the Assistance Review Advisory Panel process as it relates to the need for a quorum.

Connie Ree Green, director of finance and administration, 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. Green 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 these amendments will allow the commission to conduct its business in an efficient and orderly manner. 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 Connie Ree Green, Director of Finance and Administration, P.O. Box 13406, Austin, Texas 78711-3406.

The amendments are proposed under Texas Civil Statutes, Government Code, Chapter 444.009, which provide the Texas Commission on the Arts with the authority to make rules and regulations for its government and that of its officers and committees.

§31.3. Meetings.

(a) The commission shall hold at least four regular business meetings annually, normally in September, December, March, and June [November, February, and April]. A majority of the commissioners will set the date of regular meetings. Grant applications submitted to the commission will normally be considered at its June meeting [November and April meetings].

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

(f) At least 10 days [one week] prior to regular meetings, the staff shall furnish the members with necessary materials.

§31.4. Committees.

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

(f) Summary minutes will be kept of all standing committee meetings, copies of which shall be distributed to all commission members within 30 days after the meeting [promptly distributed to all committee members for review and then distributed to all commissioners].

(g) The standing committees shall be the following:

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

(4) The **Public/Private Partnership** [Business and Professional Involvement] Committee shall consist of at least three members and shall be responsible for coordinating activities of the commission and the business community. Additional noncommissioner members may be appointed. Reports and recommendations will be presented to the commission.

(5) The **liaison to the Governor's Office** [Mansion] Committee shall consist of at least three members and shall be responsible for maintaining direct communication with the Governor's Office on matters concerning the commission [the statutory duties of the commission in regard to the governor's mansion]. Reports and recommendations will be presented to the commission.

(6) The **Legislative Committee** shall consist of at least three members and shall be responsible for the development and initial approval of legislative approaches and strategies of the commission. Reports and recommendations will be presented to the commission.

[(6) The **Liaison Committee** shall consist of at least three members and shall be responsible for coordinating activities of the commission and approved statewide organizations.]

(7) The **Multicultural** [Minority Involvement] Committee shall consist of at least three members and shall be responsible

for coordinating activities of the commission and minority arts organizations. Additional noncommissioner members may be appointed. Reports and recommendations will be presented to the commission.

(8) The **Education Committee** shall consist of at least three members and shall be responsible for development and initial approval of all matters dealing with the commission's arts education initiatives. Reports and recommendations will be presented to the commission.

(9)[(8)] The **Officer Nominating Committee** shall consist of three members, the committee chairman to be appointed by the commission chairman and the other two members to be selected at large by the commission. The committee shall select a slate of nominees to serve as officers of the commission and shall recommend this slate of nominees to the commission at its quarterly meeting in **June** [April].

(h) (No change.)

§31.6. Required Advisory Panel Meetings and Required Advisory Panel Member Resignation upon Relocation Out-of-State.

(a) Recommendations from an advisory panel are acceptable only from a meeting of that advisory panel at which a quorum is present. The regrant [emergency] review process is the only exemption to this rule[.] as this process is administered by mail.

(b) (No change.)

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

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

TRD-9214396

Connie Ree Green
Director of Finance and
Administration
Texas Commission on the
Arts

Earliest possible date of adoption: November 30, 1992

For further information, please call: (512) 463-5535



TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Licensing and Regulation

Chapter 61. Boxing

• 16 TAC §§61.301-61.316

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

The Texas Department of Licensing and Regulation proposes the repeals of §§61.301-61.316, concerning karate. These sections are being repealed because karate is no longer covered by Texas Civil Statutes, Article 8501.1.

James D. Brush II, director, Policies and Standards Division, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Brush also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the repeal of rules that are no longer required. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to James D. Brush II, Director, Policies and Standards, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711.

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

§61.301. Professional Boxing Rules Applicable.

§61.302. Weights and Classes.

§61.303. Rounds; Number; Length; Rest Period.

§61.304. Contestants' Equipment.

§61.305. Method of Judging.

§61.306. Minimum Kicking Requirement.

§61.307. Fouls.

§61.308. Intentional Evasion of Contact.

§61.309. Referee Shall Have Power to Stop Contest.

§61.310. Procedure Where Failure to Compete.

§61.311. Failure to Resume Contest.

§61.312. Wiping Gloves.

§61.313. Method of Counting Over a Contestant Who is Down.

§61.314. Resuming Count.

§61.315. Communication of Counting Knockdowns.

§61.316. Change of Decision.

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-9214264

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

Earliest possible date of adoption: November 30, 1992

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

Chapter 66. Registration of Property Tax Consultants

• 16 TAC §§66.21, §66.24

The Texas Department of Licensing and Regulation proposes an amendment to §66.21 and new §66.24, concerning the registration of property tax consultants. Section 66.21 is amended to exempt real estate property tax consultants from the requirement that on or after February 1, 1995, a property tax consultant must be employed by or have an association with a registered senior property tax consultant and be under the direct supervision of the senior property tax consultant. New §66.24 establishes procedures for applicants to reschedule an examination.

James D. Brush II, director of policies and standards, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Brush also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result

of enforcing the sections will be to allow real estate property tax consultants to provide independent tax consulting services. 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 James D. Brush II, Director of Policies and Standards, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711.

The amendment and new section are proposed under Texas Civil Statutes, Article 8886, which provide the Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take action necessary to assure compliance with the intent and purposes of the Act.

§66.21. Registration Requirements.

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

(c) On and after February 1, 1995, a property tax consultant must be employed by or have an association with a registered senior property tax consultant and be under the direct supervision of the senior property tax consultant. A registered property tax consultant may only offer services to senior property tax consultants. There must be a legitimate employee/employer relationship or business association established. This requirement does not apply to a real estate property tax consultant.

(d) (No change.)

§66.24. License Requirements—Examinations.

(a) An applicant who wishes to reschedule his examination for a later date must notify the department in writing, post-marked no later than five working days before the exam date. Two free reschedules are allowed.

(b) An applicant who does not take an examination for which he was scheduled, and does not notify the department that he will not take the exam, must pay another exam fee.

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

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

TRD-9214258

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

Earliest possible date of adoption: November 30, 1992

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

Chapter 75. Air Conditioning and Refrigeration Contractor License Law

- 16 TAC §§75.1, 75.10, 75.20, 75.30, 75.40, 75.50, 75.60, 75.70, 75.80, 75.90, 75.100

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

The Texas Department of Licensing and Regulation proposes the repeals of §§75.1, 75.10, 75.20, 75.30, 75.40, 75.50, 75.60, 75.70, 75.80, 75.90, and 75.100, concerning air conditioning and refrigeration contractors. These sections are being repealed to allow for the adoption of edited, renumbered, and reorganized sections.

James D. Brush II, director, Policies and Standards Division, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Brush also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be clarification of existing rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to James D. Brush II, Director, Policies and Standards Division, P.O. Box 12157, Austin, Texas 78711.

The repeals are proposed under Texas Civil Statutes, Article 8861, which provide the Texas Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take all action necessary to assure compliance with the intent and purposes of the Act.

§75.1. Authority.

§75.10. Definitions.

§75.20. Licensing Requirements.

§75.30. Exemptions.

§75.40. Insurance Requirement.

§75.50. Reporting Requirements.

§75.60. Responsibilities of the Department.

§75.70. Responsibilities of the Licensee.

§75.80. Fees.

§75.90. Sanctions.

§75.100. Technical Requirements.

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

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

TRD-9214263

Jack W. Garleon
Executive Director
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: November 30, 1992

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

- 16 TAC §§75.1, 75.10, 75.20-75.25, 75.30, 75.40, 75.60, 75.70, 75.80, 75.90, 75.91, 75.100

The Texas Department of Licensing and Regulation proposes new §§75.1, 75.10, 75.20-75.25, 75.30, 75.40, 75.60, 75.70, 75.80, 75.90, 75.91, and 75.100, concerning air conditioning and refrigeration contractors. The new sections are being proposed to clarify, edit, renumber and reorganize existing rule. All fees remain the same as those currently in effect.

James D. Brush II, director, Policies and Standards Division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Brush II 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 clarification of existing rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to James D. Brush II, Director, Policies and Standards Division, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711.

The new sections are proposed under Texas Civil Statutes, Article 8861, which provide the Texas Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take all action necessary to assure compliance with the intent and purposes of the Air Conditioning and Refrigeration Contractor License Law.

§75.1. Authority. The sections in this chapter are authorized by the Air Conditioning and Refrigeration Contractor License Law, Article 8861, and Article 9100.

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

Advertising or advertisement—Any commercial message which promotes the services of an air conditioning and refrigeration contractor and which appears in or is presented on television, telephone solicitation, newspapers, magazines, leaflets, fliers, catalogs, direct mail literature, other printed material, an inside or outside sign, or window display.

Air conditioning and refrigeration subcontractor—A person or firm contracting with a licensed air conditioning contractor for any portion of work requiring a license under the Act. Responsibility for the work lies with the licensed contractor.

Air conditioning or heating unit—A stand-alone system with its own controls which conditions the air for a specific space and which does not require connection to other equipment, piping, or ductwork in order to function.

Assumed name—A business name legally registered by a corporation with the Secretary of State, or a business name registered with a county clerk, as an assumed name being used by a company.

Boiler—As defined in the Texas Boiler Law, Texas Civil Statutes, Article 5221c.

Business affiliation—The company that is being operated using the specific license issued.

Direct personal supervision—Directing and verifying the design, installation, construction, maintenance, service, repair, alteration, or modification of a product or equipment for compliance with mechanical integrity.

Heating capacity—British thermal units per hour (Btu/h) input.

Permanent office—Any office, branch office, or location which is authorized to enter into contractual obligations to perform air conditioning and/or refrigeration contracting work and/or has control or supervisory responsibility over these contracts.

§75.20. Licensing Requirements—Applications.

(a) Credit for air conditioning and refrigeration courses emphasizing hands-on training taken at schools accredited by the Texas Education Agency, the Coordinating Board of the Texas College and University System, and the National Association of Trade and Technical Schools will be allowed at the rate of one month's credit for each two months of successfully completed training. Transcripts are required.

(b) The evidence of insurance coverage will not be required before the examination has been passed.

(c) The registration fee and examination fee(s) must accompany the application. The application must be complete and must be received by the department not less than 45 days prior to the examination date.

§75.21. Licensing Requirements-Examinations.

(a) A Class A license exam shall consist of 100 questions. A Class B license exam shall consist of 50 questions.

(b) A passing grade on all exams shall be 70%. Eligibility for a license shall last not more than two years from the date of examination result notification.

(c) An applicant who does not make a passing grade shall be eligible for reexamination for no more than two years after the date of the exam, provided the applicant requests reexamination in writing and pays the reexamination fee. The notice and fees must be received by the department not less than 45 days prior to the date of the reexamination.

(d) The department shall notify the applicant of the time and place he is scheduled for examination(s) a reasonable amount of time before an examination. Applicants who are scheduled for an examination but fail to appear, and fail to notify the department not less than 72 hours before the exam must reapply and pay the registration and examination fees. An applicant who has notified the department more than 72 hours before an exam may receive a free reschedule which may be used no more than two years after the date of the exam which was rescheduled. Two free reschedules are allowed for each requested exam.

(e) An applicant may reschedule one time for an unforeseen emergency without using a free reschedule. The circumstances are subject to approval by the department. The reason for emergency rescheduling must be submitted in writing no later than 10 working days after the exam for which he was scheduled. Emergency reschedules may be used no more than two years after the date of the exam which was rescheduled.

(f) An analysis of performance on an exam will consist of a statement of the number of questions missed in each category of the exam. No actual questions will be sent to the applicant.

(g) An applicant may request special accommodations for an exam based on disability or language problems. The request must be in writing and must be received at least 45 days before the exam date. Requests must specify the type of special accommodation requested and the basis for the request. Proof of disability may be required. The department will make

reasonable accommodation in accordance with the Federal Americans With Disabilities Act.

(h) Reciprocal agreements with other states to waive exam requirements must be based on exam requirements judged by the department to be equal to or more stringent than those of the department.

§75.22. Licensing Requirements-General.

(a) Any work requiring a license under the Air Conditioning and Refrigeration Contractor License Law (Act) must be performed by a person or company licensed in accordance with the Act.

(b) Unless licensed under the provisions of the Act, it shall be unlawful for any person, partnership, firm, or corporation to display a sign or use any advertising that such person, partnership, firm, or corporation engages in the business of an air conditioning and refrigeration contracting.

(c) Each Class A and Class B air conditioning and refrigeration contractor's license shall expire three years after the date of issuance.

(d) A license number that has been relinquished, revoked, or expired without meeting reissuance requirements shall not be reassigned to any licensee. License numbers shall have the following form: Title/Class/Number/Endorsement code-TACL A000000C.

(e) Endorsement Codes are as follows: Environmental Air Conditioning-E; Commercial Refrigeration & Process Cooling and Heating-R; Combined Endorsements-C.

(f) A Class B licensed contractor may design, install, construct, maintain, service, repair, alter, or modify any unit of 25 tons or less of cooling capacity or 1.5 million Btu/h or less of heating capacity. In a building or a complex of buildings having more than one air conditioning or heating unit, a Class B license holder may work on a combination of units where the combination total is more than 25 tons cooling capacity or more than 1.5 million Btu/h, as long as each complete individual unit has a cooling capacity of 25 tons or less and a heating capacity of 1.5 million Btu/h or less.

(g) Any contractor who has a Class B license with either or both endorsements may upgrade either endorsement by passing the Class A examination for that endorsement. Class B commercial refrigeration/process cooling and heating endorsements that were granted by grandfathering, without examination, cannot be upgraded without passing a Class A examination for that endorsement.

(h) A contractor who wishes to have endorsements of different classes must have a separate license for each endorse-

ment. The licenses will not have concurrent expiration dates unless both are issued on the same date.

(i) A contractor may have only one endorsement per license when he has two licenses. Both licenses must have the same business affiliation and permanent and business addresses.

(j) The insurance requirement for separate licenses can be met with a single policy with limits at least as high as those required for a Class A license. A waiver of insurance for one license automatically applies to both licenses.

(k) Any violation of the law or the rules and regulations resulting in disciplinary action for one license may result in disciplinary action for the other license.

(l) Licensed air conditioning and refrigeration contractors shall not be simultaneously employed by, or work for, more than one business entity for which they are the only licensees.

§75.23. Licensing Requirements-Temporary Licenses.

(a) A contracting firm operating under a state license, whose only license holder is suddenly no longer available due to death, disability, or dissolution of a company, may request a temporary license from the commissioner. A temporary license is not available to a new unlicensed owner of a company who was not a part of the company before it was dissolved or sold, or to companies that rely on a sole licensed employee who leaves the company. The request must be made for an owner, partner, or employee who was affiliated with the firm at the time the license holder became unavailable. The person who will hold the temporary license must meet all eligibility requirements to take an examination for a license.

(b) The request must be in writing and must state the reason for the request. A completed application and the registration and exam fees must accompany the request. If the insurance in effect at the time of the sudden unavailability of the license holder does not extend to the current firm, a new certificate of insurance must accompany the request.

(c) A temporary license may be granted for a period extending 30 days beyond the date of the next exam period, not to exceed six months. The temporary license shall be of the same class and endorsement as the license needing to be replaced.

(d) The temporary license number will not be the same number to be assigned as a permanent license number. The temporary license shall be numbered by the de-

partment as follows:
Title/Class/Number/Endorsement
code/Temporary Designation-TACLAAOOCT.

§75.24. Licensing Requirements-Renewal.

(a) The department shall send a renewal notice/application to each license holder approximately three months prior to the expiration date. A license holder is responsible for the timely filing of the renewal application.

(b) The signed renewal application must include any changes of addresses or business affiliation. It must be accompanied by the renewal fee, any applicable late fees, and evidence of the insurance requirement if current insurance will expire less than 30 days after renewal. The renewal application and fee should be received by the department at least 30 days before expiration date so that the renewal can be processed and returned to the license holder before expiration. Each license shall be renewed for a three-year period.

(c) A contractor whose license is not renewed by expiration date is considered unlicensed and may not do any work for which a license is required under the Air Conditioning and Refrigeration Contractor License Law.

§75.25. Licensing Requirements-Reissuance.

(a) A license that has expired for a period of less than two years may be reissued upon submission of:

- (1) the renewal application;
- (2) payment of the renewal fee and late renewal fee as provided in §75.80 of this title (relating to Fees);
- (3) evidence of the insurance required as provided in §75.40 of this title (relating to Insurance Requirement); and
- (4) evidence of experience with the tools of the trade as provided in the Air Conditioning and Refrigeration Contractor License Law (Act), §4(e), using the date the application for renewal is received by the department as the date for determining compliance with the Act, §4(e).

(b) If an applicant has violated the Act or rules, the department may deny the reissuance of the license in accordance with the Act, §5.

(c) A license that has expired for a period of more than two years may not be renewed. The former license holder may obtain a new license in the same manner as a new applicant, including taking the applicable exam and payment of all required fees.

§75.30. Exemptions. Air conditioning and refrigeration contracting performed by a regular employee of a regulated electric or gas utility is exempt if it is performed in connection with the utility business in which the person is employed.

§75.40. Insurance Requirement.

(a) A Class A license requires commercial general liability insurance of at least:

- (1) \$300,000 per occurrence (combined for property damage and bodily injury);
- (2) \$300,000 aggregate (total amount the policy will pay for property damage and bodily injury coverage); and
- (3) \$300,000 aggregate for products and completed operations; and
- (4) in the event claims occur which reduce the required coverage to a level of \$250,000 or less, the licensee shall reinstate the coverage to the original \$300,000 amount or greater.

(b) A Class B license requires commercial general liability insurance of at least:

- (1) \$100,000 per occurrence (combined for property damage and bodily injury);
- (2) \$100,000 aggregate (total amount the policy will pay for property damage and bodily injury coverage); and
- (3) \$100,000 aggregate for products and completed operations; and
- (4) in the event claims occur which reduce the required coverage to a level of \$75,000 or less, the licensee shall reinstate the coverage to the original \$100,000 amount or greater.

(c) The certificate of insurance shall list all deductibles. Deductibles shall be limited to \$500 for Class B licenses and to \$1,000 for Class A licenses. Any contractor whose business affiliation is self-insured must provide an affidavit of responsibility and a certified financial statement.

(d) A license applicant or holder shall furnish to the department a certificate of insurance. The license holder's name, business name, and address must be shown as it appears on the license. The certificate form to be submitted shall be the form furnished by the department. Each certificate of insurance will reflect all assumed names used by the license holder and registered with this agency. Binders and interim certificates of less than 60 days will not be accepted. The certificates of insurance shall be issued to each municipality where air conditioning and refrigeration contracting is performed.

(e) The certificate of insurance shall state that the insurance carrier shall notify the department at least 45 days prior to cancellation or nonrenewal by the insurance carrier and at least 10 days after nonrenewal or cancellation by the insured.

(f) License holders whose proof of insurance expires shall be notified by the department that they have an insurance violation. Failure to furnish the required proof shall be grounds for revocation of the license in accordance with Texas Civil Statutes, Article 6252-13c.

(g) All requests to waive the insurance requirements because the license holder does not contract with the public shall be submitted in writing to the department. The request shall contain a detailed explanation of the conditions on which the waiver is being requested and confirmation by employer when applicable.

§75.60. Responsibilities of the Department-Exams.

(a) Exams shall be administered by the department and monitored by examiners employed by the department. Examiners shall be employed by contract on a 12-month basis and approved by the commissioner. Examiners shall be licensed air conditioning and refrigeration professionals. For the purpose of this section, an air conditioning and refrigeration professional is anyone who meets the criteria established in the Air Conditioning and Refrigeration Contractor License Law (Act), §4(e), and additionally has a total of eight years of practical experience in air conditioning and refrigeration work.

(b) All exams shall be given open book. A list of suggested references may be obtained from the department.

§75.70. Responsibilities of the Licensee.

(a) Each license shall clearly indicate the name and permanent mailing address of the holder, the name and address of the business affiliation, the license class, and the endorsement(s). If the business affiliation uses an assumed name(s), the name(s) must be legally registered as being owned by the business affiliation. The company name and assumed name(s) must be shown on the license and on the certificate of insurance.

(b) Each license shall be displayed at the contractor's place of business as listed with the department.

(c) Each licensed contractor shall display the license number and company name in letters not less than two inches high on both sides of all trucks used in conjunction with air conditioning and refrigeration contracting. Job sites not identified by a

marked truck shall be identified by a posted sign visible and readable from the nearest public street, containing the Texas air conditioning and refrigeration license number and company name.

(d) All advertising by contractors requiring a license under the Act designed to solicit business shall include the contractor's license number. Advertising which requires the license number shall include printed material, television ads, newspaper ads, yellow pages, business cards, billboards, solicitations, proposals, quotations, and invoices. Other items for the purpose of attracting business, other than promotional items of value such as ball caps, tee shirts, and other gifts, must include the license number. Yellow page listings that do not contain any information except the name, address, and telephone number are not required to contain the contractor's license number. Letterheads and printed forms for office use are not required to have the license number included. Signs located at the contractor's permanent business location are not required to have the license number displayed.

(e) A license holder is required to notify the department in writing within 30 days of any change in permanent mailing address, business affiliation, change of business location, or business telephone number. A license revision is required for any change to information printed on the license. The permanent address shall be considered the license holder's permanent mailing address. All correspondence will be mailed to that address.

(f) A license holder wishing to revise a license shall make the request in writing. He shall return the current original license, pay the appropriate fee required in §75.80 of this title (relating to Fees), and provide a revised insurance certificate if the business affiliation name or address has changed.

(g) Each license shall be used only by the business listed as the business affiliation on the license. A licensed contractor who works as a subcontractor for another air conditioning and refrigeration company must work under the license of the business for which he is subcontracting. He may not schedule his work, bill, or receive payment for subcontracting from any source other than the business for which he is subcontracting. The licensed contractor who is acting as contractor, not subcontractor, is responsible for all subcontracting work.

(h) Each air conditioning and refrigeration company shall have a license holder employed full time in each permanent office operated in Texas. All work requiring a license under the Air Conditioning and Refrigeration Contractor License Law shall be under the direct personal su-

pervision of the license holder for that office. The license holder's license number shall appear in all proposals and invoices for that office.

(i) A license holder may not permit his license to be used for any purpose by a person not employed by him or acting as a bona fide subcontractor in accordance with subsection (g) of this section.

§75.80. Fees.

(a) Exam fees. Class A and Class B exam fees are:

(1) registration fee \$50; (One registration fee for original registration regardless of the number of exams requested; requests for additional exams after the first exam(s) have been taken or rescheduled will require a new registration fee).

(2) exam fee \$50 for each exam requested;

(3) re-exam fee \$50 for each exam;

(4) to reschedule after second free reschedule, whether consecutive or not, registration fee of \$50 and exam fee of \$50 per exam.

(b) License fees. License fees are:

(1) class A license for three years \$300; renewal every three years \$150;

(2) class B license for three years \$150; renewal every three years \$75;

(3) late renewal fee \$50.

(c) Lost, revised, or duplicate license. A lost, revised, or duplicate license will be \$25.

(d) Lost, revised, or duplicate wallet card. A lost, revised, or duplicate wallet card will be \$10.

(e) Addition of an endorsement to an existing license. Addition of an endorsement to an existing license; reprint fee will be \$25 (current original license and wallet card must be returned). This fee may be waived if the reprint coincides with a renewal or revision, for which required fees are paid.

§75.90. Sanctions-Administrative Sanctions/Penalties. If a person violates the Air Conditioning and Refrigeration Contractor License Law (Act), or a rule or order adopted or issued by the commissioner relating to the Act, the commissioner may institute proceedings to impose administrative sanctions and/or recommend administrative penalties in accordance with Texas Civil Statutes, Article 9100, and Chapter 60 of this title (relating to Texas Commission of Licensing and Regulation).

§75.91. Sanctions-Revocation, Suspension, or Denial because of a Criminal Conviction. Pursuant to Texas Civil Statutes, Article 6252-13c, the commissioner, after a hearing, may suspend, revoke, or deny an existing license, or disqualify a person from receiving a license, because that person has a felony or misdemeanor conviction that directly relates to the duties and responsibilities involved in performing the duties of an air conditioning and refrigeration contractor. The commissioner may also, after hearing, suspend, revoke, or deny a license because of a person's felony probation revocation, parole revocation, or revocation of mandatory supervision.

§75.100. Technical Requirements.

(a) Boilers.

(1) The Texas Boiler Law, the Health and Safety Code, Chapter 755, provides for rules addressing the safe construction, installation, inspection, operating limits, alteration, and repair of boilers and their appurtenances. Those who alter or repair boilers or repair, test, set, or seal safety appliances must possess the applicable American Society of Mechanical Engineers certificate of authorization, National Board of Boiler and Pressure Vessel Inspectors Authorization for use of the "R or "VR" Stamp or, in the case of owner/operators, a certificate of authorization issued by the department. These certificate holders are not required to hold a license as an air conditioning and refrigeration contractor.

(2) All others who install, maintain, or service boilers used in the process of environmental air conditioning, commercial refrigeration, or process cooling or heating must comply with the Texas Boiler Law, the Health and Safety Code, Chapter 755, and Chapter 65 of this title (relating to Boilers), and shall also hold the applicable class license as an air conditioning and refrigeration contractor.

(b) Electrical connections.

(1) The new construction of environmental air conditioning, commercial refrigeration, and process cooling or heating systems begins after the first connection on the line side of any listed appliance.

(2) Air conditioning and refrigeration contractors licensed under this law may replace and reconnect environmental air conditioning, commercial refrigeration, process cooling or heating systems, or component parts of the same or lesser amperage. On replacement environmental air conditioning, commercial refrigeration, process cooling or heating systems where the electrical disconnect has not been installed and is required by the National Electrical Code, the air conditioning and refrigeration contractor may install a disconnect within

five feet and within sight of, or on the replacement system and reconnect the system.

(3) Control wiring of 50 volts or less may be installed and serviced by an air conditioning and refrigeration contractor licensed under this law.

(4) All component parts may be serviced or replaced by an air conditioning and refrigeration contractor licensed under this law.

(5) All electrical work shall be performed in accordance with standards at least as strict as that established by the current National Electrical Code.

(c) Piping.

(1) Fuel gas piping for new or replaced environmental air conditioning, commercial refrigeration, or process cooling or heating systems may be installed by a contractor licensed under this law. Fuel gas piping by a licensed contractor is limited to the portion of piping between the appliance and the existing piping system, connected at either an existing shut-off valve or an existing opening. Existing piping shall not be altered by a licensed contractor.

(2) Drain piping associated with environmental air conditioning, commercial refrigeration, or process cooling or heating systems may be installed by a contractor licensed under this law.

(3) Mechanical piping associated with environmental air conditioning, commercial refrigeration, or process cooling or heating systems shall be installed by a contractor licensed under this law.

(d) Duct cleaning. Air duct cleaning may be performed by an unlicensed person or company if the task is limited to the air distribution system, from the discharge of the unit to the inlet of the unit, with no revisions, such as cutting, to the duct, and with no electrical connection.

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-9214262

Jack W. Garison
Executive Director
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: November 30, 1992

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



TITLE 22. EXAMINING BOARDS

Part XV. Texas State Board of Pharmacy

Chapter 281. General Provisions

- 22 TAC §§281.2, 281.4,
281.23-281.25, 281.28, 281.29,
281.32, 281.34, 281.35 281.48,
281.62, 281.63, 281.70, 281.71

The Texas State Board of Pharmacy proposes new §281.62 and §281.63 and amendments §§281.2, 281.4, 281.23, 281.24, 281.25, 281.8, 281.29, 281.32, 281.34, 281.35, 281.48, 281.70, and 281.71 concerning definitions, official acts in writing and open to the public, pharmacist mental or physical examination, grounds for discipline of a pharmacist license, grounds for discipline of a pharmacy license, notice and service, pleadings, denial of or disciplinary action against a license, interrogatories to parties, admission of facts or of genuineness of documents, informal disposition of a contested case, hearing docket and setting hearings. These proposed amendments and new sections will: clarify the hearing procedures set forth in the Texas Pharmacy Rules with regard to the new State Office of Administrative Hearings; prohibit a pharmacist from selling, purchasing, trading prescription drug samples; and prohibit a pharmacy from selling, purchasing, trading, or possessing prescription drug samples, unless the pharmacy: is owned by a charitable organization, city, state, or county government; is part of a health care entity which primarily provides health care services to indigent or low income patients; and dispenses or provides the samples to patients at no charge.

Fred S. Brinkley, Jr., R.Ph., M.B.A., executive director/secretary, has determined that there will be no fiscal implications as a result of enforcing or administering these sections. Mr. Brinkley also has determined that for each year of the first five years the sections as proposed is in effect, the public benefit anticipated as a result of enforcing the section as proposed will be the protection of the health and safety of the citizens of Texas by setting procedures for hearings and by prohibiting pharmacies and pharmacists from selling, purchasing, trading, or possessing prescription drug samples unless the pharmacy is owned by a charitable or government organization and dispenses the samples to patients at no charge. There is no anticipated economic costs to persons who are required to comply with these sections.

Comments on the proposal may be submitted to Fred S. Brinkley, R.Ph., Executive Director/Secretary, Texas State Board of Pharmacy, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754-4594.

The new and amended sections are proposed under the Texas Pharmacy Act, (Texas Civil Statutes, Article 4542a-1): §16, which gives the Texas State Board of Pharmacy (TSBP) authority to adopt rules for the proper administration and enforcement of the

Texas Pharmacy Act; §17(4) which gives the TSBP the authority to enforce those provisions of the Act relating to the conduct or competence of pharmacists practicing in this state and the conduct of pharmacies operating in this state; and Section 17(b) which gives TSBP the authority to regulate the delivery or distribution of prescription drugs and devices.

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

Hearings officer—Individual designated by the board, or the State Office of Administrative Hearings, to preside at contested case hearings, rule on points of law at such hearings, and maintain decorum at such hearings.

Presiding officer—The board president, [or] his designated representative, or a hearings officer presiding over a contested case [while conducting a hearing].

§281.4. *Official Acts in Writing and Open to the Public.* All official acts of the board shall be evidenced by written record. Such writings shall be open to the public in accordance with Texas Civil Statutes, Article 6252-17a (the Texas Open Records Act). Any hearing and any board meeting shall be open to the public in accordance with Texas Civil Statutes, Article 6252-17 (the Texas Open Meetings Act), provided, however, pursuant to the Texas Pharmacy Act, §14(c), the board may, in its discretion, conduct deliberations relative to licensee disciplinary actions in executive session. At the conclusion of its deliberations relative to licensee disciplinary action, the board shall vote and announce its decision relative to the licensee in open session. All disciplinary hearings before the State Office of Administrative Hearings shall be open to the public, including those relating to a pharmacist or pharmacy student who is impaired because of chemical abuse or mental or physical illness. Official action of the board shall not be bound or prejudiced by any informal statement or opinion made by any member of the board or the employees of the agency.

§281.23. *Pharmacist Mental or Physical Examination.* Texas Civil Statutes, Article 4542a-1, §26(a)(4), shall be applied as follows.

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

(3) If the pharmacist or applicant does not comply with the provisions of paragraph (2) of this section, the following is applicable.

(A) (No change.)

(B) The executive director/secretary shall schedule a hearing before the board or the State Office of Administrative Hearings on the order, within 30 days after notice is served on the pharmacist or applicant.

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

§281.24. Grounds for Discipline for a Pharmacist License.

(a) For the purposes of the Act, §26(a), unprofessional conduct shall include, but not be limited to:

(1)-(26) (No change.)

(27) the sale, purchase, or trade or the offer to sell, purchase, or trade of: [buying, selling, trading, bartering, or exchanging:]

(A) prescription drug samples; provided however, this subdivision does not apply to:

(i) prescription drugs provided by a manufacturer as starter prescriptions or as replacement for such manufacturer's out-dated drugs;

(ii) prescription drugs provided by a manufacturer in replacement for such manufacturer's drugs that were dispensed pursuant to written starter prescriptions; or

(iii) prescription drug samples possessed by a pharmacy of a health care entity which provides health care primarily to indigent or low income patients at no or reduced cost and if:

(I) the samples are possessed in compliance with the Prescription Drug Marketing Act of 1987;

(II) the pharmacy is owned by a charitable organization described in the Internal Revenue Code of 1954, or by a city, state or county government; and

(III) the samples are for dispensing or provision at no charge to patients of such health care entity [pharmacy].

(B) prescription drugs:

(i) sold for export use only;

(ii) purchased by a public or private hospital or other health care entity; or

(iii) donated or supplied at a reduced price to a charitable organi-

zation described in the Internal Revenue Code of 1954, §501(c)(3);

(C) subparagraph (B) of this paragraph does not apply to:

(i) the purchase or other acquisition by a hospital or other health care entity which is a member of a group purchasing organization or from other hospitals or health care entities which are members of such organization;

(ii) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by an organization described in subparagraph (B)(iii) of this paragraph to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(iii) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities which are under common control;

(iv) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons including the transfer of a drug between pharmacies to alleviate temporary shortages of the drug arising from delays in or interruptions of regular distribution schedules; [pharmaceuticals purchased by hospitals, clinics, or other health care facilities, including agencies of state and local governments, for the exclusive use of those institutions and not intended for resale, with the following exceptions:

(i) provided however, this subdivision does not apply to the sale of prescription drugs otherwise permitted by law to affiliated corporations in furtherance of a planned, integrated approach to the delivery of health care within a health care corporate structure, and sales by bona fide group purchasing arrangement to members; and

(ii) provided however, nothing here is intended to apply to the incidental buying, selling, trading, bartering or exchanging of prescription drugs in the normal course of pharmacy practice for the immediate needs of a patient(s).

(D) prescription drugs donated or supplied at reduced prices to charitable institutions in the United States or abroad for their own institutional use;]

(D) [(E)] misbranded prescription drugs;

(E)[(F)] prescription drugs beyond the manufacturer's expiration date; or

(28) (No change.)

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

§281.25. Grounds for Discipline for a Pharmacy License. For the purposes of subdivision (9) of subsection (b) of §26 of the Act, a pharmacy fails to establish and maintain effective controls against diversion of prescription drugs when:

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

(4) the pharmacy possesses or engages in the sale, purchase, or trade or the offer to sell, purchase, or trade [engages in the buying, selling, trading, bartering, or exchanging]:

(A) prescription drug samples; provided however, this subparagraph does not apply to:

(ii)(No change.)

(iii) prescription drug samples possessed by a pharmacy of a health care entity which provides health care primarily to indigent or low income patients at no or reduced cost and if:

(I) the samples are possessed in compliance with the Prescription Drug Marketing Act of 1987;

(II) the pharmacy is owned by a charitable organization described in the Internal Revenue Code of 1954, or by a city, state, or county government; and

(III) the samples are for dispensing or provision at no charge to patients of such health care entity; [pharmacy.]

(B) prescription drugs:

(i) sold for export use only;

(ii) purchased by a public or private hospital or other health care entity; or

(iii) donated or supplied at a reduced price to a charitable organization described in the Internal Revenue Code of 1954, §501(c)(3) and possessed by a pharmacy other than one owned by the charitable organization;

(C) subparagraph (B) of this paragraph does not apply to:

(i) the purchase or other acquisition by a hospital or other health care entity which is a member of a group purchasing organization or from other hospitals or health care entities which are members of such organization;

(ii) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by an organization described in subparagraph (B)(iii) of this paragraph to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(iii) the sale, purchase or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities which are under common control;

(iv) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons including the transfer of a drug between pharmacies to alleviate temporary shortages of the drug arising from delays in or interruptions of regular distribution schedules; [pharmaceuticals purchased by hospitals, clinics, or other health care facilities, including agencies of state and local governments, for the exclusive use of those institutions and not intended for resale, with the following exceptions:

[(i) provided however, this subdivision does not apply to the sale of prescription drugs otherwise permitted by law to affiliated corporations in furtherance of a planned, integrated approach to the delivery of health care within a health care corporate structure, and sales by bona fide group purchasing arrangement to members; and

[(ii) provided however, nothing here is intended to apply to the incidental buying, selling, trading, bartering or exchanging of prescription drugs in the normal course of pharmacy practice for the immediate needs of a patient(s).

[(D) prescription drugs donated or supplied at reduced prices to charitable institutions in the United States or abroad for their own institutional use;]

(D)[(E)] misbranded prescription drugs;

(E)[(F)] prescription drugs beyond the manufacturer's expiration date unless removed from dispensing stock and quarantined.

§281.28. Notice and Service.

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

(d) The board or the State Office of Administrative Hearings may continue a hearing from time to time and from place to place. The notice of the hearing shall indicate the times and places at which the hearing will be continued. If a hearing is not concluded on the day it commences, the

board or the hearings officer shall, to the extent possible, proceed with the conduct of the hearing on each subsequent working day until the hearing is concluded.

(e)-(f) (No change.)

§281.29. Pleadings.

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

(d) All pleadings relating to any matter pending before the board shall be filed with the [executive director/secretary] State Office of Administrative Hearings.

§281.32. Denial of or Disciplinary Action Against a License.

(a) If an applicant's original application or request for renewal of a license is denied, he shall have 30 days from the date of denial to make a written request for a hearing [before the board]. If so requested, the hearing will be granted and the provisions of APTRA and this chapter with regard to a contested case shall apply.

(b) (No change.)

§281.34. Interrogatories to Parties.

(a) (No change.)

(b) Whenever a party is represented by an attorney, service of interrogatories and answers to interrogatories shall be made on the attorney. True copies of the interrogatories and of any answers shall be served on all other parties or their attorneys at the time that any interrogatories or answers are served [, and a true copy of each shall be promptly filed with the executive director/secretary. Provided, however, that not more than four copies of any set of interrogatories or of answers shall be required to be furnished to parties, and if there be more than four parties, four copies of such interrogatories or of such answers shall be deposited with the executive director/secretary to the first four applicants entitled thereto. Such four copies so provided to be deposited with the executive director/secretary are in addition to the one copy to be filed with the executive director/secretary].

(c)-(i) (No change.)

§281.35. Admission of Facts or of Genuineness of Documents.

(a) Any time after an agency has properly served notice of its intention to institute adjudicative proceedings in a contested case, a party may deliver or cause to be delivered to any other party or his attorney of record a written request for the admission by such party of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant matters of fact set forth by the

request. Copies of the documents shall be delivered with the request unless copies have already been furnished. Whenever a party is represented by an attorney of record, delivery of a request for admission shall be made to such party's attorney unless delivery to the party is ordered by the presiding officer. The request for admission shall state that it is made under this section and that each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request not less than 15 day after delivery thereof or within such further time as the presiding officer may allow on motion and notice, the party to whom the request is directed, delivers or causes to be delivered to the party requesting the admission or such party's attorney of record a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why the party cannot truthfully either admit or deny those matters. [A true copy of a request for admissions or of a sworn statement in reply thereto, shall be filed promptly with the executive director/secretary or presiding officer by the party making such request or such sworn statement.]

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

§281.48. Informal Disposition of a Contested Case.

(a) (No change)

(b) Any proposed consent order shall be presented to the board for its review. At the conclusion of its review, the board shall approve or disapprove the proposed consent order. Should the board approve the proposed consent order, the appropriate notation shall be made in minutes of the board and the proposed consent order shall be entered as an official action of the board. Should the board disapprove the proposed consent order, the licensee and charges that are the subject of such proposed consent order shall be scheduled for public hearing before the board or the State Office of Administrative Hearings [at a subsequent disciplinary hearing].

§281.62. Procedure for Hearings Officer Presentation. If a written proposal for decision is issued by a hearings officer designated by the State Office of Administrative Hearings, the board may request that the proposal for decision be presented to the board by the hearings officer at the board's next business meeting.

§281.63. Exceptions to Proposal for Decision. If a written proposal for decision is issued by a hearings officer in a contested case, any party may file written exceptions to the proposal for decision within 10 days after its issuance. Within 5 days after a

party files written exceptions under this section, any other party may file a written reply.

§281.70. [Board's] Hearing Docket. When a matter has been initiated before the board and a hearing is required or shall be held, the executive director/secretary shall enter the same on the docket, unless the hearing is before the State Office of Administrative Hearings. The docket shall show the number of the matter, a brief description of the subject to be considered, and the parties. The board shall make appropriate entries in the official minutes of the board to show the history and disposition of the matter. The board's hearing docket and official minutes shall be available for public inspection during business hours at the office of the board. If the hearing is before the State Office of Administrative Hearings, that office shall keep a docket in accordance with its procedures.

§281.71. [President to Set Hearings before the Board.] Setting Hearings. The president shall set the time of any hearing to be held before the board, and the executive director/secretary shall enter the date on the docket [The executive director/secretary shall enter the date on the docket and give notice thereof to the parties]. Hearings before the State Office of Administrative Hearings shall be scheduled by the State Office of Administrative Hearings.

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-9214309 Fred S. Brinkley, Jr.,
R.Ph., M.B.A.
Executive
Director/Secretary
Texas State Board of
Pharmacy

Earliest possible date of adoption: November 30, 1992

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

Chapter 295. Pharmacists

• 22 TAC §295.9

The Texas State Board of Pharmacy proposes new §295.9 concerning pharmacists' inactive licenses. This new rule sets out procedures for a pharmacist to place his or her license on inactive status if the pharmacist has not completed the required continuing education to renew the license and the pharmacist is not practicing pharmacy in Texas.

Fred S. Brinkley, Jr., R.Ph., MBA, executive director/secretary has determined that there will not be fiscal implications as a result of enforcing or administering this section.

Mr. Brinkley has determined that for each of the first five years the section as proposed is in effect that the public benefits anticipated as a result of enforcing the section as proposed will be the protection of the health and safety of the citizens of Texas through the outlining of procedures for the placement of a pharmacist's license on inactive status. There will be no effect on small businesses. There will be no economic cost to persons who are required to comply with this section.

Comments on the proposal may be submitted to: Fred S. Brinkley, Jr., R.Ph., MBA, Executive Director/Secretary, Texas State Board of Pharmacy, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754-4594, (512) 832-0661.

The new section is proposed under the Texas Pharmacy Act (Texas Civil Statutes, Article 4542a-1). §24B(a) which gives the Texas State Board of Pharmacy (TSBP) the authority to adopt a system for the placement on inactive status of a license held by a person who is licensed by the board to practice pharmacy but who is not eligible to renew the license for failure to comply with the continuing education requirements and who is not engaged in the practice of pharmacy in this state; and §16(a) which gives the TSBP the authority to adopt rules for the proper administration and enforcement of the Act.

§295.9. Inactive License.

(a) Placing a license on inactive status. A person who is licensed by the board to practice pharmacy but who is not eligible to renew the license for failure to comply with the continuing education requirements of the Act, §24A, and who is not engaged in the practice of pharmacy in this state, may place the license on inactive status at the time of license renewal or during a license year as follows.

(1) To place a license on inactive status at the time of renewal, the licensee shall:

(A) complete and submit before the expiration date a pharmacist license renewal application provided by the board;

(B) state on the renewal application that the license is to be placed on inactive status and that the licensee shall not practice pharmacy in Texas while the license is inactive; and

(C) pay the fee for renewal of the license as specified in §295.5 of this title (relating to Pharmacists License or Renewal Fees).

(2) To place a license on inactive status at a time other than the time of license renewal, the licensee shall:

(A) return the current renewal certificate to the board; and

(B) submit a signed statement stating that the licensee shall not prac-

tice pharmacy in Texas while the license is inactive, and the date the license is to be placed on inactive status; and

(C) pay the fee for issuance of an amended license as specified in §295.5(d) of this title (relating to Pharmacists License or Renewal Fees).

(b) Prohibition against practicing pharmacy in Texas with an inactive license. A holder of a license that is on inactive status shall not practice pharmacy in this state. The practice of pharmacy by a holder of a license that is on inactive status constitutes the practice of pharmacy without a license.

(c) Reactivation of an inactive license.

(1) A holder of a license that is on inactive status may return the license to active status by:

(A) applying for active status on a form prescribed by the board;

(B) providing copies of completion certificates from approved continuing education programs as specified in §295.8(e) of this title (relating to Continuing Education Requirements) for the number of hours that would otherwise have been required for the renewal of the license, up to 36 hours. Approved continuing education earned within two years prior to the licensee applying for the return to active status may be applied toward the continuing education requirement; and

(C) paying the fee specified in paragraph (2) of this subsection.

(2) If the application for reactivation of the license is made at the time of license renewal, the applicant shall pay the license renewal fee specified in §295.5 of this title (relating to Pharmacist License or Renewal Fees). If the application for reactivation of the license is made at a time other than the time of license renewal, the applicant shall pay the fee for issuance of an amended license to practice pharmacy as specified in §295.5(d) of this title (relating to Pharmacist License and Renewal Fees).

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

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

TRD-9214310 Fred S. Brinkley, Jr.,
R.Ph., M.B.A.
Executive
Director/Secretary
Texas State Board of
Pharmacy

Earliest possible date of adoption: November 30, 1992

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

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Chapter 303. Destruction of Dangerous Drugs and Controlled Substances

• 22 TAC §303.1

The Texas State Board of Pharmacy proposes an amendment to §303.1, concerning the destruction of drugs dispensed to patients in health care facilities. The proposed rule, if adopted, will allow the witnesses for the destruction, inventorying, and transfer to a waste disposal company of dispensed drugs to be both the facility administrator and either the director of nursing or director of nursing or acting director of nursing.

Fred S. Brinkley, Jr., R.Ph., MBA, executive director/secretary has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Brinkley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the protection of the health and welfare of the citizens of Texas by setting procedures for the destruction of out-of-date or unused drugs in health care facilities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to: Fred S. Brinkley, Jr., R.Ph., MBA, Executive Director/Secretary, Texas State Board of Pharmacy, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754-4594, (512) 832-0661.

The amendment is proposed under the Texas Pharmacy Act (Texas Civil Statutes, Article 4542a-1) §17(b)(1), which gives the Texas State Board of Pharmacy (TSBP) the authority to regulate the delivery or distribution of prescription drugs and devices and §16(a), which gives TSBP the authority to adopt rules for the proper administration and enforcement of the Act.

§303.1. Destruction of Dispensed Drugs.

(a) Drugs dispensed to patients in health care facilities or institutions.

(1) Destruction by the consultant pharmacist. The consultant pharmacist, if in good standing with the Texas State Board of Pharmacy, is authorized to destroy dangerous drugs and controlled substances dispensed to patients in health care facilities or institutions, providing the following conditions are met:

(A) (No change.)

(B) the drugs are inventoried and such inventory is verified by the con-

sultant pharmacist. The following information shall be included on this inventory:

(i)-(vii) (No change.)

(viii) signature of consultant pharmacist destroying drugs; [and]

(ix) signature of the witness(es); and

(x) method of destruction;

(D) the actual destruction of the drugs is witnessed by one of the following:

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

(iii) an agent of the Texas Department of Human Services [Resources], authorized by the Texas State Board of Pharmacy to destroy drugs;

(iv) (No change.)

(v) both the facility administrator; and

(I) the director of nursing; or

(II) the acting director of nursing;

(E) (No change.)

(2) Destruction by a waste disposal service. A consultant pharmacist may utilize a waste disposal service to destroy dangerous drugs and controlled substances dispensed to patients in health care facilities or institutions, provided the following conditions are met:

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

(D) the sealed container is maintained in a secure area at the facility or institution until transferred to the waste disposal service by the consultant pharmacist, [or both the] facility administrator, [and] director or nursing, or acting director of nursing. [and]

(E) A [a] record of the transfer to the waste disposal service is maintained and attached to the inventory of drugs specified in paragraph (1) of this subsection. Such record shall contain [containing] the following information:

(i)-(iv) (No change.)

(F)[(E)] The waste disposal service shall provide the facility with proof of destruction of the sealed container. Such proof of destruction shall contain the date, location, and method of destruction of the

container and shall be attached to the inventory of drugs specified in paragraph (1) of this subsection.

(3) (No change.)

(b) (No change.)

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

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

TRD-9214311

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

Earliest possible date of adoption: November 30, 1992

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

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Part XXI. Texas State Board of Examiners of Psychologists

Chapter 465. Rules of Practice

• 22 TAC §465.12

(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 §465.12, concerning qualifications of supervisor. The board is replacing its rule concerning the qualifications of a supervisor with a rule that addresses the accountability of the licensee for services rendered under his/her supervision.

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 psychologists will no longer have to adhere to this 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 proceeding before it.

§465.12. Qualification of Supervisor.

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-9214173 Patricia S. Blizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: November 30, 1992

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

◆ ◆ ◆
The Texas State Board of Examiners of Psychologists proposes new §465.12, concerning accountability of licensee for services. The board replaced §465.12 concerning qualifications of supervisor with a more in-depth §465.12 concerning accountability of licensee for services.

Patricia S. Blizzell 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. Blizzell 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 give psychologists more flexibility in organizing their practices to provide services to the public. The rule also provides guidance for how psychologists should establish their practices to ensure compliance with practice standards. 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. Blizzell 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.

§475.12. Accountability of Licensee for Services.

(a) Psychological services offered to the public by licensees must in all situations be done under conditions which the consuming public is made aware, in advance of services, of the identity of the licensee professionally accountable for the services rendered or to be rendered. At a minimum, the following steps are required

regardless of the professional environment in which such services are offered (e.g., private practice, multiple-disciplinary association, professional corporation, or other legally authorized artificial or assumed name entity). The client/patient will be informed by a notice, posted where it will be seen by each prospective client/patient, of the licensee's name and license number and the names and credentials of each person whose services are offered under the licensee's professional supervision. The notice will contain a legible statement that the licensee has reviewed the supervisees' qualifications and will refer to a supervisee for therapy only those clients/patients with issues within that supervisee's professional competence. Said notice shall also reflect:

(1) that the licensee is professionally responsible for the ethical and professional aspects of all services provided by the licensee or by any person under the licensee's supervision;

(2) that any formal complaint regarding psychological services may be made in writing to the Texas State Board of Examiners of Psychologists. Complaint forms may be obtained from the board at its current address, or by calling the board's current telephone number. The posted notice shall always reflect the current address and telephone number for the board;

(3) that licensee is, and remains, professionally responsible for, and active in, the therapy process of all clients/patients seen personally or by a supervisee of the licensee. That licensee oversees the development of treatment plans; evaluates the identification of goals; reviews, on a continuous basis, the therapeutic progress of the client/patients; that, if a supervisee is to provide services, the supervising licensee is available to consult with the individual client/patient; and, will, periodically, review and discuss the therapy with the supervisee;

(4) that advance financial arrangements must be clear and understandable and are available in writing. State whether billing will be done in the identity of the licensee or another entity;

(5) That all persons who provide psychological services to the Texas public for compensation either must be licensed to practice psychology by the Texas State Board of Examiners of Psychologists, or be qualified therapists acting under the formal supervision of a person so licensed. Further, that all persons authorized to provide psychological services are bound by the rules of the board and the ethical principles of psychologists.

(b) Licensees who now provide, or who intend to provide psychological services through other than their private or individual practice shall furnish to the board, at least 10 days prior to engaging in

such practice (or, if presently so engaged, within 90 days of the effective date of this rule), a brief written description of the professional and administrative environment in which psychological services are to be offered. The description shall include a clear statement of the lines of administrative and professional authority in all matters connected to the provision of psychological services, including intake process, referral of clients/patients to therapist, billing procedures, and professional authority and accountability of each licensed psychologist, with particular attention given to the establishment of an unambiguous chain of supervisory control and responsibility regarding the provision of psychological services.

(c) No third party billing shall be done in the name or on the credentials of a licensed psychologist except:

(1) for services rendered by the billing licensee;

(2) for services rendered by a person under the direct supervision of the billing licensee at a board approved work site and by a person whose supervision has been duly filed and approved with the board. In such situations, the name and supervised status shall appear in legible form on each claim form;

(3) upon legible written notification on the claim form of the identity and credentials of the person who rendered the claimed for services, whether the services were psychological services, and the fact that the third party billing is submitted in the name or on the credentials of the licensee for administrative convenience only.

(d) The intent of the board in the adoption of this rule is to provide licensees with more latitude to engage in ethical and professional presentation of psychological services in various organizational forms, providing that clear and direct professional accountability for the competency of the services is maintained. Licensees remain personally responsible for assuring compliance with the applicable statutes controlling formation and operation of business entities; for instance, a professional corporation (P.C.), inter alia, has specific statutory restrictions upon services authorized to be performed and the professional credentials of shareholders and directors.

(e) Nothing in this rule is intended to relieve a person subject to these rules of the responsibility of complying with any other board rule. Should a conflict between this rule and any other rule become apparent, an informational opinion should be sought from the board regarding the conflict.

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-9214174

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

Earliest possible date of adoption: November 30, 1992

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

◆ ◆ ◆
• 22 TAC §465.33

The Texas State Board of Examiners of Psychologists proposes new §465.33, concerning sexual intimacies and sexual harassment. The board is proposing this rule to clarify the types of sexual behaviors deemed unethical 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 to notify the public that sexual intimacies and/or harassment is unethical behavior. 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.

§465.33. *Sexual Intimacies and Sexual Harassment.*

(a) Any person subject to these rules (psychologist, psychological associate, supervisee of a psychologist, and/or applicant for certification or licensure) may not engage in sexual impropriety/harassment or sexual violation within five years of the last professional contact of:

- (1) a patient/client or former patient/client;
- (2) a student enrolled in the educational institution at which the licensee/certificand/applicant offers professional/educational services; or
- (3) a supervisee for whom the licensee/certificand/applicant has administrative or clinical responsibility.

(b) Sexual impropriety/harassment may include, but is not limited to:

(1) any seductive or sexually demeaning behavior, gestures, expressions; or

(2) inappropriate sexual comments about and to the patient/client, former patient/client, student, or supervisee, including, but not limited to, making sexual comments about an individual's body;

(3) making sexually demeaning comments to and about an individual's sexual orientation;

(4) making comments about potential sexual performance except when the examination or consultation is pertinent to the issue of sexual function or dysfunction in therapy/counseling;

(5) requesting details of sexual history or sexual likes and dislikes when not clinically indicated for the type of consultation;

(6) making a request to date;

(7) initiating conversation regarding the sexual problems, preferences, or fantasies of the licensee/certificand/applicant;

(8) kissing of a sexual nature;

(9) any other deliberate or repeated comments, gestures, or physical acts not constituting sexual intimacies but of a sexual nature.

(c) Sexual violation includes the engaging in any conduct with a patient/client/former patient/former client/student/supervisee that is sexual or may be reasonably interpreted as sexual, including, but not limited to:

(1) sexual intercourse;

(2) genital contact;

(3) oral to genital contact;

(4) genital to anal contact;

(5) oral to anal contact;

(6) oral to oral contact;

(7) touching breasts or genitals;

(8) encouraging the patient/former patient/client/former client/student/supervisee to masturbate in the presence of the licensee/certificand/applicant;

(9) masturbation by the licensee/certificand/applicant when the patient/former patient/client/former client/student/supervisee is present;

(10) any bodily exposure of normally covered body parts.

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-9214174

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

Earliest possible date of adoption: November 30, 1992

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

◆ ◆ ◆
• 22 TAC §465.35

The Texas State Board of Examiners of Psychologists proposes new §465.35, concerning supervision guidelines. The board is replacing its supervision guidelines with guidelines that more closely match the current practice of the profession.

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 board will monitor the supervisees who offer psychological services through service extenders. 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.

§465.35. *Supervision Guidelines.*

(a) General Requirements. The board recognizes that licensed psychologists may choose to extend their services by using assistants. The board requires that the psychologists's supervision of service extenders meet these general supervision requirements.

(b) Purpose:

(1) to provide supervision rules for the provision of psychological services;

(2) to provide rules by which a psychologist conducts supervision of individuals who use this supervision to meet requirements for certification and/or licensure before this board.

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

(1) Psychologist as a supervisor—A person licensed to practice psychology in Texas and supervise the provision of psychological services.

(2) Supervisee—A person who has the necessary education, training, and experience for the psychological services and/or duties to be performed. A psychology supervisee provides psychological services under the supervision of a licensed psychologist. A person providing psychological services under supervision by a licensed psychologist is limited to the following:

(A) applicant for certification as a psychological associate;

(B) applicant for certification as a psychologist;

(C) certified psychological associate;

(D) certified psychologist;

(E) future applicant to this board. This supervisee employee is either a doctoral or master's degree student who is enrolled in a university department of psychology. Students employed where they are receiving academic credit or internship or practicum credit are not included in this section;

(F) other extender. Psychologists may employ extenders of their services who are not trained in psychology.

(d) Supervision contract.

(1) Initiation of contract. The supervising psychologist must complete the Texas State Board of Examiners of Psychologists supervision contract, and submit it and a fee, if required, to the board prior to the date that supervision is to begin.

(2) Termination of contract. The supervising psychologist must complete the Texas State Board of Examiners of Psychologists' notification of termination of supervision form and submit it to the board as soon as supervision has ceased, regardless of the reason for termination.

(3) Changes. Any change in board supervision contract filed with the board requires submission of a new board supervision contract.

(e) General supervision requirements.

(1) The supervisor shall establish and maintain a level of supervisory contact with the supervisee consistent with established professional standards and shall

be professionally, ethically, and legally accountable for the supervisee and all services rendered.

(2) All clients/patients shall be appropriate for the experience of the supervisee. It is understood that abilities and experience change over time and will be evaluated on a case-by-case basis.

(3) The supervising psychologist recognizes that the full professional responsibility for the psychological activities of persons supervised rests on the licensed psychologist. Both the supervisor and supervisee must be familiar with and abide by the latest revision of the Ethical Principles of Psychologists and rules and regulations of the board.

(4) The supervisor must have adequate training, knowledge, and skill to render competently any psychological services which the supervisee undertakes. The supervisor has the discretion to refer the supervisee for supervision by a qualified mental health professional for specialization supervision. In circumstances when the supervisor is not available, the supervisor will provide an alternate psychologist for supervision of the supervisee.

(5) The supervisor must provide each supervisee with weekly scheduled individual face-to-face supervision. Group supervision may be used as an adjunct to the individual face-to-face supervision, but not as a substitute.

(6) The supervisor must be present at every site every week and be accessible to patients, staff, and supervisees.

(7) When psychological services are offered by other extenders in category C.2.f., the licensed psychologist must be at the same location.

(8) All written professional reports and communications shall be countersigned by the supervising psychologist.

(9) A supervisor cannot receive a fee, any remuneration, or be compensated by the supervisee in any manner for supervision time or services.

(10) Financial requirements.

(A) The setting and collecting of fees for psychological services shall be the sole responsibility of the supervisor psychologist.

(B) The billing for psychological services provided by the supervisee must specify both the name of the supervisor and the name of the supervisee. Under each name, the appropriate designation of "supervisor" or "supervisee" must be stated.

(C) Malpractice insurance is the only expense a supervisee may pay. The supervisee cannot pay any portion of office rent, telephone expense, secretarial expense,

or any other office or business-related expense.

(11) When a patient/client is terminated, all patient/client files remain in the custody of the supervisor, agency, or organization/corporation. The patient/client records do not belong to the supervisee.

(12) The supervisor must insure that any printed material or professional listing with the supervisee's name must also state the designation as a "supervisee" and the psychologist's name with "supervisor" stated.

(13) Public announcements of services and fees shall be offered only in the name of the supervising psychologist. Contact with the public or professional community must state the name of the psychologist as "supervisor" and the name of the extender as "supervisee."

(14) The patient/client remains the patient/client of the supervisor even though a supervisee may provide the psychological services.

(15) The supervisee must be the employee of the supervisor. However, a third party may be the employer of the supervisor psychologist and the supervisee extender.

(16) A licensed psychologist may bill only for psychological services rendered directly by the psychologist or by an employee under supervision with the psychologist.

(17) The total number of supervisees working under the supervision of a psychologist may not exceed 10 and should not be more than the supervisor can responsibly supervise. The board reserves the right to require documentation by the psychologist of the adequacy of supervision when one psychologist is supervising multiple supervisees.

(f) Exemptions. Section 465.18 of this title (relating to Supervision Guidelines) is suggested but does not apply to the provision of psychological services in agencies exempted under the Psychologists' Certification and Licensing Act, §22.

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-9214178

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

Earliest possible date of adoption: November 30, 1992

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

**Part XXIX. Texas Board
of Professional Land
Surveying**

**Chapter 663. Standards of
Responsibility and Rules of
Conduct**

• 22 TAC §663.11

(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 Board of Professional Land Surveying or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Board of Professional Land Surveying proposes the repeal of §663.11, concerning certification and monumentation of surveys. The board is proposing the repeal of this rule to delete redundant requirements and language.

Sandy Smith, 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. Smith 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 to delete redundant requirements and language. 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 Sandy Smith, Executive Director, 7701 North Lamar Boulevard, Suite 400, Austin, Texas 78752. Public comment is invited for 30 days from the date of this *Texas Register*.

The repeal is proposed under Texas Civil Statutes, Article 5282c, §9, which provide the Texas Board of Professional Land Surveying with the authority to make and enforce all reasonable and necessary rules, regulations, and bylaws not inconsistent with the Texas Constitution, the laws of this state, and this Act.

§663.11. Certification and Monumentation of Surveys.

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-9214269

Sandy Smith
Executive Director
Texas Board of
Professional Land
Surveying

Earliest possible date of adoption: November 30, 1992

For further information, please call: (512) 452-9427

**TITLE 25. HEALTH SER-
VICES**

**Part I. Texas Department
of Health**

**Chapter 145. Nursing Facilities
and Related Institutions**

**Subchapter D. Facility Con-
struction**

**Construction Standards for Fa-
cilities Serving Persons with
Mental Retardation or Re-
lated Conditions**

• 25 TAC §145.105

(Editor's note: The Texas Department of Health filed on October 9, 1992, proposed new sections §§145.91-145.105. These sections were published in the October 20, 1992, issue of the Texas Register. However, the department inadvertently left out §145.105 from the submission. The section is being published in its entirety in this issue of the Register. Please refer to the October 20, 1992, issue of the Texas Register (17 TexReg 7309) for preamble information concerning comment period. Proposed date of adoption is January 16, 1993.)

§145.105. Safety Operations.

(a) Disaster plan. The facility must have a written plan with procedures to be followed in an internal or external disaster and for the care of casualties.

(1) The facility must maintain the plan and procedures within the facility in a location known and accessible to all staff. The facility must ensure that the plan and procedures are reviewed when changes in administration, construction, or emergency phone numbers are made.

(2) The facility must include in the disaster plan evacuation routes and procedures to be followed in the event of fire, explosion, or other disaster. The plan must also include procedures for the prompt transfer of casualties, medical records, medications, and for the notification of appropriate persons.

(3) All employees must be familiar with the disaster plan and must be instructed in the location and use of the facility's alarm systems, fire-fighting equipment, and procedures.

(4) The facility must post emergency evacuation routes prominently throughout the facility. An exception is that in small one-story buildings where all exits are obvious, the licensing agency may not require the posting of evacuation routes.

(5) The fire alarm and sprinkler systems shall be inspected and tested at least once every three months by a licensed agent. Each such quarterly inspection and test shall be of the complete system includ-

ing smoke dampers, individual sprinkler heads, etc. A standard report form of the inspection shall be completed by the agency and kept on file by the facility. The report shall include the signature of the person making the inspection and the date of the inspection. The facility shall maintain a current contract on file for the services of the inspecting company. An exception is that small facilities are only required to have semiannual inspections in lieu of quarterly inspections.

(6) All fires shall be reported to the licensing agency 72 hours. However, any fire causing injury or death shall be reported immediately. A telephone report shall be followed by a written report on a form which is available from the licensing agency.

(b) Fire/evacuation drills.

(1) The facility must have a fire safety plan within the disaster plan. A comprehensive fire drill report form shall be completed for each rehearsal of the fire safety plan.

(2) The facility must hold fire evacuation drills at least every quarter for each shift of personnel (12 per year) and under varied times and conditions.

(3) Any direct care staff, including relief staff, must participate in the initial fire drill within 10 days of their employment at the facility. An exception is that facilities meeting NFPA 101, Chapter 12 titled "New Health Care Occupancies" or Chapter 13 titled "Existing Care Occupancies," or meeting the impractical evacuation category of Chapter 21 titled "Residential Board and Care," are not required to conduct fire drills within 10 days of employment.

(4) The facility must:

(A) actually evacuate residents during at least one evacuation drill each year on each shift;

(B) make special provisions for the evacuation of the physically handicapped, such as fire chutes and mattress loops with poles;

(C) write and file a report and evaluation of each drill and list details, date, time, who participated, and any problems that occurred; and

(D) investigate all accidents and take corrective action to prevent similar accidents in the future.

(5) Drills for other emergencies, such as severe weather, bomb-threats, etc., shall be covered in the facility's policies

and disaster plan with drills held according to the policy.

(c) Smoking regulations. Smoking policies shall be formulated and adopted by the facility. The policies shall comply with all applicable codes, regulations, and standards, including local ordinances. It is the responsibility of the facility to inform residents, staff, visitors, and other affected parties of smoking policies through distribution and/or posting. The facility is responsible for enforcement of smoking regulations.

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 9, 1992.

TRD-9213762 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: January 16, 1993

For further information, please call: (512) 458-7236

TITLE 31, NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 281. Applications Processing

• 31 TAC §§281.2, 281.3, 281.5, 281.17, 281.18, 281.21

The Texas Water Commission (TWC) proposes amendments to §§281.2, 281.3, 281.5, 281.17, 281.18, and 281.21, concerning the processing of applications for new, amended, or renewed municipal solid waste permits. TWC is proposing the replacement of the emergency rules, which were published in the April 17, 1992, issue of the *Texas Register* (17 TexReg 2646). The replacement of these sections is a result of Senate Bill 2, First Called Session, 72nd Legislature, which transferred the jurisdiction over municipal solid waste management from the Texas Department of Health (TDH) to TWC effective March 1, 1992. TWC proposes to add these amendments to the existing Chapter 281 to allow the orderly processing of applications for new, amended, or renewed municipal solid waste permits.

Stephen Minick, budget, planning and evaluation division, 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 of the sections.

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 processing of municipal solid

waste permit applications and consistency in commission permit processing procedures. Incorporation of former TDH permit regulations under TWC procedural rules is not anticipated to have any significant fiscal impact to any applicant for a solid waste permit. 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 Jennifer Smith, Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted until 5 p.m. for a period of 30 days following the date of this publication.

The amendments are proposed under the Texas Water Code, §§103 and §26.011, which gives TWC the authority to adopt any rules necessary to carry out its powers, duties, and policies and to protect water quality in the state. These sections are also adopted under the Texas Solid Waste Disposal Act, Texas Health and Safety Code Annotated, Chapter 361 (Vernon), which gives TWC the authority to regulate industrial, hazardous, and municipal solid wastes and to adopt rules and promulgate rules consistent with the general intent and purposes of the Act.

§281.2. Applicability. These sections are applicable to the processing of:

(1)-(7) (No change.)

(8) applications for weather modification permits and licenses; [and]

(9) applications for new or amended certificates of convenience and necessity; and [.]

(10) applications for new, amended, or renewed municipal solid waste permits.

§281.3. Initial Review.

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

(c) For applications involving hazardous waste under the Texas Solid Waste Disposal Act, Texas Health and Safety Code, Chapter 361 [Texas Civil Statutes, Article 4477-7], applicants for existing hazardous waste management facilities shall have 30 days from receipt of notice of deficiency in a Part A permit application to respond to the notification and to explain or cure the alleged deficiency in the Part A application. Applicants shall be afforded this opportunity to cure the deficiencies before the executive director may pursue enforcement action concerning deficient applications.

§281.5. Application for Wastewater Discharge, Underground Injection, Municipal Solid Waste, Hazardous Waste, and Industrial Solid Waste Management Permits. Applications for wastewater discharge, underground injection, municipi-

pal solid waste, hazardous waste, and industrial solid waste management permits must include:

(1) (No change.)

(2) the payment of fees, if applicable;

(3)-(7) (No change.)

§281.17. Notice of Receipt of Application and Declaration of Administrative Completeness.

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

(d) Other applications. Upon receipt of an application described in §281.2(2) or [and] (5)-(10) [(5)-(9)] of this title (relating to Applicability) which contains the information and attachments required by §§281.5-281.7 and 281.16 of this title (relating to Application for Wastewater Discharge; Applications for Solid Waste Management Permits; Applications for Plan Approval of Reclamation Projects; Applications for Weather Modifications Permits; and Applications for Certificates of Convenience and Necessity), the executive director or his designee shall assign the application a number for identification purposes, and prepare a statement of the receipt of the application and declaration of administrative completeness which is suitable for publishing or mailing and shall forward that statement to the chief clerk. Upon receipt of an application for a new, amended or renewed injection well permit, except those filed pursuant to §331.8 of this title (relating to Application Required for Existing Wells) for a new, amended, or renewed industrial solid waste permit or for a new or amended compliance plan as described in §281.2(3) and (4) of this title, the executive director or his designee shall assign the application a number for identification purposes and prepare a statement of the receipt of the application which is suitable for publishing or mailing and shall forward that statement to the chief clerk. The chief clerk shall notify every person entitled to notification of a particular application under the rules of the commission.

(e) (No change.)

(f) Notice of application and draft permit. Nothing in this section shall be construed so as to waive the requirement of notice of the application and draft permit in accordance with §§305.91-305.105 of this title (relating to Actions, Notice, and Hearing) for applications for wastewater discharge, underground injection, and hazardous waste, municipal solid waste, and industrial solid waste management permits.

§281.18. Applications Returned.

(a) (No change.)

(b) For applications involving industrial, hazardous, or [solid waste or] municipal [hazardous] waste, the executive director may extend the response time to a maximum of 270 days upon sufficient proof from the applicant that an adequate response cannot be submitted within 30 days. Unless there are extenuating circumstances, if an applicant does not submit an administratively complete application as required by this chapter, the application shall be considered withdrawn. However, if applicable, the applicant is responsible for the cost of any notice provided pursuant to §281.17 of this title (relating to Notice of Receipt of Application and Declaration of Administrative Completeness) and the costs of such notice shall be deducted from any filing fees submitted by the applicant prior to return of the incomplete application.

§281.21. Draft Permit, Technical Summary, Fact Sheet, and Compliance Summary.

(a) The provisions of this section are applicable to applications for waste disposal activities conducted under the authority of the Texas Water Code, Chapters 26 and 27, and the Texas Solid Waste Disposal Act, Texas Health and Safety Code, Chapter 361 [Texas Civil Statutes, Article 4477-7.]

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

(d) The executive director shall prepare a summary which describes the compliance status of persons applying for permits issued under the Texas Solid Waste Disposal Act, Texas Health and Safety Code, Chapter 361 [Texas Civil Statutes, Article 4477-7]; the Injection Well Act, Texas Water Code, Chapter 27; and the Water Quality Control Act, Texas Water Code, Chapter 26. For applications filed under the Texas Solid Waste Disposal Act or the Injection Well Act, the summary shall include the applicant's compliance status with respect to rules, orders, or permits issued by the Texas Water Commission under the authority of both statutes. For applications filed under the Water Quality Control Act, the summary shall include the applicant's compliance status with respect to rules, orders, or permits issued by the Texas Water Commission under the authority of the Texas Water Code. Upon completion of technical review and prior to issuance of public notice in accordance with §§305.91-305.105 of this title (relating to Actions, Notice, and Hearing), the executive director shall send the compliance summary, together with the draft permit and technical summary, if applicable, to the applicant and on request, to any other person. The compliance summary shall include information relative to the site which is the subject of the current application as well as other facilities owned or operated by the applicant which are under the commission's jurisdiction whether permitted or not. The summary shall cover at least the two-year

period preceding the date on which technical review is complete and shall include:

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

(e) (No change.)

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

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

TRD-9214449

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: November 30, 1992

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

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Chapter 288. Water Conservation Plan, Guidelines and Requirements

Subchapter A. General Provisions

• **31 TAC §§288.1-288.7**

The Texas Water Commission (commission) proposes new §§288.1-288.7, concerning water conservation plans. The proposed new chapter seeks to provide guidance with respect to the development and the contents of water conservation plans submitted to the commission pursuant to its administrative and judiciary functions, and as required by the Texas Water Code, §11.1271 and §11.134.

Section 288.1 defines words and terms used in this chapter. Sections 288.2-288.6 describe the technical and informational requirements to be considered in the specification of the following types of water conservation plans: plans for municipal public water supply systems; plans for industrial or mining uses of water; plans for irrigation uses of water; plans for wholesalers of water; and plans for any other purpose or use of water. Section 288.7 describes additional information required in a water conservation plan submitted with applications to appropriate state water, as required by §295.9 of this title (relating to Requirements of Water Use Permit Application).

Steve Minick, office 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 and local government as a result of enforcing or administering the sections. For the first five-year period the sections are in effect the increased cost to state government is estimated to be a total of \$46,777, and the total cost to local government is estimated to be \$42,000. It has also been estimated that the total fiscal costs to small businesses for the first five-year period the sections are in effect will be \$77,000. It has also been determined that a significant number of individual water right holders will realize cost savings due to implementation of conservation plans. Such savings will accrue from lower energy costs associated with

pumping, lower water treatment costs, and lower capital investment costs. The fiscal impacts do not reflect any of the savings due to implementation of water conservation plans.

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 the conservation of water which will then be available for other beneficial uses.

Comments on the proposal may be submitted to Sharon Smith, Senior Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069 for 30 days following the date of publication.

The new sections are proposed under the Texas Water Code, §§5.103, 5.105, and 5.120, which provides the commission with the authority to promulgate rules as necessary to carry out its powers and duties under the Texas Water Code and other laws of the state.

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

Beneficial use—The use of only that amount of water which is reasonable and necessary for a purpose authorized by law, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose. Water which is wasted, or inefficiently used, because of, but not limited to, inefficient diversion works or distribution systems, faulty design, excessive applications or per capita use, excessive or unnecessary evaporation, transpiration, or seepage, or pollution is water which is not beneficially used.

Conservation—Those measures that seek to make a water supply available for alternative or future uses to the greatest extent possible for the benefit of the public health, safety, and welfare, and of the environment. Conservation measures refer to those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water.

Irrigation water use efficiency—The percentage of that amount of irrigation water which is beneficially used by agriculture crops or other vegetation relative to the amount of water diverted from the source(s) of supply. Beneficial uses of water for irrigation purposes include, but are not limited to, evapotranspiration needs for vegetative maintenance and growth and salinity management and leaching requirements associated with irrigation.

Per capita water use—The sum total of water diverted into a water supply system for residential, commercial, and public and institutional uses divided by actual population served.

Pollution—The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of any water in the state that renders the water harmful or detrimental to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness of the public enjoyment of the waters for any lawful or reasonable purpose.

Reuse—The authorized use for one or more beneficial purposes of use of water that remains unconsumed after the water is used for the original purpose of use and before that water is either disposed of or discharged or otherwise allowed to flow into a watercourse, lake, or other body of state-owned water.

Waste—The diversion of state water if the water is not used for a beneficial purpose; the unreasonable loss of water through faulty design or negligent operation of a water delivery, distribution or application system; the use of quantities of water in an amount in excess of the amount reasonably necessary to beneficially use the water for an authorized purpose; or the diversion of state water in any manner that causes or threatens to cause pollution of the state water.

Water conservation plan—A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, or for preventing the pollution of water. A water conservation plan may be a separate document identified as such or may be contained within another water management document(s).

§288.2. Water Conservation Plans for Municipal Uses by Public Water Suppliers. A water conservation plan for municipal water use by public water suppliers shall provide information, where applicable, in response to each of the following paragraphs.

(1) Minimum requirements. All water conservation plans for municipal uses by public drinking water suppliers shall outline and incorporate the following elements:

(A) a utility profile including, but not limited to, information regarding population and customer data, water use data, water supply system data, wastewater system data, and financial data of the utility;

(B) specification of conservation goals including, but not limited to, per capita water use goals, the basis for the development of such goals, and a timeframe for achieving the specified goals;

(C) metering device(s), within an accuracy of plus or minus 5.0%, in order to measure and account for the amount of water diverted from the source of supply;

(D) a program for annual bookkeeping of water uses;

(E) a program for universal metering of both customer and public uses, for meter testing and repair, and for periodic meter replacement;

(F) measure(s) to control unaccounted-for uses of water;

(G) a program of continuing public education and information regarding water conservation; and

(H) official adoption of the water conservation plan and goals, by ordinance, resolution, or tariff, indicating that the plan reflects official policy of the utility.

(2) Additional requirements. Water conservation plans for municipal uses by public drinking water suppliers serving a current population of 5,000 or more and/or a projected population of 5,000 or more for the next 10 years subsequent to the effective date of the plan must also consider, and include if appropriate, the following elements:

(A) a program for monthly bookkeeping of water uses;

(B) conservation-oriented water rates and water rate structures (e.g., either uniform or increasing block rate schedules but not decreasing block rates);

(C) a program of leak detection, repair, and water loss accounting for the water transmission, delivery, and distribution system in order to control unaccounted-for uses of water;

(D) adoption of ordinances, plumbing codes, and/or rules requiring water conserving plumbing fixtures to be installed in new structures and existing structures undergoing substantial modification or addition;

(E) a program for the replacement or retrofit of water conserving plumbing fixtures in existing structures;

(F) reuse of wastewater and/or greywater;

(G) a program and/or ordinance(s) for landscape water management;

(H) a requirement in every wholesale water supply contract entered into or renewed after official adoption of the plan (by either ordinance, resolution, or tariff), and including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using the applicable elements in this chapter; if the customer intends to resell the water, then the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with applicable provisions of this chapter;

(I) a description of the method for monitoring the effectiveness and efficiency of the water conservation plan;

(J) a description and copy of the authority and means by which the applicant will implement and enforce the conservation plan;

(K) a drought management plan including:

(i) an education and information program concerning the plan;

(ii) notification procedures to identify the initiation and termination of the drought and the corresponding implementation and termination of the drought measures;

(iii) trigger conditions signaling the start of any identified drought period; and

(iv) drought water-use measures (e.g., water use restrictions, etc.) corresponding to each trigger condition; and

(L) any other water conservation practice, method, or technique which the water supplier shows to be appropriate for achieving the stated goal or goals of the water conservation plan.

§288.3. Water Conservation Plans for Industrial or Mining Use. A water conservation plan for industrial or mining uses of water shall provide information, where applicable, in response to each of the following elements:

(1) a description of the use of the water in the production process, including how the water is diverted and trans-

ported from the source(s) of supply, how the water is utilized in the production process, and the estimated quantity of water consumed in the production process and therefore unavailable for either reuse or for discharge or other means of disposal;

(2) specification of conservation goals, the basis for the development of such goals, and a time frame for achieving the specified goals;

(3) a description as to the device(s) and/or method(s) within an accuracy of plus or minus 5.0% to be used in order to measure and account for the amount of water diverted from the source of supply;

(4) leak-detection, repair, and water loss accounting for water transmission, delivery, and distribution system;

(5) application of state-of-the-art equipment and/or process modifications to improve water use efficiency; and

(6) any other water conservation practice, method, or technique which the user shows to be appropriate for achieving the stated goal or goals of the water conservation plan.

§288.4. Water Conservation Plans for Irrigation Use. A water conservation plan for irrigation uses of water shall provide information, where applicable, in response to each of the following subsections.

(1) For an individual user:

(A) a description of the agricultural production process which shall include, but is not limited to, the type of crops and acreage of each crop to be irrigated, monthly irrigation diversions, any seasonal or annual crop rotation, and soil types of the land to be irrigated;

(B) a description of the irrigation method or system and equipment including pumps, flow rates, plans, and/or sketches of the system layout;

(C) a description of the device(s) and/or method(s) within an accuracy of plus or minus 5.0%, to be used in order to measure and account for the amount of water diverted from the source of supply;

(D) specification of conservation goals including where appropriate quantitative goals for irrigation water use efficiency;

(E) water conserving irrigation equipment and application system or method including, but not limited to, surge irrigation, low pressure sprinkler, drip irrigation, and nonleaking pipe;

(F) leak-detection, repair, and water-loss control;

(G) scheduling the timing and/or measuring the amount of water applied, for example, soil moisture monitoring;

(H) land improvements for retaining or reducing runoff, and increasing the infiltration of rain and irrigation water including, but not limited to, land levelling, furrow diking, terracing, and weed control;

(I) tailwater recovery and re-use; and

(J) any other water conservation practice, method, or technique which the user shows to be appropriate for achieving conservation.

(2) For a system providing irrigation water to more than one user:

(A) a system inventory for the supplier's structural facilities, management practices, and a user profile. An inventory of the structural facilities should reference the supplier's storage, conveyance, and delivery structures. Management practices should reference the supplier's operating rules and regulations, water pricing policy, and a description of practices and/or devices used to account for water deliveries. The user profile should include square miles of the service area, the number of customers taking delivery of water by the system, the types of crops, the types of irrigation systems, the types of drainage systems, and total acreage under irrigation, both historical and projected;

(B) specification of water conservation goals including maximum allowable losses for the storage and distribution system;

(C) a description as to which practice(s) and/or device(s) which will be utilized to measure and account for the amount of water diverted from the source(s) of supply;

(D) a monitoring and record management program of water deliveries, sales, and losses;

(E) a leak-detection, repair, and water loss control program;

(F) a program to assist customers in the development of on-farm water conservation plans and/or measures;

(G) a requirement in every wholesale water supply contract entered into or renewed after official adoption of the plan (by either ordinance, resolution, or tariff) and including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using the applicable elements in this chapter; if the customer intends to resell the water, then the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with applicable provisions of this chapter;

(H) official adoption of the water conservation plan and goals, by ordinance, resolution, or tariff, indicating that the plan reflects official policy of the supplier;

(I) a drought contingency plan; and

(J) any other water conservation practice, method, or technique which the supplier shows to be appropriate for achieving conservation.

§288.5. Water Conservation Plans for Wholesale Water Suppliers. A water conservation plan for a wholesale water supplier shall provide information, where applicable, in response to each of the following elements:

(1) a description of the wholesaler's service area, including population and customer data, water use data, water supply system data, and wastewater data;

(2) specification of conservation goals including, where appropriate, target per capita water use goals for the wholesaler's service area, maximum acceptable unaccounted-for water, the basis for the development of said goals, and a timeframe for achieving those goals;

(3) a description as to which practice(s) and/or device(s) will be utilized to measure and account for the amount of water diverted from the source(s) of supply;

(4) a program to assist customers in the development of conservation measures;

(5) a requirement in every wholesale water supply contract entered into or renewed after official adoption of the plan (by either ordinance, resolution, or tariff) and including any contract extension, that each successive wholesale customer de-

velop and implement a water conservation plan or water conservation measures using the applicable elements in this chapter; if the customer intends to resell the water, then the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with applicable provisions of this chapter;

(6) a program of metering and leak detection and repair for the wholesaler's water delivery and distribution system;

(7) official adoption of the water conservation plan and goals, by ordinance, resolution, or tariff, indicating that the plan reflects official policy of the wholesaler;

(8) adoption of a drought management plan including:

(A) an education and information program concerning the plan;

(B) notification procedures to identify the initiation and termination of the drought and the corresponding implementation and termination of the drought measures;

(C) trigger conditions signaling the start of any identified drought period; and

(D) drought water-use measures corresponding to each trigger condition; and

(9) any other water conservation practice, method, or technique which the supplier shows to be appropriate for achieving conservation.

§288.6. Water Conservation Plans for Any Other Purpose or Use. A water conservation plan for any other purpose or use not covered in this chapter shall provide information where applicable about those practices, techniques, and technologies that will be used to reduce the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water.

§288.7. Plans submitted with a Water Right Application for New or Additional State Water. A water conservation plan submitted with an application requesting an appropriation for new or additional state water must include data and information which:

(1) supports the applicant's proposed use of water with consideration of the water conservation goals of the water conservation plan;

(2) evaluates conservation as an alternative to the proposed appropriation. It shall be the burden of proof of the applicant to demonstrate that no feasible alternative to the proposed appropriation exists and that the requested amount of appropriation is necessary and reasonable for the proposed use.

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 26, 1992.

TRD-9214447

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: November 30, 1992

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

Chapter 290. Water Hygiene

Rules and Regulations for Public Water Systems

• 31 TAC §290.51

The Texas Water Commission "TWC" proposes new §290.51, concerning fees for services to drinking water systems. The commission is proposing the new section as a result of Senate Bill 2, First Called Session, 72nd Legislature, which transferred all the powers, duties, rights, and obligations of the Texas Department of Health (TDH) pertaining to the setting of sanitary standards for drinking water and the protection of public water supplies to TWC effective March 1, 1992, and in response to new federal regulations under the Safe Drinking Water Act, which require a significant increase in regulatory involvement with public drinking water supplies. The new section establishes fees to be charged by the commission for services to drinking water systems similar to those fees previously charged by TDH under 25 TAC §337.18, now repealed. However, due to the increased regulatory involvement mandated by the Safe Drinking Water Act, including the additional inspection and testing of public water supplies, the fee structure that existed under former §337.18 was insufficient to meet the needs of the program. As a result, the fee structure proposed in new §290.51 is designed to provide the commission with necessary additional revenue by shifting the cost of chemical analyses from TWC to the public water supplier and by establishing a formula for determining fees that will more accurately reflect agency resource demands based on the size and type of facility.

Stephen Minick, division of budget and planning, has determined that for the first five-years period the section is in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government will be an increase in revenue of approximately \$362,000 in each of the fiscal years 1993-1997. This section will re-

sult in increased costs to operators of public water systems of \$362,000 annually over the same period. Costs to individual operators will vary but are anticipated to average approximately \$50 per year. These costs will be realized by local governments which are operators of public water systems. Likewise, private operators of public water systems will realize the same cost increases and the effects anticipated for small businesses will vary under the proposed rate schedules with the size of the system and the number of service connections, wells, and surface plants.

Mr. Minick 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 improvements in the regulation of public water systems and the resources available to support drinking water programs. There are no known costs anticipated for persons required to comply with this section that are not identified previously.

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

The new section is proposed under Senate Bill 2, First Called Session, 72nd Legislature, which transferred all the powers, duties, rights, and obligations of TDH pertaining to the setting of sanitary standards for drinking water and the protection of public water supplies to TWC, and under the Texas Water Code, §5.103, which authorizes the commission to adopt any rules necessary to carry out its powers, duties, and policies.

§290.51. Fees for Services to Drinking Water Systems.

(a) This section establishes fees for services provided by the commission to drinking water systems.

(b) Services provided by the commission to drinking water systems, and therefore subject to the fees, include the following:

(1) scheduling of analyses of drinking water for chemical content;

(2) inspection of public water systems;

(3) review of plans for new systems and major improvements to existing systems;

(4) review of system data for evaluation of sampling waivers; and

(5) providing technical assistance as needed.

(c) The fees charged by the commission for services provided to community and nontransient noncommunity water systems under this subsection will be calculated according to Schedule A.

Schedule A

Number of connections (c) *

$$A_{fee} = (c)^{0.5} \times \$11.00$$

Number of wells (w)

$$B_{fee} = (w) \times \$35.00$$

Number of surface plants (s)

$$C_{fee} = (s) \times \$300.00$$

$$\text{Total Fee**} = A_{fee} + B_{fee} + C_{fee}$$

*Number of connections will be determined from data collected from the latest sanitary survey report. All nontransient noncommunity systems, state, federal and other community water system installations determined by the Commission which serve large populations through a few connections shall have the number of connections for fee purposes determined by dividing the population served by a value of ten. Examples of such installations are universities, children's homes, correctional facilities, military facilities, etc. which generally do not bill customers for water service.

**The minimum total fee will be \$50.00

(d) The commission will charge a fee of \$50 for services provided under this subsection to noncommunity water systems.

(e) New public water systems will not be assessed a fee for services until water is supplied to the first connection.

(f) Payment of all fees under this section will be made within 30 days of receipt of the bill for such fees from the Texas Water Commission. Payment shall be made by check or money order made payable to the Texas Water Commission.

(g) Failure to make payments as required under this section will subject the violator to the penalty provisions of Health and Safety Code, Chapter 341.

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 26, 1992.

TRD-9214451

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

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



Chapter 295. Water Rights,
Procedural

Subchapter A. Requirements of
Water Use Permit Applica-
tion

General Requirements

- 31 TAC §295.9

The Texas Water Commission (commission) proposes an amendment to §295.9, concerning water rights, procedural. The proposed changes to §295.9 are to clarify the water conservation plan requirements for water conservation plans submitted with water use permit applications to appropriate state water pursuant to the Texas Water Code (Code), §11.1271 and §11.134. Concurrently, TWC proposes changes to §297.1, and new §§297.53-297.56 of this title (relating to Water

Rights, Substantive). The proposed changes to Chapter 297 clarify the issuance and conditions of use of state water as it relates to water conservation.

The Code, §11.1271 provides that the commission may require the formulation and submission of a water conservation plan and the adoption of reasonable water conservation measures. Conservation measures are defined by the Code, §11.002(8)(B), as those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

The Code, §11.134(b)(4) provides that the commission may not grant an application for a water appropriation unless the applicant has provided evidence that reasonable diligence will be used to avoid waste and achieve water conservation.

In that conservation measures provide evidence that reasonable diligence has been effected and/or will be observed in order to avoid waste of state water, the proposed changes to Chapters 295 and 297 are necessary to promote the conservation of water resources in order that appropriated waters will be beneficially used for the authorized purposes in accordance with the Code, §11.025 and §11.026. Additionally, the proposed changes to Chapters 295 and 297 reflect the commission's commitment to and responsibility for solutions which seek to alleviate potential and existing problems throughout the state where water demand exceeds available or long-term supply, new reservoir sites are scarce and environmentally sensitive, supplies of groundwater are overdrafted and sometimes not of necessary quality for the intended use, or the development of new sources of water supply may result in unnecessary capital outlay and corresponding rate increases. Where water conservation programs are the least costly methods of insuring a sufficient and affordable supply of water, such programs should precede the development of additional water supply sources. The proposed rules are intended to promote the development and implementation of a water conservation plan as either an alternative to, or a complement to, the traditional emphasis on only augmenting the stock of water supplies.

Applications to appropriate state water for in-place use only, for emergency use, and for temporary use are exempted from the requirement to submit water conservation plans. However, all water right holders must exercise reasonable diligence to avoid waste and achieve water conservation. Water which is wasted, lost, or inefficiently used is not beneficial use and the right to appropriate wasted, lost, or inefficiently used water is not perfected and is, therefore, subject to cancellation as provided by law.

Mr. Steve Minick, office of budget and planning has determined that for the first five-year period the section is in effect there will be fiscal implications for state and local government as a result of enforcing or administering the section. For the first five-year period the

section is in effect, the increased cost to state government is estimated to be a total of \$46,777, and the total cost to local government is estimated to be \$42,000. It has also been estimated that the total fiscal costs to small businesses for the first five-year period the section will be in effect will be \$77,000. For each year of the first five years the section is in effect a significant number of individual water right holders will realize cost savings due to implementation of conservation plans. Such savings will accrue from lower energy costs associated with pumping, lower water treatment costs, and lower capital investment costs. The fiscal impacts do not reflect any of the savings due to implementation of water conservation plans.

Mr. Minick also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the conservation of water which will then be available for other beneficial uses.

Comments on the proposal may be submitted to Sharon Smith, Senior Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069 for 30 days following the date of publication.

The amendment is proposed under the Texas Water Code, §§5.103, 5.105, and 5.120, which provides the commission with the authority to promulgate rules as necessary to carry out its powers and duties under the Texas Water Code and other laws of the state.

§295.9. Conservation Plan. An application relating to the appropriation or use of state water must include a water conservation plan meeting applicable requirements contained in this section. An application not accompanied by such plan is not administratively complete and shall not be considered by the commission, unless expressly exempted by this section. The plan must demonstrate that reasonable diligence will be used to avoid waste and achieve water conservation in order that appropriated waters will be beneficially used for the authorized purposes. Conservation means those practices, techniques, and technologies that will reduce the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water so that a water supply is made available for future or alternative uses for the benefit of the public health, safety, and welfare, and of the environment.

(1) Applications to appropriate or to use water for municipal use, industrial or mining use, or irrigation use. A water conservation plan submitted with an application to appropriate or to use state water for municipal use, industrial or mining use, or irrigation use must

be submitted in accordance with the guidelines set forth in Chapter 288 of this title (relating to Water Conservation Plans, Guidelines, and Requirements).

(2) Application to appropriate or to use water by wholesale water suppliers. A water conservation plan submitted with an application to appropriate or to use state water by a wholesale water supplier must be submitted in accordance with the guidelines set forth in Chapter 288 of this title.

(3) Applications to appropriate or to use water for any other purpose or use. A water conservation plan submitted with an application to appropriate or to use state water for any other purpose or use shall include a water conservation plan providing information where applicable about those practices, techniques, and technologies that will be used to reduce the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water.

(4) Applications to amend existing water rights. An application to amend an existing water right for any of the following reasons must be accompanied by a water conservation plan in accordance with the applicable provisions of this section:

(A) to increase the amount of the appropriation;

(B) to extend the term of the appropriation;

(C) to change the place of use, unless the request is to expand the amount of acreage to be irrigated adjacent to the existing, authorized irrigated tract without an increase in the appropriation; or

(D) to change the purpose or use of the appropriation (a conservation plan to change the purpose or use of an appropriation need only address the proposed change in purpose or use; however, the executive director may require an applicant to submit a water conservation plan which addresses the applicant's entire water uses and/or appropriations).

(5) Exemptions to the requirement to submit water conservation plans. Applications to impound water for in-place use only, for emergency use in accordance with §295.91 of this title (relating to Requirements for Application for Emergency Water Use Permit) and for temporary use of water in accordance

with §295.61 of this title (relating to Additional Requirements for Applications for Temporary Permits) are exempt from having to submit a water conservation plan pursuant to this section. However, all water right holders must exercise reasonable diligence to avoid waste and achieve water conservation so that the right to use state water is limited to the amount which is being or can be beneficially used for the authorized purposes but not to exceed the amount specifically appropriated. [The applicant shall provide information demonstrating that reasonable diligence will be used to avoid waste and achieve water conservation. Conservation means these practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, and increase the recycling and reuse of water so that a water supply is made available for future or alternative uses. Applications will not be considered complete until a water conservation plan has been submitted to the executive director.]

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

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Director, Legal Division
Texas Water Commission

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

Chapter 297. Water Rights, Substantive

Subchapter A. Definitions

• 31 TAC §297.1

The Texas Water Commission (TWC) proposes an amendment to §297.1, and new §§297.53, 297.54, 297.55, and 297.56, concerning definitions to clarify the conditions of water use ensuring that appropriated water is only beneficially used as required by the Texas Water Code (Code) §11.025 and §11.026, and to clarify the procedure for review and approval of water conservation plans pursuant to the Code §11.1271 and §11.134.

Section 297.1 replaces definitions of beneficial use and conservation with new definitions for these terms. These new definitions for beneficial use and conservation clarify those terms as they relate to engineering standards and nomenclature. Section 297.1 also adds new definitions for the terms irrigation water use efficiency, per capita water use, pollution, reuse, waste, and water conservation plan.

The proposed new §297.53 and §297.54 clarify water conservation requirements of water right holders pursuant to the Code, §11.025

and §11.026. The proposed new §297.55 delineates the review procedure for water conservation plans submitted with an application to appropriate or to use state water. The proposed new §297.56 provides to water right holders who implement water conservation measures protection from undue cancellation of unused water.

The Code, §11.025, provides that the right to use state water under any permit, certified filing, or certificate of adjudication is limited to the amount which is being or can be beneficially used for the authorized purposes but not to exceed the amount specifically appropriated. Water which is wasted, lost, or inefficiently used because of, but not limited to, inefficient diversion works or distribution systems, faulty design, excessive applications or per capita water use, excessive or unnecessary evaporation, transpiration or seepage, or pollution is not beneficially used and is a violation of the water right. The Code, §11.026, provides that the right to appropriate that amount of water not beneficially used cannot be perfected and is subject to limitation, cancellation, and forfeiture as provided by law. The proposed rule changes provide a reasonable means for the enforcement of the terms, conditions, provisions, and limitations contained in the water right relating to beneficial use.

The Code, §11.1271, provides that the commission may require from a water right applicant the formulation and submission of a water conservation plan and the adoption of reasonable water conservation measures. Such measures are defined by The Code, §11.002(8)(B), as those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

The Code, §11.134(b)(4) provides that the commission may not grant an application for a water appropriation unless the applicant has provided evidence that reasonable diligence will be used to avoid waste and achieve water conservation.

In that conservation measures evidence that reasonable diligence has been effected in order to avoid waste of state water, the proposed rule changes are necessary to promote the conservation of water resources in order that appropriated waters will be beneficially used for the authorized purposes in accordance with the Code, §11.025 and §11.026.

Steve Minick, office of budget and planning, has determined that for the first five years the sections are in effect there will be some fiscal implications for state and local governments as a result of enforcing or administering the sections. For the first five year period the sections are in effect, the cost to state government is estimated to be a total of \$46,777, and the total cost to local governments is estimated to be \$42,000. It has also been estimated that the total fiscal costs to small businesses for the first five year period the sections will be in effect will be \$77,000. Commission staff have also determined that a significant number of individual water right

holders will realize cost savings due to implementation of conservation plans. Such savings will accrue from lower energy costs associated with pumping, lower water treatment costs, and lower capital investment costs. The above fiscal impacts do not reflect any of the savings due to implementation of water conservation plans. Additionally, it has been 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 the conservation of water which will then be available for other beneficial uses.

Comments on the proposal may be submitted to Sharon Smith, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069 for 30 days following the date of publication.

The amendment is proposed under the Water Code §§5.103, 5.105, and 5.120, which provide the commission with the authority to promulgate rules as necessary to carry out its powers and duties under the Texas Water Code and other laws of the state.

§297.1. Definitions. The following words and terms, when used in this chapter, and in Chapter 295 of this title (relating to Water Rights, Procedural), shall have the following meanings, unless the context clearly indicates otherwise.

Beneficial use—The use of only that amount of water which is reasonable and necessary for a purpose authorized by law, when reasonable intelligence and diligence are used in applying the water to that purpose. Water which is wasted, or inefficiently used, because of, but not limited to, inefficient diversion works or distribution systems, faulty design, excessive application or per capita use, excessive or unnecessary evaporation, transpiration or seepage, or pollution is water not beneficially used. [Use of the amount of water which is economically necessary for a purpose authorized by law, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose].

Conservation—Those measures that seek to make a water supply available for alternative or future uses to the greatest extent possible for the benefit of the public health, safety, and welfare, and of the environment. Conservation measures refer to those practices, techniques, and technologies that reduce or maintain the consumption of water, prevent or reduce the waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water. [Those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses].

Irrigation water use efficien-

cy-The percentage of that amount of irrigation water which is beneficially used by agriculture crops or other vegetation relative to the amount of water diverted from the source(s) of supply. Beneficial uses of water for irrigation purposes include, but are not limited to, evapotranspiration needs for vegetative maintenance and growth and salinity management and leaching requirements associated with irrigation.

Per capita water use-The sum total of water diverted into a water supply system for residential, commercial, and public and institutional uses divided by actual population served.

Pollution-The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of any water in the state that renders the water harmful or detrimental to humans, animal life, vegetation, or property, or the public health, safety or welfare, or impairs the usefulness of the public enjoyment of the waters for any lawful or reasonable purpose.

Reuse-The authorized use for one or more beneficial purposes of use of water that remains unconsumed after the water is used for the original purpose of use and before that water is either disposed of or discharged or otherwise allowed to flow into a watercourse, lake or other body of state-owned water.

Waste-The diversion of state water if the water is not used for a beneficial purpose; the unreasonable loss of water through faulty design or negligent operation of a water delivery, distribution or application system; the use of quantities of water in an amount in excess of the amount reasonably necessary to beneficially use the water for an authorized purpose; or the diversion of state water in any manner that causes or threatens to cause pollution of the state water.

Water conservation plan-A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for preventing or reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, or for preventing the pollution of water. A water conservation plan may be a separate planning document or may be contained within another water management document(s).

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

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Mary Ruth Holder
Director, Legal Division
Texas Water Commission

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Subchapter E. Issuance and
Conditions of Water Permit
or Certificate of Adjudica-
tion

• 31 TAC §§297.53-297.56

The new sections are proposed under the Water Code, §§5.103, 5.105, and 5.120, which provides the commission with the authority to promulgate rules as necessary to carry out its powers and duties under the Texas Water Code and other laws of the state.

§297.53. *Conservation and Beneficial Use.*

(a) The right to use state water under any permit, certified filing, or certificate of adjudication is limited to the amount which is being or can be beneficially used for the authorized purposes but not to exceed the amount specifically appropriated.

(b) Water which is wasted, inefficiently used, or otherwise not beneficially used is a violation of the right to appropriate state water.

(c) The right to appropriate that amount of water not beneficially used cannot be perfected and is subject to limitation, cancellation, or forfeiture as provided by law.

(d) A water right holder using state water shall use those practices, techniques, and technologies that reduce the consumption of water, prevent or reduce the loss or waste of water, maintain or improve the efficiency in the use of water, increase the recycling and reuse of water, or prevent the pollution of water so that the water is only beneficially used.

§297.54. *Waste.*

(a) The waste of water is prohibited and is a violation of the right to use state water.

(b) The use of that amount of water in excess of that which is reasonable and necessary for the authorized purpose constitutes waste. Waste includes, but is not limited to, the failure to use water conservation measures or meet performance standards set forth as a condition of the water right.

§297.55. *Consideration of Water Conservation Plans.*

(a) Review. Information in the water conservation plan provided by a water right applicant shall be considered by the commission in determining whether any feasible alternative to the requested appro-

priation exists and whether the requested amount of appropriation as measured at the point of diversion is reasonable and necessary for the proposed use. Based upon its review, the commission shall determine whether to deny or grant, in whole or in part, the requested appropriation.

(b) Burden of proof regarding need for appropriation. A water conservation plan submitted with an application requesting an appropriation for new or additional state water must include data and information which supports the applicant's proposed use of water with consideration of the water conservation goals of the water conservation plan, and evaluates conservation as an alternative to the proposed appropriation. It shall be the burden of proof of the applicant to demonstrate that no feasible alternative to the proposed appropriation exists and that the requested amount of appropriation is necessary and reasonable for the proposed use.

(c) Implementation. Any water conservation measures prescribed by the commission shall be implemented as required by the terms and conditions of a commission order or water right, or by rule.

§297.56. *Conserved Water.*

(a) The right to use that amount of water appropriated which is conserved as a result of the implementation of water conservation measures shall not be subject to cancellation or forfeiture if, subsequent to the effective date of having implemented the conservation measure(s):

(1) the conserved water is shown to be held in order to meet future water demands; and/or

(2) the conserved water is sold for a beneficial use or that portion of the water right is transferred for beneficial use(s); and/or

(3) the water right holder applies and is granted an amendment to his water right for the amount of conserved water to be used for additional beneficial purposes.

(b) Consideration shall be given to the impact on instream uses, water quality, aquatic and wildlife habitat, and bay and estuaries in the commission's review and action on a request for authorization to sell or transfer conserved water provided by this section.

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

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TRD-9214452

Mary Ruth Holder
Director, Legal Division
Texas Water Commission

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

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 23. Vehicle Inspection

Vehicle Inspection Station Licensing

• **37 TAC §23.7**

The Texas Department of Public Safety proposes an amendment to §23.7, concerning equipment requirements for all classes of vehicle inspection stations. The amendment adds subsection (f)(9) which requires equipment for measuring the light transmission of sunscreening devices to be owned and maintained by the vehicle inspection station.

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

George C. King, chief of traffic law enforcement, 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 ensure the public that vehicle inspection inspectors adequately inspect vehicles that have sunscreening installed by using a tint metering device. The cost of compliance will be the same for small or large businesses to own one window tint measuring device.

The anticipated economic cost to persons who are required to comply with the section as proposed will be: cost per tint metering device—\$150 per year for fiscal years 1992-1996.

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

The amendment is proposed under Texas Civil Statutes, Article 6701d, Article XV, §142, which provide the Texas Department of Public Safety with the authority to adopt rules necessary for the administration and enforcement of this Act.

§23.7. Equipment Requirements for All Classes of Vehicle Inspection Stations.

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

(f) Each vehicle inspection station is required to own and maintain, as a minimum, the equipment listed following:

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

(7) a 1/4 inch round hole punch if motorcycle-trailer certificates are issued; [and]

(8) a brake pedal reserve checker with one-inch and two-inch clearances (except motorcycle inspection stations); and [.]

(9) a department approved device for measuring the light transmission of sunscreening devices.

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-9214395

James R. Wilson
Director
Texas Department of
Public Safety

Earliest possible date of adoption: November 30, 1992

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

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Inspection Items, Procedures, and Requirements

• **37 TAC §23.42**

The Texas Department of Public Safety proposes new §23.42, concerning inspection of sunscreening devices (glass tinting) by official vehicle stations. This section establishes guidelines for inspecting vehicles equipped with sunscreening devices to the left and right of the driver on all 1988 or newer vehicles. This inspection will be performed using an approved metering device.

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

George C. King, chief of traffic law enforcement, 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 ensure the public that front side windows of vehicles equipped with sunscreening devices that do not meet the requirements of Texas Civil Statutes, Article 6701d, §134C will be rejected. The time required for performing the sunscreening device inspection will be the same for small or large businesses.

The anticipated economic cost to persons who are required to comply with the section as proposed cannot be determined, since the cost for removing illegal sunscreening devices could be removed by the person.

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

The new section is proposed under Texas Civil Statutes, Article 6701d, Article XV, §142,

which provide the Texas Department of Public Safety with the authority to adopt rules necessary for the administration and enforcement of this Act.

§23.42. Inspection of Sunscreening Devices (Glass Tinting) by Official Vehicle Inspection Stations.

(a) All official vehicle inspection stations that inspect passenger cars, trucks, truck tractors, and buses, will inspect the sunscreening using an approved metering device on all 1988 or newer vehicles.

(b) The official vehicle inspection station will inspect all front side windows to the immediate left and right of the driver which open so that a one-piece metering device approved by the department may be used and reject if the light transmittance is less than 20%.

(c) The official vehicle inspection station will inspect glass coating or sunscreening devices on windshields and reject if:

(1) it extends downward past the AS-1 line or more than five inches; or

(2) it is red or amber in color.

(d) All official vehicle inspection stations will calibrate each metering device daily and will check calibration after a vehicle fails and before rejecting the vehicle.

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

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TRD-9214397

James R. Wilson
Director
Texas Department of
Public Safety

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 48. Community Care for Aged and Disabled

Case Management

• **40 TAC §48.3906**

The Texas Department of Human Services (DHS) proposes new §48.3906, concerning adult foster care personal needs and medical expenses allowance, in its Community Care for Aged and Disabled chapter. The purpose of the new section is to allow adult foster care

clients to keep money for personal needs and medical expenses. In addition, clients must also be allowed to keep at least one-half of any cost-of-living adjustment received on or after January 1, 1993.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure that adult foster care clients have sufficient funds for their monthly personal needs and medical expenses. 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 Carl Giles at (512) 450-3156 in DHS's Community Care Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-264, 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 new section is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§48.3906. Adult Foster Care Personal Needs and Medical Expenses Allowance. Adult foster care clients must be allowed to keep funds for personal needs and medical expenses as specified in paragraphs (1)-(3) of this section.

(1) Clients with Medicaid coverage must be allowed to keep at least \$50 a month for personal needs.

(2) Clients without Medicaid coverage must be allowed to keep at least \$85 a month for personal needs and medical expenses.

(3) All clients must be allowed to keep at least one-half of any cost-of-living adjustment received on or after January 1, 1993.

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 22, 1992.

TRD-9214342 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

Chapter 56. Family Planning

Subchapter B. Client Rights and Eligibility

The Texas Department of Human Services (DHS) proposes amendments to §56.201 and §56.401; the repeal of §56.801; and new §56.801 and §56.802, concerning purchased counseling and educational services and family planning services provided by DHS and providers in its Family Planning chapter. DHS is proposing new §56.801 and §56.802 under Subchapter H, now titled "Family Planning Program Services Provided by DHS Direct Delivery Staff, Family Health Services Nurses, and Providers." The purpose of the sections is to amend the family planning program rules to explain that DHS direct delivery staff will identify and refer clients to available family planning services, but in-depth information, supportive counseling, and education are to be provided by family health services nurses and providers.

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

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the roles of DHS's direct delivery staff, family health services nurses, and contracted providers to provide mandated family planning services will be clear. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Questions about the content of this proposal may be directed to Beth Weber at (512) 338-6460 in DHS's Purchased Health Services section. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-251, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

• 40 TAC §56.201

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

§56.201. Prompt Service.

(a) The Texas Department of Human Services (DHS) [department] and contracted providers are responsible for promptly offering and providing family planning services to Aid to Families with Dependent Children (AFDC) households and former AFDC applicants and recipients. Federal regulations require that family planning services must be offered within 31 days after the first assistance payment (and at least annually thereafter) and must be arranged within 30 days after the client's

request for services. Federal regulations further stipulate a penalty for failure to meet these requirements. Services are offered in writing with the first assistance check. Referrals [Arrangements] for family planning services are the responsibility of the DHS worker who receives the request.

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

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

Issued in Austin, Texas, on October 26, 1992.

TRD-9214428 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: January 15, 1993

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

Subchapter D. Purchased Services

• 40 TAC §56.401

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

§56.401. Purchased Counseling and Educational Services. Counseling and educational services the Texas Department of Human Services (DHS) purchases include, but are not limited to:

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

(5) natural family planning instruction provided in two sessions to instruct a couple or an individual in natural family planning methods; [and]

(6) for Title XX, group presentations and discussions with a minimum of five adolescents age 19 and younger to include aspects of human sexuality, personal physical care and hygiene, and methods of family planning. This service is reimbursable once for each type of presentation for a client as part of a group by any one agency provider. The presentations and discussions must comply with policies of the organization under whose auspices the presentations occur. This service is considered outreach and may be billed without determining eligibility of the participants; and [.]

(7) additional services listed in §56.802 of this title (relating to Family Planning Program Services Provided by DHS Direct Delivery Staff, Family Health Services Nurses, and Providers).

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 26, 1992.

TRD-9214429

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

Proposed date of adoption: January 15, 1993

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

◆ ◆ ◆
**Subchapter H. DHS Direct
Delivery of Family Planning
Services**

• **40 TAC §56.801**

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

§56.801. Direct Services Provided by DHS Staff.

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

Issued in Austin, Texas, on October 26, 1992.

TRD-9214430

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

Proposed date of adoption: January 15, 1993

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

◆ ◆ ◆
**Subchapter H. Family Plan-
ning Program Services
Provided by Texas Depart-
ment of Human Services
(DHS) Direct Delivery
Staff, Family Health Ser-
vices Nurses, and Provid-
ers [DHS Direct Delivery of
Family Planning Services]**

• **40 TAC §56.801, §56.802**

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

§56.801. Direct Services Provided by DHS Direct Delivery Staff.

(a) The Texas Department of Human Services (DHS) direct delivery staff will describe family planning services avail-

able and how to get them, and explain that they are usually free, always confidential, and that their use is always voluntary and will not affect eligibility for any other health or social services program.

(b) DHS direct delivery staff must promptly provide referrals, upon request, for clients to family planning service providers in accordance with 42 United States Code, §602(a)(15)(A) and Administrative Office and Program Instruction (AO-PI)-74-1 for all Medicaid recipients and former and current aid to families with dependent children (AFDC) applicants and recipients and their family members.

§56.802. Family Planning Services Provided by DHS Family Health Services Nurses and Providers.

(a) The Texas Department of Human Services (DHS) family health services nurses and providers offer and provide outreach, information and education, referrals, supportive counseling, and follow-up services.

(b) DHS family health services nurses and providers offer and provide outreach to ensure that people who need and want family planning services are aware of the availability of these services. Outreach includes:

(1) informing people about the availability of family planning services;

(2) attending group meetings to inform interested people about the availability of family planning services; and

(3) referring people to family planning educational services.

(c) DHS family health services nurses and providers offer and provide educational services to present correct information about birth control and family planning, to alleviate fears and misunderstandings about the use of contraceptive methods, and to help clients who elect to accept contraception to choose a method. Client education includes:

(1) informing clients, including minors and disabled individuals who may be considered to be sexually active, about family planning benefits, the reproductive process, contraceptive methods, and how to gain access to family planning services;

(2) selecting organizations that are appropriate for the education sessions and contacting community leaders to promote interest in holding educational meetings; and

(3) distributing printed materials and leading discussions about family planning services at various sites.

(d) DHS family health services nurses and providers help clients use family planning services by making prompt and

effective referrals for family planning services in accordance with 42 United States Code, §602(a)(15)(A) and Administrative Office and Program Instruction (AO-PI)-74-1. This service includes:

(1) informing clients about available sources for family planning medical services and other related services;

(2) explaining eligibility and screening for eligibility for clients who want family planning services so appropriate referrals can be made;

(3) informing clients of what to expect in a family planning clinic or facility;

(4) ensuring that clients have transportation and child care services, if available, to enable them to attend family planning appointments; and

(5) sharing, with the clients' permission, pertinent information with resources to which clients are referred.

(e) DHS family health services nurses and providers offer and provide supportive counseling services to help clients deal with feelings that may interfere with appropriate choices and use of family planning services. This includes counseling about:

(1) fears and anxieties concerning family planning methods;

(2) solutions for family problems including counseling with the spouse to ensure effective use of the contraceptive method;

(3) human sexuality concerns;

(4) religious and cultural value conflicts with special attention to members of groups with high need of supportive counseling services; and

(5) problem pregnancy (including referrals for pregnancy termination, prenatal care, and adoption), sexually transmitted infections, natural family planning, sterilization, and genetic problems.

(f) DHS family health services nurses and providers follow up on family planning services to ensure the quality of services delivered to clients. Follow-up includes:

(1) contacting clients regarding missed appointments with providers;

(2) counseling clients about any difficulties encountered in using contraceptive methods;

(3) assessing the care delivered to clients by contracted providers and working with clients to resolve obstacles and differences. If indicated, staff arranges for referrals of clients to other providers. If several clients have problems with a single

provider, DHS staff requests a program review of the provider; and

(4) periodically checking with clients to see if they are still receiving family planning services.

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

Issued in Austin, Texas, on October 26, 1992.

TRD-9214431 Nancy Murphy
 Agency Liaison, Policy and
 Document Support
 Texas Department of
 Human Services

Proposed date of adoption: January 15, 1993

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

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Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn six months after the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 517. Temporary Practice in Texas

- 22 TAC §517.1

The Texas State Board of Public Accountancy has withdrawn from consideration for permanent adoption a proposed amendment which appeared in the July 28, 1992, issue of the *Texas Register* (17 TexReg 5261). The effective date of this withdrawal is October 23, 1992.

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

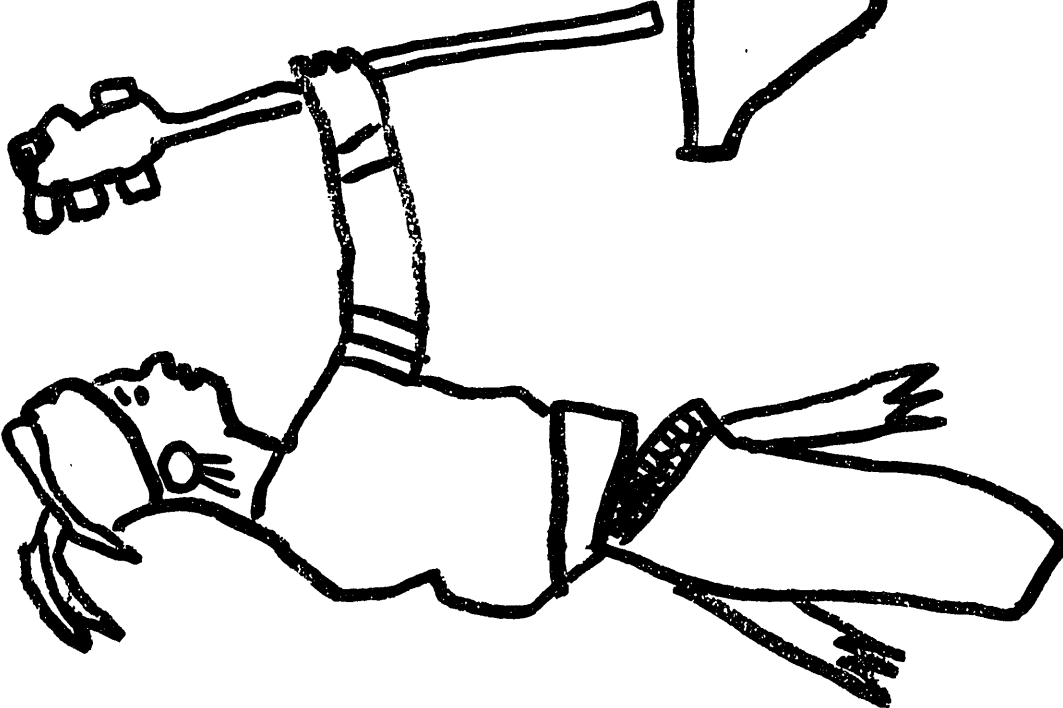
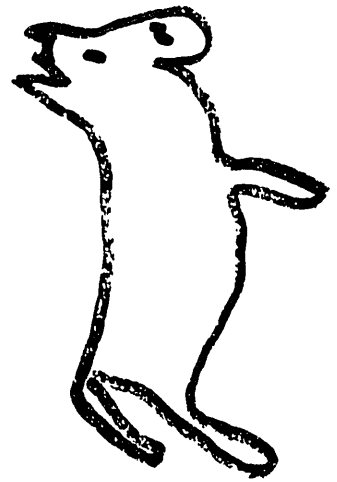
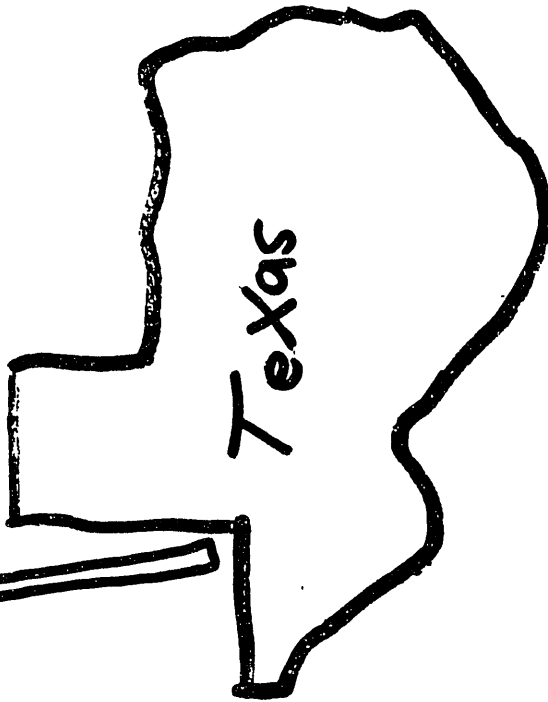
TRD-9214393

J. Randel Hill
General Counsel
Texas State Board of
Public Accountancy

Effective date: October 23, 1992

For further information, please call: (512)
450-7066





Name: Christian Gonzales
Grade: 3
School: North Loop Elementary, Ysleta I.S.D.

Adopted Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Licensing and Regulation

Chapter 66. Registration of Property Tax Consultants

- 16 TAC §§66.10, 66.20, 66.81, 66.85

The Texas Department of Licensing and Regulation adopts amendments to §§66.10, 66.20, 66.81, and new 66.85, concerning the registration of property tax consultants. Section 66.10 is adopted with changes to the proposed text as published in the August 7, 1992, issue of the *Texas Register* (17 TexReg 5499). Sections 66.20, 66.81, and 66.85 are adopted without changes and will not be republished.

The sections clarify Texas Civil Statutes, Article 8886, §2(f), regarding property tax consultants who qualified and registered under this section. In §66.10, the definition of "real estate property tax consultant" was amended for final adoption.

The sections will allow registered real estate property tax consultants to continue consulting on real estate taxes only after February 1, 1995.

All correspondence was favorable to the proposed changes, although some indicated a possible need for further liberalization. Most comments referenced Texas Civil Statutes, Article 8886, §2(f), believing the section automatically allows registrants under this section to work after February 1, 1995, without being employed by or associated with a senior property tax consultant.

The name of a group or association making comments for the section was as follows: Texas Association of Property Tax Professionals.

The department agrees with comments received.

The amendments and new section are adopted under Texas Civil Statutes, Article 8886, which provide the Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take action necessary to assure compliance with the intent and purposes of the Act.

§66.10. *Definitions.* The following words and terms, when used in this chapter, shall

have the following meanings, unless the context clearly indicates otherwise.

Real estate property tax consultant—An individual who performs property tax consulting services in connection with property that is real property only and who has registered under Texas Civil Statutes, Article 8886, §2(f).

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-9214261

Jack W. Garison
Executive Director
Texas Department of
Licensing and
Regulation

Effective date: November 11, 1992

Proposal publication date: August 7, 1992

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 307. Texas Surface Water Quality Standards

- 31 TAC §307.10

The Texas Water Commission (TWC or commission) adopts an amendment to §307.10, Appendices A-C, concerning the North Bosque River Segment 1226 and the Upper Oyster Creek Segment 1245, without changes to the proposed text as published in the May 15, 1992, issue of the *Texas Register* (17 TexReg 3546) and will not be republished. The Texas Water Commission has the sole and exclusive authority to establish and revise water quality standards for the State of Texas. These standards are established and reviewed on a periodic basis pursuant to the Texas Water Code, §26.023, as amended, and pursuant to the Clean Water Act, §303(c), as amended.

The proposed revisions to the standards as published in the May 15, 1992, issue of the *Texas Register* (17 TexReg 3546) were substantive changes. As the result of a use attainability analysis, the Texas Water Commission proposed to designate new Seg-

ment 1255 from the upper portion of existing Segment 1226. The commission has determined that a high quality aquatic life use does not exist in the upper reaches of the North Bosque River, and that the five mg/L dissolved oxygen criterion for Segment 1226 cannot be attained during low-flow conditions, even with advanced treatment. Dissolved oxygen simulations indicate that a four mg/L criteria can be met by advanced treatment (nitrification) of the Stephenville discharge; therefore, an intermediate aquatic life use should be attainable for the proposed Upper North Bosque River Segment 1255. Based on the analysis, the commission proposed that new Segment 1255 will have designated uses of intermediate aquatic life and contact recreation, and will extend from the confluence of Indian Creek in Erath County up to the confluence of the North Fork North Bosque River and the South Fork North Bosque River in Erath County. The adopted uses and dissolved oxygen criteria for new Segment 1255 are reflected in Appendix A to §307.10. Appendix B contains the adopted changes to the statewide monitoring stations for Segment 1226 and the new station for Segment 1255 with a low flow of 0.1 ft³/second. The adopted changes to Appendix C reflect the revised description for Segment 1226 and for new Segment 1255. No changes have been made to Appendix A with regard to the remaining lower portion of the North Bosque River, Segment 1226, which will retain the existing designated uses of high aquatic life, contact recreation, and public water supply.

When a water body is not capable of attaining all the uses designated in the water quality standards, federal regulations direct a state to conduct a use attainability analysis. United States EPA approval is necessary for modifications to segment-specific use criteria. The regulations allow for modifications to designated uses in the water quality standards when uses are not attainable because: natural, ephemeral, intermittent, or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of a sufficient volume of effluent without violating state water conservation requirements to enable uses to be met; and human caused conditions or sources of pollutants prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; as is the case with the new Upper North Bosque River.

The use attainability analysis for the North Bosque River was submitted to the United States EPA in September 1991 for review and the United States EPA provided tentative approval in October 1991, subject to state adoption of the standards change.

As a result of a use attainability analysis, the Texas Water Commission proposed to change the aquatic life use designation for Upper Oyster Creek Segment 1245 from high quality to intermediate, and the associated dissolved oxygen criterion from five mg/L to four mg/L. The commission has determined that high quality aquatic life use does not exist in Upper Oyster Creek, and that the five mg/L dissolved oxygen criterion cannot be attained due to extensive hydrological modifications. The adopted changes to the uses and the dissolved oxygen criterion for Segment 1245 are reflected in Appendix A to §307.10. A draft waste load evaluation for the segment indicates that the dissolved oxygen criterion supportive of an intermediate aquatic life uses should be attainable at the recommended effluent limits (advanced treatment with nitrification).

When a water body is not capable of attaining all the uses designated in the water quality standards, federal regulations direct a state to conduct a use attainability analysis. United States EPA approval is necessary for modifications to segment-specific use criteria. The regulations allow for modifications to designated uses in the water quality standards when uses are not attainable because: human caused conditions or sources of pollutants prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; and dams, diversions, or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use; and physical conditions related to the natural features of the water body, such as the lack of proper substrate, cover, flow, depth, pools, riffles, and other factors, unrelated to water quality, preclude attainment of aquatic life protection uses; as is the case with Upper Oyster Creek.

The use attainability analysis for the Upper Oyster Creek was submitted to the United States EPA in October 1991 for review and the United States EPA provided tentative approval in November 1991, subject to state adoption of the standards change.

A public hearing on the use attainability analysis and proposed change to aquatic life use for proposed Segment 1255-Upper North Bosque River was conducted by the commission on June 29, 1992, in the City of Stephenville. Forty-three persons attended the hearing; of these, seven registered their support for the proposed revision and 21 persons were against it. A petition opposing the revision was presented at the public hearing and approximately 400 signatures were included. In general, those persons opposed to the revision expressed concerns that the commission was lowering water quality and allowing less stringent effluent limits for dischargers. The commission responds that existing water quality will not be lowered and that more stringent effluent limits will be required of dischargers which will actually result in improved water quality. No testimony was received relating to new technical or scientific data which could be used to modify the commission conclusions regarding the proposed

water quality standards change. Those commenters supporting the revision agreed with the conclusions in the use attainability analysis.

A public hearing on the use attainability analysis and the proposed change to the designated aquatic life use for Segment 1245-Upper Oyster Creek was conducted by the commission on July 16, 1992, in the City of Sugar Land. Approximately 60 persons attended the hearing with five persons registering support for the proposed amendment and 36 persons in opposition. Many of the persons submitted written comments in addition to or in lieu of their oral statements. Most of the commenters opposed to the revision expressed concern that the commission was lowering water quality in the creek. One commenter stated that the use attainability analysis was based on inadequate data that was over two years old and some commenters added that more recent data collected through the community monitoring program showed that higher dissolved oxygen concentrations existed. The commission responds that existing water quality will not be lowered and water quality should be improved since dischargers were being required to achieve more stringent limits than now exist. The commission also believes that the water quality data base used in the use attainability analysis was adequate; however, if more comprehensive data becomes available the results may be reevaluated in the future. The data provided by the community monitoring program was reviewed and several values less than five and even four mg/L dissolved oxygen were recorded. Although the data may be useful in determining standards compliance, for example, a dissolved oxygen concentration less than three mg/L at any time for high and intermediate quality aquatic life use indicates noncompliance, the achievement of the dissolved oxygen criterion is based on a 24-hour average during critical low flow periods and summer temperatures. One commenter agreeing with the use attainability analysis conclusion that a high quality aquatic life use was not existing stated that the data actually indicated a use less than intermediate aquatic life use was more appropriate. The commission responds that the overall characteristics from the least impacted sites on the creek were indicative of an intermediate use and water quality modeling simulations support the attainment of the dissolved oxygen criterion of four mg/L. One commenter also objected to the allegation in the use attainability report that a large fish kill in the creek was directly attributable to an Imperial Holly discharge. The commission acknowledges that the fish kill report prepared by commission staff concluded that the samples taken of the unauthorized discharge did not conclusively prove that the discharge caused the fish kill; however, the report did state that the results suggested that the discharges did seriously degrade the water quality and aquatic life in Oyster Creek.

Many comments were received regarding issues that are broader than just the water quality standards or did not actually pertain to the standards. These comments included matters such as not relying on data provided by dischargers, more frequent or continuous

monitoring of effluent, unauthorized discharges, and stricter enforcement of permits. The commission responds that these issues may be considered in those programs as appropriate.

The amendment is adopted under the Texas Water Code, §26.023, which provides the Texas Water Commission with the authority to make rules setting water quality standards for all water in the state; and under the Texas Water Code, §5.103, which authorizes the commission to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state.

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

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

TRD-9214416 Mary Ruth Holder
Director, Legal Services
Texas Water Commission

Effective date: November 13, 1992

Proposal publication date: May 15, 1992

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

◆ ◆ ◆
Title 34. Public Finance
Part I. Comptroller of
Public Accounts
Chapter 3. Tax Administration
Subchapter Q. Franchise Tax
• 34 TAC §3.396

The Comptroller of Public Accounts adopts the repeal of §3.396, concerning changes in corporate organization, without changes to the proposed text as published in the September 25, 1992, issue of the *Texas Register* (17 TexReg 6593)

This section is being repealed in order that it can be adopted under 34 Texas Administrative Code, Part I, Chapter 3, Subchapter V. The section will be replaced with a new 34 TAC §3.568, concerning changes in corporate organization.

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 22, 1992.

TRD-9214318 Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date. November 12, 1992

Proposal publication date: September 25, 1992

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

◆ ◆ ◆
• 34 TAC §3.403

The Comptroller of Public Accounts adopts the repeal of §3.403, concerning gross receipts: determining percent of Texas business, without changes to the proposed text as published in the June 19, 1992, issue of the *Texas Register* (17 TexReg 4432).

This section is being repealed in order that it can be adopted under the Texas Administrative Code, Title 34, Part I, Chapter 3, Subchapter V. The section will be replaced with a new 34 TAC §3.549, concerning Taxable Capital: Apportionment.

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 23, 1992.

TRD-9214363 Martin Cherry
 Chief, General Law
 Section
 Comptroller of Public
 Accounts

Effective date: November 13, 1992

Proposal publication date: June 19, 1992

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

◆ ◆ ◆
Subchapter V. Franchise Tax

• 34 TAC §3.549

The Comptroller of Public Accounts adopts new §3.549, concerning taxable capital: apportionment, with changes to the proposed text as published in the May 26, 1992, issue of the *Texas Register* (17 TexReg 3826).

This new section replaces 34 TAC §3.403, concerning the same subject matter, which is being repealed in order that it can be adopted under Texas 34 Administrative Code, Part I, Chapter 3, Subchapter V. This new section provides guidelines for the apportionment of gross receipts under the taxable capital component of the franchise tax.

No comments were received regarding adoption of the new section.

Two changes were made for clarity. Subsection (b)(1) was changed to clarify the definition of the term "capital asset." In subsection (e)(27), unnecessary punctuation was removed.

The new section is adopted under the Tax Code, §111.002, which provides the comp-

troller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.549. Taxable Capital: Apportionment.

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

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

(1) Capital asset—Any asset, other than an investment, which is held for use in the production of income, and is subject to depreciation, depletion, or amortization.

(2) Commercial domicile—The principal place from which the trade or business of the entity is directed.

(3) Investment—Any non-cash asset not a capital asset and not held as inventory or proceeds from the sale of inventory.

(4) Generally accepted accounting principles (GAAP) method of accounting—That method of accounting defined under §3.547 of this title (relating to Accounting Methods for Computing Taxable Capital).

(5) Gross receipts—All revenues that would be recognized annually under a generally accepted accounting principles method of accounting, without deduction for the cost of property sold, materials used, labor performed, or other costs incurred, unless otherwise specifically provided for in this section or the Tax Code, Chapter 171.

(6) Revenue—Except as otherwise specifically provided for in this section or the Tax Code, Chapter 171, revenue means the value of inflows of economic resources from separate legal entities for delivering or producing goods, rendering services, or carrying out other activities that constitute the entity's operations.

(c) Apportionment formula. Unless otherwise required under the Tax Code, this section, or the rules applicable under the Tax Code, Chapter 171, a corporation's taxable capital is apportioned to this state to determine the amount of franchise tax due by multiplying the corporation's taxable capital by a fraction, the numerator of which is the corporation's gross receipts from business done in this state and the denominator of which is the corporation's gross receipts from its entire business. Corporations whose taxable capital is derived, directly or indirectly, from the sale of services to or on behalf of a regulated investment company as defined by the Internal Revenue Code, §851(a), should refer to the Tax Code, §171.106(c), relating to the appor-

tionment of gross receipts from services for regulated investment companies.

(d) General rules for reporting gross receipts.

(1) A corporation filing an annual report must report 12 months of gross receipts based on the business done by the corporation during its last accounting period that ends in the year before the year in which the tax is due or, if there is no such accounting period then, for the accounting period ending December 31 of the previous calendar year.

(2) When a corporation changes its accounting period ending date, gross receipts for the 12-month period ending with the new accounting period end must be used in calculating the percentage of business done in this state.

(3) A corporation filing an initial report must report gross receipts based on its activities beginning on the day the corporation files its Texas charter or is granted a certificate of authority to do business in Texas or the date that a foreign corporation begins doing business in Texas, whichever is earlier, and ending on the last accounting period ending date that is at least six months after the beginning date and at least 60 days before the original due date of the initial report; or if there is no such date, then ending on the last day of a calendar month that is nearest to the corporation's first year of business in Texas.

(4) A corporation must report gross receipts based solely on its own financial condition. Consolidated reporting is prohibited.

(5) A corporation whose taxable capital is less than \$1 million, may report its gross receipts according to the method used in the corporation's most recent federal income tax return originally due on or before the date the franchise tax report is originally due. To determine if taxable capital is less than \$1 million, the corporation must apply the accounting methods used in computing that federal income tax return unless another method is required under a specific provision of this title or the Tax Code, Chapter 171. See §3.547 of this title (relating to Taxable Capital: Accounting Methods) for information on accounting methods or changes in accounting methods.

(6) Close and S corporations should see §3.548 of this title (relating to Taxable Capital: Close and S Corporations) for information on using the accounting methods used on the corporation's federal income tax return.

(7) A corporation may not change its accounting methods used to calculate gross receipts more often than once every four years without express written consent of the comptroller, unless the provi-

sions of the Tax Code, §171.111, apply due to an election under that section.

(8) Survivors of mergers occurring between the day on which the tax is based and January 1 of the year the report is due should refer to §3.565 of this title (relating to Survivors of Mergers) for information on reporting gross receipts for survivors of mergers.

(9) Revenues coming into the hands of a receiver of a corporation in receivership are gross receipts of the corporation.

(e) Treatment of specific items in computing gross receipts.

(1) Agency reimbursements. Reimbursements from the principal to a corporation acting as its agent for charges incurred by the agent on behalf of the principal, if the reimbursement does not exceed actual expenses paid to a third party, are not gross receipts.

(2) Bad debt recoveries. Bad debt recoveries are not gross receipts.

(3) Capital assets and investments. Net gains and losses from sales of investments and capital assets must be added together to determine the total receipts from such transactions.

(A) If the combination of net gains and losses results in a net loss, the corporation must report zero gross receipts from such transactions.

(B) If the combination of net gains and losses results in a net gain and both Texas and out-of-state sales have occurred, a separate calculation of net gains and losses on Texas sales must be made. If the Texas net gain is greater than the total net gain, the Texas net gain to report equals the total net gain. Net gain on sale of intangibles held as capital assets or investments is apportioned to the location of the payor. Examples of intangibles include, but are not limited to, stocks, bonds, commodities, futures contracts, patents, copyrights, licenses, trademarks, franchises, goodwill, and general receivable rights.

(4) Cash or trade discounts. Cash or trade discounts are not gross receipts.

(5) Club membership fees. Club membership fees are Texas receipts if the place where the club's employees or agents perform the service of providing access to the club benefits is in Texas.

(6) Commissions of stockbrokers. Commissions of a stockbroker for services performed in buying and selling on the stock exchanges are apportioned on the basis of the percentage of such services

performed in Texas and the percentage performed in other states.

(7) Computer services and programs. Receipts from the sale of computer software services are apportioned to the location of where the services are performed. Receipts from the sale of a computer program (as the term "computer program" is defined in §3.308 of this title (relating to Computers-Hardware, Software, Services, and Sales) are receipts from the sale of an intangible asset and are apportioned to the legal domicile of the payor.

(8) Condemnation proceeds. Condemnation proceeds resulting from the taking of property, except to the extent the proceeds exceed the net book value of the property, are not gross receipts. Amounts exceeding the net book value of the property are gross receipts apportioned based on the location of the property condemned.

(9) Debt forgiveness. Revenues realized by the debtor when the creditor releases the debtor from indebtedness is a gross receipt apportioned to the legal domicile of the creditor.

(10) Debt retirement. Gains on the retirement of a corporation's own indebtedness, such as the purchase by a corporation of its own bonds at a discount, are gross receipts and are apportioned to the corporation's state of incorporation.

(11) Demurrage charges. Demurrage charges for the detention or storage of equipment used in the transportation of goods and merchandise in interstate commerce are Texas receipts to the extent that the detention or storage occurs within Texas.

(12) DISC/FSC. A DISC (domestic international sales corporation) or a FSC (foreign sales corporation) is treated the same as any other corporation doing business in Texas, except that a commission DISC or FSC may elect to use the percentage of Texas business of its parent which does business in Texas. Receipts from the sale of tangible personal property by a corporation to a DISC or FSC located in Texas are not Texas receipts if the tangible personal property flows uninterrupted from the selling corporation to a foreign purchaser outside of Texas. If a DISC or FSC assembles, packages, repackages, modifies, stores, or otherwise takes physical delivery of tangible personal property in Texas, the receipts from the sale of the tangible personal property are Texas receipts to the selling corporation.

(13) Dividends and interest.

(A) Dividends and/or interest received from a corporation are apportioned to the state of incorporation of the payor.

(B) Dividends and/or interest received from a national bank are apportioned to Texas if the bank's principal place of business is in Texas. See the Tax Code, §171.1031, concerning apportionment of dividends and/or interest received by banking corporations and savings and loan associations.

(C) Dividends and/or interest received from the United States Treasury on United States government debt instruments are not Texas receipts, but are receipts everywhere.

(D) Dividends and/or interest received from Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), and Federal Home Loan Mortgage Corporation (FHLMC) mortgage-backed securities or certificates are apportioned based on the location of the payor. When the payor cannot be determined, 15.78% of the interest or dividend will be considered a Texas receipt.

(E) Dividends and/or interest from any other source are apportioned to the legal domicile of the payor.

(F) Dividends in excess of the payor's accumulated earnings since acquisition or origination (liquidating dividends) are considered a return of capital and are not gross receipts to the receiving corporation.

(14) Equity earnings. Equity earnings of a subsidiary or investee corporation are not gross receipts to the receiving corporation.

(15) Exchanges of property. Exchange agreements for the exchange of real or personal property held for sale in the ordinary course of business for similar property to be held for the same purpose do not constitute gross receipts.

(16) Purchase discounts and allowances. Returns, discounts, and allowances granted to a purchaser are not gross receipts to the purchaser even if refunds are given in cash.

(17) Federal enclave. All receipts from a corporation's sales, services, leases, or other business activities transacted on a federal enclave located in Texas are Texas receipts unless otherwise excepted.

(18) Foreign dividend gross-ups. Foreign dividend gross-ups permitted under the Internal Revenue Code are not gross receipts.

(19) Freight charges. Reimbursements to the seller from the customer

for freight charges paid to a third party for goods and merchandise shipped to a customer are not gross receipts when the charges are entered as a separate item on the sales invoice, if the reimbursement does not exceed actual expenses paid to a third party.

(20) Health care supplies and food. Deductions from Texas receipts for sales of health care supplies and food exempted from sales and use tax by the Tax Code, §151.313 or §151.314(a), will be allowed only for the initial sale of items shipped from a location outside Texas directly to a purchaser in Texas. The deduction does not apply when the manufacturer ships the items from outside Texas to an outlet or storage facility in Texas and later sells them.

(21) Insurance proceeds.

(A) Business interruption insurance proceeds are gross receipts when the proceeds are to replace lost net profits, and are apportioned based on the actual location of the interrupted business operations for which the proceeds are being paid.

(B) Fire and casualty insurance proceeds in excess of the net book value of the damaged or destroyed property are gross receipts and are apportioned to the location of the damaged or destroyed property.

(C) Any gain resulting from life insurance proceeds paid on the death of a corporate officer or other key personnel are gross receipts and are apportioned to the corporation's commercial domicile.

(22) Intercorporate expense allocations. Expense allocations by a corporation among one or more related corporations (other than allocations of income taxes for consolidated return purposes), whether labeled as management fees, administrative overhead, interest, or accounting and legal services, are gross receipts to the parent corporation regardless of whether cash is actually received from the subsidiaries or related corporations, unless an agency relationship exists.

(23) Intercorporate receipts. Receipts from intercorporate sales, leases, and charges for services rendered between a parent and subsidiary, or between related corporations are gross receipts to the corporation which makes the sale, lease, or renders the service.

(24) Intercorporate tax allocations. Allocations by a parent or holding company among its subsidiaries of income tax liability for the purposes of filing a consolidated return are not gross receipts to the parent or holding company.

(25) Leases and subleases.

(A) Receipts from the lease or sublease of real property are apportioned to the location of the property.

(B) Receipts from the lease or sublease of tangible personal property are apportioned to the location of the property. If the property is in Texas only part of the year, lease payments are apportioned based on the number of days spent at the respective locations. If the amount of receipts due under the lease is based on mileage, then the apportionment is based on the number of miles in Texas divided by the number of miles everywhere.

(C) When a lump sum is charged for property leased or subleased but only a portion of which is in Texas, the apportionment of receipts is based on the rental value of each item of property. If the rental value of each item cannot be determined, the apportionment is based on the cost of each item to the lessor (or sublessor).

(D) Receipts from the lease or sublease of a vessel engaging in commerce are apportioned to Texas based on the number of days engaged in commerce in Texas waters divided by the number of days engaged in commerce everywhere.

(E) If a lease, sublease, or rental of real or tangible personal property is treated as a sale under GAAP, the receipts from the transaction are apportioned in the same manner as a sale. Any portion of the payments designated as interest by the contracting parties is interest receipts.

(26) Litigation awards. All litigation awards are gross receipts with the following exception. Those litigation awards consisting of a recovery of compensatory damages for fire or other casualty losses on property are gross receipts to the extent the recovery exceeds the net book value of the property. Litigation awards are apportioned to the commercial domicile of the recipient corporation.

(27) Loan principal. The principal of a loan received or repaid is not a gross receipt.

(28) Newspapers. All revenues, including out-of-state advertisements, of a newspaper transacting its primary business activities within Texas constitute Texas receipts, except revenues from the sale of newspapers outside Texas.

(29) Partnerships and joint ventures.

(A) Receipts reflecting the corporation's share of the net profit from a partnership or joint venture, for partnership or joint venture periods ending during the 12 months ending on the date upon which the tax is based, are apportioned to the principal place of business of the partnership or joint venture. A partnership's principal place of business is the location of its day-to-day operations. Effective for reports originally due on or after January 1, 1992, where a partnership's day-to-day operations are conducted equally or fairly evenly in more than one state, then its principal place of business is its commercial domicile. If the corporation's share is a loss, there are zero receipts from the partnership or joint venture.

(B) The corporation's share of the gross receipts of a partnership or joint venture may be used as gross receipts if allowed as revenue under GAAP. The receipts must be apportioned based on normal apportionment rules (e.g., location of payor for dividends and interest, place where service is performed, etc.) as though the partnership did not exist and the receipts passed through it directly to the corporation. This method is not allowed for corporations using the federal income tax method.

(30) Patents, copyrights, and other intangibles.

(A) Receipts from the use of intangible rights.

(i) Revenues from a patent are included in Texas receipts to the extent the patent is utilized in production, fabrication, manufacturing, or other processing in Texas.

(ii) Revenues from a copyright are included in Texas receipts to the extent the copyright is utilized in printing or other publication in Texas.

(iii) Revenues received by the owner of a trademark, franchise, and license are included in Texas receipts to the extent used in Texas; however, in regard to the sale/licensing of computer programs, paragraph (7) of this subsection is controlling.

(B) Sales. Sales of intangibles are allocated based on the location of payor.

(31) Radio/television. All revenues of a radio or television operation which broadcasts or transmits from stations in Texas constitute Texas receipts, even though some of the listening or viewing audiences are outside Texas, except revenues from programs filmed or otherwise developed by a station in Texas which are

sold or leased to the national media for broadcasting or transmitting by the national media.

(32) Real property. Receipts from the sale, lease, or sublease of real property are apportioned to the location of the property.

(33) Regulatory agency. Temporary or bonded rate increases of a public utility corporation are gross receipts.

(34) Sales and services. When a transaction involves elements of both a sale of tangible personal property and a service, but there is no documentation showing separate charges for the sale and service elements, the comptroller may determine the amounts allocable to each based on fair values or on the basis of any available evidence.

(35) Sales returns and allowances. Sales returns and allowances allowed by a seller are not gross receipts. They are allowed as a reduction of gross receipts.

(36) Sales taxes. State or local sales taxes collected by a seller are not gross receipts when the tax is imposed on the customer. However, discounts on sales taxes allowed a seller do constitute gross receipts to the seller.

(37) Service procurement. Receipts for the procurement of services are apportioned to the place where the service procurement is performed.

(38) Services. Service receipts are apportioned to the location where the service is performed.

(39) Stocks. Receipts from the sale of securities are apportioned based on the location of payor. When securities are sold over a stock exchange and the buyer cannot be determined, 6.5% of the net gain (or gross sales price, if the securities were inventory) is a Texas receipt. Receipts from the issuance by a corporation of its capital stock, are not gross receipts.

(40) Subsidies/grants. Subsidies or grants received by a corporation from a governmental agency are gross receipts, except when the funds are required to be expended dollar for dollar (i.e., passed through) to third parties on behalf of the agency. Receipts from a governmental subsidy or grant are apportioned to the location where the activity which qualified for the subsidy or grant is performed.

(41) Tangible personal property. Examples of transactions involving the sale of tangible personal property and which result in Texas receipts include, but are not limited to, the following:

(A) the sale of tangible personal property which is delivered in Texas to a purchaser. Delivery is complete upon

transfer of possession or control of the property to the purchaser, an employee of the purchaser, or to transportation vehicles leased or owned by the purchaser. F.O.B. point, location of title passage, or other conditions of the sale are not relevant to the determination of Texas gross receipts;

(B) the sale of tangible personal property delivered in Texas to an employee or transportation agent of an out-of-state purchaser. A carrier is an employee or agent of the purchaser if the carrier is under the supervision and control of the purchaser with respect to the manner in which goods are transported;

(C) the sale and delivery in Texas of tangible personal property which is loaded into a barge, truck, airplane, vessel, tanker, or any other means of conveyance leased and controlled or owned by the purchaser of the property. The sale of tangible personal property which is delivered in Texas to an independent contract carrier, common carrier, or freight forwarder hired by a purchaser of the property results only in gross receipts everywhere if the carrier transports or forwards the property to the purchaser outside this state;

(D) the sale of tangible personal property with delivery to a common carrier outside Texas and shipment by that common carrier to a purchaser in Texas;

(E) the sale of oil or gas to an interstate pipeline company, with delivery in Texas;

(F) the sale of tangible personal property which is delivered in Texas to a warehouse or other storage facility owned or leased by the purchaser;

(G) the sale of tangible personal property which is delivered to and stored in a warehouse or other storage facility in Texas at the purchaser's request, as opposed to a necessary delay in transit, even though the property is subsequently shipped outside Texas;

(H) the drop shipment of tangible personal property in Texas. A drop shipment is a shipment of tangible personal property from a seller directly to a purchaser's customer, at the request of the purchaser, without passing through the hands of the purchaser. This results in Texas gross receipts for the seller and the purchaser;

(I) sales to which the throwback rule applies. For reports due on or after October 2, 1984, each sale of tangible

personal property shipped from this state to a purchaser in another state in which the seller is not subject to taxation (i.e., the throwback rule). This subparagraph will control if it conflicts with any other provision of this section. Another state means a state of the United States, the District of Columbia, Puerto Rico, or any territory or possession of the United States. Subject to taxation means constitutional nexus. The seller need not pay tax to the other state; it only has to have enough contact with the other state that the other state could tax the seller. If the seller is doing business, has a certificate of authority, or is incorporated in the other state, the seller is subject to taxation in that state. Voluntarily collecting or paying tax to another state, by itself, is not enough contact to make sales to the other state non-Texas receipts. A corporation which performs any of the activities listed in §3.546(c) of this title (relating to Taxable Capital: Nexus) for taxation of taxable capital in the other state will be considered subject to taxation in the other state. The selling corporation must have nexus in the other state during the accounting year upon which the tax is based. The corporation has the burden of proving it is subject to taxation in the other state.

(42) Tax refunds. Tax refunds are not gross receipts. However, interest awarded on tax refunds are gross receipts.

(43) Telephone company receipts. All receipts for calls of a telephone company in Texas are Texas receipts, except for receipts from interstate calls.

(44) Transactions in Texas waters. Receipts from transactions occurring in Texas waters are Texas receipts. The dividing line between Texas waters and international waters is established at 10.359 statute miles or nine nautical miles from the Texas coastline.

(45) Transportation companies. Transportation companies must report Texas receipts from transportation services by:

(A) including receipts derived from the transportation of goods or passengers in intrastate commerce; or

(B) multiplying total transportation receipts by total mileage in transporting goods and passengers picked up and delivered within Texas (in intrastate commerce) divided by total mileage everywhere.

(46) Unrealized gains and losses. Unrealized gains and losses recorded on foreign currency transactions or translations, marketable security investments or reclassification of marketable security investments, are not gross receipts.

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 23, 1992.

TRD-9214364 Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: November 13, 1992

Proposal publication date: May 26, 1992

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

Subchapter V. Franchise Tax

• 34 TAC §3.557

The Comptroller of Public Accounts adopts new §3.557, concerning earned surplus: apportionment, with changes to the proposed text as published in the June 16, 1992, issue of the *Texas Register* (17 TexReg 4332).

The new section sets out guidelines for determining gross receipts from business done in Texas and gross receipts from the entire business for earned surplus pursuant to the Tax Code, §171.1032 and §171.1051.

Comments were received from Nationsbank of Texas, N.A., NationsBanc Capital Corporation, and KBLCOM Incorporated. These entities suggested that subsection (e)(24) be changed to require that a partner's gross receipts from a partnership be based on the partner's share of partnership net income. Nationsbank of Texas, N.A. and NationsBanc Capital Corporation further suggested that the partner's share of net income be apportioned based on the partnership's principal place of business. Alternatively, NationsBanc Capital Corporation suggested that either a partner's share of partnership gross receipts be apportioned based on the partnership's principal place of business in all cases or be based on the partnership's place of business if the partnership interest is 25% or less. The comptroller declined to make the suggested changes.

Comments were received from the firm of Gardere & Wynne which suggested changes in subsection (e)(37)(l) of the proposed rule. The firm suggested that language be added indicating that a corporation or limited liability company should be presumed to be subject to taxation in another state where taxes are paid if the rate of tax is higher in the other state unless there is proof of connivance or fraud. The firm also suggested that language be added to indicate that a corporation or limited liability company is subject to taxation in another state if gross receipts or similar taxes are paid to that state. The comptroller declined to make the suggested changes.

Subsection (b)(1) of the proposed rule was changed to clarify the definition of the term capital asset.

Subsection (e)(10) of the proposed rule was changed to clarify that the purchaser of the target's stock in a deemed sale under Internal

Revenue Code §338 will be considered the purchaser of the assets.

Subsection (e)(20)(E) of the proposed rule was clarified to indicate that leases, subleases, rentals, or subrentals of tangible personal property will be apportioned as sales if treated as sales for federal income tax purposes.

Subsection (e)(25)(A)(iii) of the proposed rule was changed to clarify the treatment of revenues from trademarks, franchises, or licenses.

Subsection (e)(35) of the proposed rule was changed to clarify and correct the reference to sales of securities which qualify as investments.

Subsection (e)(37)(l) was changed to indicate that companies with a certificate of authority in another state will not be considered subject to taxation for purposes of the throwback rule for earned surplus apportionment except for reports originally due prior to January 1, 1993.

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.

§3.557. *Earned Surplus: Apportionment.*

(a) Section provisions. The provisions of this section apply to franchise tax reports originally due after January 1, 1992.

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

(1) Capital asset—Any asset, other than an investment, which is held for use in the production of income, and is subject to depreciation, depletion, or amortization.

(2) Commercial domicile—The principal place from which the trade or business of the entity is directed.

(3) Corporation—Any entity upon which tax is imposed under the Tax Code, §171.001.

(4) Gross receipts—All revenues that are recognized under the methods used for federal income tax purposes for the tax reporting period without deduction for the cost of property sold, materials used, labor performed, or other costs incurred, unless otherwise specifically provided for in this section or the Tax Code, Chapter 171.

(5) Internal Revenue Code—The Internal Revenue Code of 1986 in effect for the tax year beginning on or after January 1, 1990, and before January 1, 1991.

(6) Investment—Any non-cash asset not a capital asset and not held as inventory or proceeds from the sale of inventory.

(7) Revenue—Except as otherwise specifically provided for in this section or the Tax Code, Chapter 171, revenue means the value of inflows of economic resources from separate legal entities for delivering or producing goods, rendering services, or carrying out other activities in the entity's operations to the extent included in computing federal taxable income under the method used for federal income tax purposes during the tax reporting period.

(8) Tax reporting period—For the purposes of this section, the period upon which the tax is based under the Tax Code, §171.1532 or §171.0011.

(c) Apportionment formula. Unless otherwise required under the Tax Code, this section, or the rules applicable under the Tax Code, §171, a corporation's earned surplus is apportioned to this state to determine the amount of franchise tax due by multiplying the corporation's earned surplus by a fraction, the numerator of which is the corporation's gross receipts from business done in this state and the denominator of which is the corporation's gross receipts from its entire business.

(d) General rules for reporting gross receipts.

(1) A corporation filing an annual report must report gross receipts based on the business done by the corporation beginning with the day after the date upon which the previous report was based and ending with the most recent accounting period ending in the year before the year in which the report is originally due.

(2) A corporation filing an initial report must report gross receipts based on its activities beginning on the day the corporation begins doing business in Texas as described in §3.554 of this title (relating to Earned Surplus: Nexus), files its Texas charter, or is granted a certificate of authority to do business in Texas, whichever is earlier, and ending on the last accounting period ending date that is at least 60 days before the original due date of the initial report; or if there is no such date, then ending on last day of a calendar month that is nearest to the corporation's first year of business in Texas.

(3) A corporation must report gross receipts based solely on its own earned surplus because consolidated reporting of related corporations is prohibited. For example, a corporation which joins in filing a consolidated federal income tax return must report taxable income deferred on sales to other members of the consolidated group based on the consolidated federal income tax provisions as though no consolidated federal income tax return had been filed.

(4) In computing gross receipts for apportionment, a corporation is deemed

to have made an election to use the same methods used in filing its federal income tax return.

(5) Any item of revenue which is excluded from net taxable earned surplus under Texas law or United States law is not included in gross receipts everywhere or gross receipts in Texas. For example, any amount excluded from earned surplus under the Internal Revenue Code, §78 or §§951-964, is not included in gross receipts.

(6) Taxpayers reporting federal taxable income using a long-term contract method, must report revenues recognized for federal income tax purposes without reduction for the cost of property sold, materials used, labor performed, or other costs incurred. For example, a contractor using the percentage-of-completion method to report a construction contract for federal income tax purposes would recognize the portion of the total contract price used in computing gross income on the appropriate federal income tax return.

(7) If the installment method is used to report sales of property, the seller should include the revenues recognized for federal income tax purposes unless the property sold is a capital asset or investment. If the property sold is a capital asset or investment, the net gain included in federal taxable income must be used in computing receipts.

(8) Revenues coming into the hands of the receiver of a corporation in receivership are gross receipts of the corporation.

(9) If the comptroller determines that transactions between commonly controlled affiliated corporations are not entered into on an arm's length basis, the comptroller may distribute or allocate income and deductions as necessary to prevent franchise tax avoidance provided such adjustments are authorized by applying principles in the Internal Revenue Code, §482, and regulations thereunder.

(e) Treatment of specific items in computing receipts.

(1) Agency reimbursements. Reimbursements from the principal to a corporation acting as its agent for charges incurred by the agent on behalf of the principal, if the reimbursement does not exceed actual expenses paid to a third party are not gross receipts.

(2) Bad debt recoveries. Bad debt recoveries are not gross receipts.

(3) Capital assets and investments. Net gains and losses from sales of investments and capital assets must be added together to determine the total receipts from such transactions.

(A) If the combination of net gains and losses results in a net loss, the corporation must report zero gross receipts from such transactions.

(B) If the combination of net gains and losses results in a net gain and both Texas and out-of-state sales have occurred, a separate calculation of net gains and losses on Texas sales must be made. If the Texas net gain is greater than the total net gain, the Texas net gain to report equals the total net gain. Net gain on sale of intangibles held as capital assets or investments is allocated to the location of the payor. Examples of intangibles include, but are not limited to, stocks, bonds, commodities, futures contracts, patents, copyrights, licenses, trademarks, franchises, goodwill, and general receivable rights.

(4) Capital loss carrybacks and carryforwards. The excess of capital losses over capital gains which are carried back or carried forward for federal income tax purposes must be used in computing receipts in the year of the actual loss, not in the year to which such loss is actually used as a carryback or carryforward.

(5) Club membership fees. Club membership fees are Texas receipts if the place where the club's employees or agents perform the service of providing access to the club benefits are in Texas.

(6) Computer services and programs. Receipts from the sale of computer software services are apportioned to the location where the services are performed. Receipts from the sale of a computer program (as the term "computer program" is defined in §3.308 of this title (relating to Computers—Hardware, Software, Services and Sales)) are receipts from the sale of an intangible asset and are apportioned to the legal domicile of the payor

(7) Condemnation. Revenues from condemnation resulting from the taking of property are gross receipts apportioned based on the location of the property condemned.

(8) Debt forgiveness. Revenues to a debtor when the creditor releases the debtor from indebtedness is a gross receipt apportioned to the legal domicile of the creditor.

(9) Debt retirement. Revenues from the retirement of a corporation's own indebtedness, such as the purchase by a corporation of its own bonds at a discount, are gross receipts apportioned to the corporation's state of incorporation. The indebtedness is treated as an investment in determining the amount of gross receipts.

(10) Deemed sales of assets under Internal Revenue Code, §338. Amounts deemed received by the target corporation

are treated as sales of assets by the target corporation and are apportioned according to rules otherwise applicable to sales of such assets under the Tax Code, §171, or this section. For the purposes of this paragraph, the purchaser of the target's stock will be considered the purchaser of the assets.

(11) Demurrage charges. Demurrage charges for the detention or storage of equipment used in the transportation of goods and merchandise in interstate commerce are Texas receipts to the extent that the detention or storage occurs in Texas.

(12) DISC/FSC. A DISC (domestic international sales corporation) or FSC (foreign sales corporation) is treated the same as any other corporation except that a commission DISC or FSC may elect to use the earned surplus apportionment factor of its parent if the parent is doing business in Texas under the guidelines outlined in §3.554 of this title (relating to Earned Surplus: Nexus). Receipts from the sale of tangible personal property by a corporation to a DISC or FSC located in Texas are not Texas receipts if the tangible personal property flows uninterrupted from the selling corporation to a foreign purchaser located outside of Texas. If a DISC or FSC assembles, packages, repackages, modifies, stores, or otherwise takes physical delivery of tangible personal property in Texas, the receipts from the sale of the tangible personal property are Texas receipts to the selling corporation.

(13) Dividends and/or interest.

(A) Dividends which are recognized as a reduction of the taxpayer's basis in stock of a corporation for federal income tax purposes are not gross receipts. Dividends in excess of the taxpayer's basis for federal income tax purposes which are recognized as a capital gain are treated as dividends for apportionment purposes.

(B) Unless otherwise excluded from receipts, the following are excluded from Texas receipts and receipts everywhere:

(i) dividends from a subsidiary, associate, or affiliated corporation that does not transact a substantial portion of its business or regularly maintain a substantial portion of its assets in the United States;

(ii) Schedule C special deductions excluded from taxable earned surplus;

(iii) dividends and/or interest on federal obligations that are excluded from earned surplus under §3.555(k) of this title (relating to Earned Surplus: Computation);

(iv) interest which is exempt from federal income tax.

(C) Dividends and/or interest received from a corporation are apportioned to the state of incorporation of the payor.

(D) Dividends and/or interest received from a national bank are apportioned to Texas if the bank's principal place of business is in Texas. Dividends and/or interest received from a bank organized under the Texas Banking Code are apportioned to Texas.

(E) Dividends and interest from other sources are apportioned to the legal domicile of the payor unless otherwise required under the Tax Code, §171, this section, or other rules issued pursuant to the Tax Code, §171.

(F) See the Tax Code, §171.1031, concerning apportionment of dividends and/or interest received by banking corporations and savings and loan associations.

(14) Exchanges of property. Exchanges of property are included in gross receipts to the extent that the exchange is recognized as a taxable transaction for federal income tax purposes. Such exchange must be included in receipts based on the gross exchange value unless otherwise required under this section.

(15) Federal enclave. All revenues from a corporation's sales, services, leases, or other business activities transacted on a federal enclave located in Texas are Texas receipts unless otherwise excepted.

(16) Freight charges. Reimbursements to the seller from the customer for freight charges paid to a third party for goods and merchandise shipped to a customer are not gross receipts when the charges are entered as a separate item on the sales invoice, if the reimbursement does not exceed actual expenses paid to a third party.

(17) Health care supplies and food. Revenues from sales of health care supplies and food are included in computing receipts everywhere and Texas receipts like any other sale of tangible personal property.

(18) Insurance proceeds.

(A) Business interruption insurance proceeds are gross receipts when the proceeds are to replace lost profits. Such proceeds are apportioned based on the actual location of the business operations where the interruption occurred which resulted in the receipt of such proceeds.

(B) Revenues from fire and casualty insurance proceeds are apportioned to the location of the damaged or destroyed property.

(19) Intercorporate expense allocations. Expense allocations by a corporation among one or more related corporations (other than income taxes allocable to the applicable corporation) whether recorded as management fees, administrative overhead, interest, accounting services, legal services, or other designations are gross receipts to the corporation allocating the expenses, unless an agency relationship exists.

(20) Leases and subleases.

(A) Revenues from the lease or sublease (or rental or subrental) of real property are apportioned to the location of the property.

(B) Revenues from the lease or sublease (or rental or subrental) of tangible personal property are apportioned to the location of the property. If the property is used inside and outside Texas, lease payments are apportioned based on the number of days spent at the respective locations. If the amount of revenue due under the lease is based on mileage, the lease payments are apportioned based on the number of miles in Texas divided by the number of miles everywhere.

(C) If a lump sum is charged for leased or subleased (or rented or subrented) property which is located inside and outside Texas, the allocation of such revenue is based on the rental value of each item of property.

(D) Revenues from the lease or sublease (or rental or subrental) of a vessel engaging in commerce are apportioned to Texas based on the number of days engaged in commerce in Texas waters divided by the number of days engaged in commerce everywhere.

(E) If a lease, sublease, rental, or subrental of real property or tangible personal property is treated as a sale for federal income tax purposes, the receipts from the transaction are apportioned in the same manner as a sale. Any portion of the payments designated as interest by the contracting parties is interest receipts.

(21) Litigation awards. Revenues from litigation awards are gross receipts which are apportioned to the commercial domicile of the recipient corporation.

(22) Loan principal. The principal of a loan received or repaid is not a gross receipt even if the seller is a dealer in loans under the Internal Revenue Code.

(23) Newspapers. All revenues, including out-of-state advertisements, of a newspaper transacting its primary business activities within Texas constitute Texas receipts, except revenues from the sale of newspapers outside Texas (unless the corporation is not doing business in the state where such newspapers are sold).

(24) Partnership/joint venture. The corporation's share of the gross receipts of a partnership or joint venture included in federal taxable income must be used in calculating gross receipts. The receipts must be apportioned as though the corporation directly earned such receipts.

(25) Patents, copyrights, and other intangible rights.

(A) Receipts from the use of intangibles.

(i) Revenues from a patent royalty are included in Texas receipts to the extent the patent is utilized in production, fabrication, manufacturing, or other processing in Texas.

(ii) Revenues from a copyright royalty are included in Texas receipts to the extent the copyright is utilized in printing or other publication in Texas.

(iii) Revenues received by the owner of a trademark, franchise, and license are included in Texas receipts to the extent used in Texas; however, in regard to the sale/licensing of computer programs, paragraph (6) of this subsection is controlling.

(B) Sales. Sales of intangibles are apportioned based on the location of payor.

(26) Purchase discounts and allowances. Returns, discounts, and allowances granted to a purchaser are not gross receipts to the purchaser even if refunds are given in cash.

(27) Radio/television. All revenues of a radio or television operation which broadcasts or transmits from stations in Texas constitute Texas receipts even though some of the listening or viewing audiences are outside Texas. Revenues from programs filmed or otherwise developed by a station in Texas which are sold or leased to the national media for broadcasting or transmitting are not Texas receipts.

(28) Real property. Revenues from the sale, lease, rental, sublease, or subrental of real property are apportioned to the location of the property.

(29) Sales and services. When a transaction involves elements of both a sale of tangible personal property and a service but there is no documentation showing separate charges for the sale and service elements, the comptroller may determine the amounts allocable to each based on fair values or on the basis of any available evidence.

(30) Sales discounts. Cash or trade discounts allowed by a seller reduce gross sales of the seller in computing gross receipts.

(31) Sales returns and allowances. Sales returns and allowances allowed by a seller reduce gross sales of the seller in computing gross receipts.

(32) Sales taxes. State or local sales taxes collected by a seller are not gross receipts when the tax is imposed on the customer. However, discounts on sales taxes allowed a seller do constitute gross receipts to the seller.

(33) Services. Service receipts are apportioned to the location where the service is performed. If services are performed inside and outside Texas, such receipts are Texas receipts on the basis of the fair value of the services rendered in Texas. Corporations that have taxable earned surplus that is derived, directly or indirectly, from the sale of services to or on behalf of a regulated investment company should refer to the Tax Code, §171.106(c), for information on apportionment of such taxable earned surplus.

(34) Services procurement. Revenues for the procurement of services are apportioned to the place where the service procurement is performed.

(35) Stocks. Receipts from the sale of securities are apportioned based on the location of the payor. When securities are sold through a stock exchange and the buyer can not be identified, 6.5% of the net gain (or gross sales price, if securities are inventory) is a Texas receipt. If the securities are investments, see paragraph (3) of this subsection regarding the computation of receipts.

(36) Subsidies/grants. Subsidies or grants received by a corporation from a governmental agency are gross receipts unless the funds are required to be expended dollar-for-dollar (i.e., passed through) to third parties on behalf of the agency. Receipts from a governmental subsidy or grant are apportioned to the location where the activity which qualified for the subsidy or grant is performed.

(37) Tangible personal property. Examples of transactions involving the sale of tangible personal property and which result in Texas receipts include, but are not limited to, the following:

(A) the sale of tangible personal property which is delivered in Texas to a purchaser. Delivery is complete upon transfer of possession or control of the property to the purchaser, an employee of the purchaser, or to transportation vehicles leased or owned by the purchaser. F.O.B. point, location of title passage, or other conditions of the sale are not relevant to the determination of Texas gross receipts;

(B) the sale of tangible personal property delivered in Texas to an employee or transportation agent of an out-of-state purchaser. A carrier is an employee or agent of the purchaser if the carrier is under the supervision and control of the purchaser with respect to the manner in which goods are transported;

(C) the sale and delivery in Texas of tangible personal property which is loaded into a barge, truck, airplane, vessel, tanker, or any other means of conveyance leased and controlled or owned by the purchaser of the property. The sale of tangible personal property which is delivered in Texas to an independent contract carrier, common carrier, or freight forwarder hired by a purchaser of the property results only in gross receipts everywhere if the carrier transports or forwards the property to the purchaser outside this state;

(D) the sale of tangible personal property with delivery to a common carrier outside Texas and shipment by that common carrier to a purchaser in Texas;

(E) the sale of oil or gas to an interstate pipeline company, with delivery in Texas;

(F) the sale of tangible personal property which is delivered in Texas to a warehouse or other storage facility owned or leased by the purchaser;

(G) the sale of tangible personal property which is delivered to and stored in a warehouse or other storage facility in Texas at the purchaser's request, as opposed to a necessary delay in transit, even though the property is subsequently shipped outside Texas;

(H) the drop shipment of tangible personal property in Texas. A drop shipment is a shipment of tangible personal property from a seller directly to a purchaser's customer, at the request of the purchaser, without passing through the hands of the purchaser. This results in Texas gross receipts for the seller and the purchaser;

(I) sales to which the throwback rule applies. Each sale of tangible personal property shipped from this state to a purchaser in another state in which the seller is not subject to taxation (i.e., the throwback rule). This subparagraph will control if it conflicts with any other provision of this section. Another state means a state of the United States, the District of Columbia, Puerto Rico, or any territory or possession of the United States. A corporation or limited liability company is subject to taxation in another state if the corporation or limited liability company is chartered or organized in that state or has sufficient contact with that state so that a tax on net income could be imposed on the corporation or limited liability company without violating 15 United States Code, §381 (i.e., Public Law 86-272). For reports originally due before January 1, 1993, the mere holding of a certificate of authority will establish that a corporation or limited liability company was subject to taxation in another state. Sales into another state where the seller merely holds a certificate of authority will be treated as sales to which the throwback rule applies, effective for reports originally due on or after January 1, 1993. Voluntary payment of tax to another state or the inclusion of a corporation or limited liability company in another entity's state combined or consolidated income tax return does not, by itself, cause the corporation or limited liability company to be subject to taxation in another state. The selling corporation or limited liability company must be subject to taxation in the other state during the accounting year upon which the tax is based. The corporation or limited liability company has the burden of proving that it is subject to taxation in the other state (see §3.554 of this title).

(38) Tax refunds. Tax refunds are not gross receipts. However, interest awarded on tax refunds are gross receipts.

(39) Telephone companies. All revenues for telephone calls in Texas are Texas receipts except for revenues from calls in interstate commerce.

(40) Texas waters. Revenues from transactions occurring in Texas waters are Texas receipts. Texas waters are established at 10.359 statute miles or nine nautical miles from the Texas coastline.

(41) Transportation companies. Transportation companies must report Texas receipts from transportation services in intrastate commerce by:

(A) including revenues derived from the transportation of goods or passengers in intrastate commerce; or

(B) multiplying total transportation receipts by total mileage in trans-

porting goods and passengers that are moving in intrastate commerce within Texas divided by total mileage everywhere.

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 23, 1992.

TRD-9214365 Martin Cherry
 Chief, General Law
 Section
 Comptroller of Public
 Accounts

Effective date: November 13, 1992

Proposal publication date: June 16, 1992

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

◆ ◆ ◆
• 34 TAC §3.568

The Comptroller of Public Accounts adopts new §3.568, concerning changes in corporate organization, without changes to the proposed text as published in the September 18, 1992, issue of the *Texas Register* (17 TexReg 6429).

This new section replaces §3.396, concerning the same subject matter, which is being repealed in order that it can be adopted under the Texas Administrative Code, Title 34, Part I, Chapter 3, Subchapter V. This new section explains the effects a dissolution, merger, or withdrawal has on franchise tax.

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.

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 22, 1992.

TRD-9214319 Martin Cherry
 Chief, General Law
 Section
 Comptroller of Public
 Accounts

Effective date: November 12, 1992

Proposal publication date: September 18,
1992

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

◆ ◆ ◆
TITLE 37. PUBLIC
SAFETY AND CORREC-
TIONS

Part I. Texas Department
of Public Safety

Chapter 13. Controlled
Substances and
Precursor/Apparatus Rules
and Regulations

Subchapter H. Summary For-
feiture and Destruction of
Controlled Substances Prop-
erty, Plants, and other Mis-
cellaneous Items

• 37 TAC §§13.161-13.174

The Texas Department of Public Safety adopts new §§13.161-13.174, concerning summary forfeiture and destruction of controlled substances property, plants, and other miscellaneous items, without changes to the

proposed text as published in the September 18, 1992, issue of the *Texas Register* (17 TexReg 6430).

The adoption of these sections will ensure that court-ordered destruction of controlled substances, property, plants, and miscellaneous items are destroyed as required by statute, which prevents diversion to the illicit market.

These sections will establish definitions and promulgate a uniform standard operating procedure to dispose of court-ordered destruction of controlled substances, property, plants, and miscellaneous items to comply with legislative intent as mandated by the Health and Safety Code, §481.160.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Health and Safety Code, §481.154, which provides the Texas Department of Public Safety with the authority to adopt reasonable rules and procedures, not inconsistent with the provisions of this chapter, concerning summary forfeiture and destruction of controlled substances, property, plants, and miscellaneous items.

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.

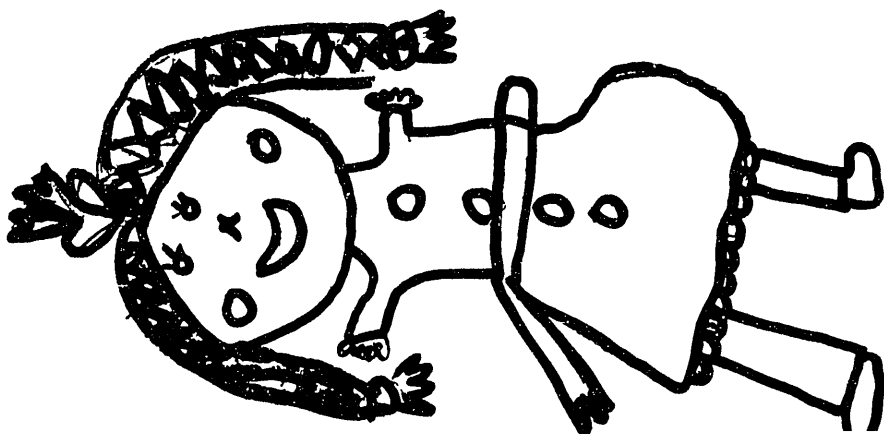
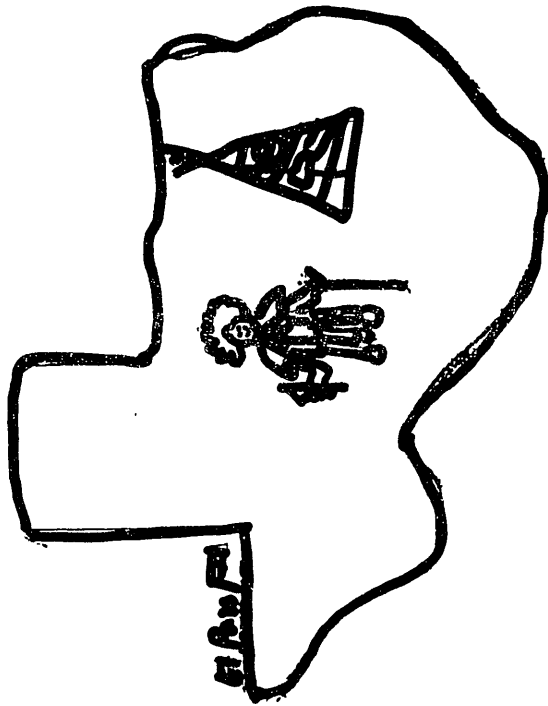
Issued in Austin, Texas, on October 20, 1992.

TRD-9214394 James R Wilson
 Director
 Texas Department of
 Public Safety

Effective date: November 13, 1992

Proposal publication date: September 18,
1992

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



Name: Paola Rivera
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 Agricultural Experiment Station

Thursday, November 19, 1992, 10 a.m. The Equine Research Account Advisory Committee of the Texas Agricultural Experiment Station will meet at Texas A&M University, Rudder Tower, Room 407AB, College Station. According to the complete agenda, the committee will organize this new committee; establish procedures as necessary for the conduct of its business; and discuss plans for Equine Research Conference.

Contact: Robert Merrifield, Administration Building #113, College Station, Texas 77843, (409) 845-8486.

Filed: October 26, 1992, 9:30 a.m.

TRD-9214439

Texas Department of Agriculture

Thursday, November 12, 1992, 10 a.m. The Office of Hearings Examiner of the Texas Department of Agriculture will meet at the Texas Department of Agriculture Regional Office, 2626 South Loop West, Suite 130, Houston. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001 et seq. (Vernon 1982) by Sun Sprouts of Texas, Inc. as petitioned by Mexican Harvest Corporation.

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

Filed: October 26, 1992, 2:10 p.m.

TRD-9214472

Thursday, November 12, 1992, 1 p.m. The Office of Hearings Examiner of the Texas Department of Agriculture will meet at the Texas Department of Agriculture Regional Office, 2626 South Loop West, Suite 130, Houston. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001 et seq. (Vernon 1982) by The Commisary as petitioned by Raymond's Produce, Inc.

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

Filed: October 26, 1992, 2:10 p.m.

TRD-9214471

Wednesday, December 2, 1992, 2 p.m. The Office of Hearings Examiner of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, Expressway 83, Two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001 et seq. (Vernon 1982) by Paradise Produce, Inc. as petitioned by Sutton Fruit and Vegetable Co., Inc.

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

Filed: October 26, 1992, 2:10 p.m.

TRD-9214473

Thursday, December 3, 1992, 9 a.m. The Office of Hearings Examiner of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, Expressway 83, Two Blocks West of Morningside Road, San Juan. According to the complete

agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001 et seq. (Vernon 1982) by Teddy Bertuca Co., Inc. as petitioned by Plantation Produce Company.

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

Filed: October 26, 1992, 2:10 p.m.

TRD-9214474

Texas Bond Review Board

Tuesday, October 27, 1992, 10 a.m. The Staff Planning of the Texas Bond Review Board met at Room 402, Central Services Building, 1711 San Jacinto, Austin. According to the emergency complete agenda summary, the staff called the meeting to order; discussed proposed issue: General Services Commission-amendment to lease-purchases agreements; and adjourned. The emergency was necessary to allow timely consideration prior to board action.

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

Filed: October 23, 1992, 11:28 a.m.

TRD-9214380

Tuesday, October 27, 1992, 10 a.m. (Revised) The Staff Planning of the Texas Bond Review Board met in Room 402, Central Services Building, 1711 San Jacinto, Austin. According to the emergency revised complete agenda, the staff called the meeting to order; discussed proposed issues: General Services Commission-amendment to lease-purchases agreement and Texas Public Finance Authority-requested amend-

ment to previously approved refunding bonds; and adjourned. The emergency revised status was necessary to allow timely discussion prior to board consideration.

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

Filed: October 26, 1992, 3:18 p.m.

TRD-9214481

Tuesday, November 3, 1992, 1:30 p.m. The Texas Bond Review Board will meet in Room 402, Central Services Building, 1711 San Jacinto, Austin. According to the complete agenda summary, the board will call the meeting to order; consider proposed issues: General Services Commission-amendment to lease-purchase agreement; and adjourn.

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

Filed: October 23, 1992, 11:28 a.m.

TRD-9214381

Tuesday, November 3, 1992, 1:30 p.m. (Revised) The Texas Bond Review Board will meet in Room 402, Central Services Building, 1711 San Jacinto, Austin. According to the revised complete agenda, the board will call the meeting to order; consider proposed issues: General Services Commission-amendment to lease-purchase agreement and Texas Public Finance Authority-requested amendment to previously approved refunding bond; and adjourn.

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

Filed: October 26, 1992, 3:18 p.m.

TRD-9214480

Texas Cancer Council

Tuesday, November 17, 1992, 5 p.m. The Breast and Cervical Cancer Control Strategic Planning Steering Committee Public Hearing of the Texas Cancer Council will meet at the School of Business and Finance, Hardin Simmons University, 2200 Hickory Street, Abilene. According to the complete agenda, the committee will consider opening remarks; discuss testimony; and adjourn. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Gale Morrow at (512) 463-3190 or Wanda Braune at (915) 692-9920 five working days prior to the meeting so that appropriate arrangements can be made.

Contact: Emily F. Untermeyer, P.O. Box 12097, Austin, Texas 78701, (512) 463-3190.

Filed: October 26, 1992, 3:35 p.m.

TRD-9214482

Texas Department of Criminal Justice

Friday, October 30, 1992, 10 a.m. The Judicial Advisory Council of the Texas Department of Criminal Justice will meet at 8100 Cameron Road, Suite 600, Building B, Austin. According to the agenda summary, the council will call the meeting to order; introduce guest and new CJAD staff; discuss approval of minutes, presentation of standards, ethics committee reports, activities report-fiscal year 1993 funding distribution, technical assistance, proposed evaluation plan, presentation-Jim Mills, Dallas County CBCD, CJAD update, other administrative business-Judge Gist, chairman, JAC and Judge Callan, JAC member; set date and site selection of next meeting; and adjourn.

Contact: Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78758, (512) 834-8188.

Filed: October 22, 1992, 4:18 p.m.

TRD-9214347

Daughters of the Republic of Texas, Inc.

Friday, November 6, 1992, 8:30 a.m. The Board of Management of the Daughters of the Republic of Texas, Inc. will meet at the Howard Johnson North Plaza Hotel, 7800 North IH-35, Austin. According to the agenda summary, the board will determine quorum-public session; give invocation; pledge to flags; reports and recommendations for action by committees operating state owned properties; recess to closed executive session; reconvene in open meeting, public session-motions arising from executive session; and adjourn.

Contact: Betty F. Burr, 613 Bostwick, Nacogdoches, Texas 75961, (409) 564-7478.

Filed: October 26, 1992, 1:16 p.m.

TRD-9214454

Texas Education Agency

Friday, November 6, 1992, 9 a.m. The Task Force on the Phaseout of Low-Level High School Courses: Meeting the Needs of All Students of the Texas Education Agency will meet in Room 119, Stephen F. Austin Building, 1700 North Congress Ave-

nue, Austin. According to the complete agenda, the task force will review previous activities; and discuss work session to develop appropriate plans and recommendations.

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

Filed: October 23, 1992, 2:38 p.m.

TRD-9214404

Monday, November 9, 1992, 2 p.m. The Investment Advisory Committee to the Permanent School Fund (PSF) of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the complete agenda, the committee will discuss current events affecting the Permanent School Fund; legislation, economic factors and investment alternatives will be major topics of discussion; briefings by David Hoener, Warheim Schroder Investment Services, Inc. and Richard Holbein, Holbein Associates, dealing with the fund's status, investment plans and performance.

Contact: Walter Arrellano, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9169.

Filed: October 23, 1992, 9:17 a.m.

TRD-9214350

Texas Employment Commission

Tuesday, November 3, 1992, 8:30 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will discuss prior meeting notes; meet in executive session to discuss relocation of agency headquarters; act, if any, resulting from executive session; discuss staff reports; discuss information release practices; discuss internal procedures of commission appeals; consider and act on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 44; and set date of next meeting.

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

Filed: October 26, 1992, 4:06 p.m.

TRD-9214483

Office of the Governor, Criminal Justice Division

Thursday, November 5, 1992, 9 a.m. The Governor's Drug Policy Advisory Board of the Office of the Governor, Criminal Justice Division will meet at Westin Paso Del

Norte, 101 South El Paso Street, El Paso. According to the agenda summary, the board will take testimony from all interested parties, including agency representatives, service providers, and the general public, regarding development of a statewide strategy to combat substance abuse.

Contact: Jimmy Willborn, 221 East 11th Street, Austin, Texas 78701, (512) 463-1957.

Filed: October 22, 1992, 10:09 a.m.

TRD-9214312

Friday, November 6, 1992, 9 a.m. The Governor's Drug Policy Advisory Board of the Office of the Governor, Criminal Justice Division will meet at the Hobby Hilton Hotel, 8181 Airport Boulevard, Houston. According to the agenda summary, the board will take testimony from all interested parties, including agency representatives, service providers, and the general public, regarding development of a statewide strategy to combat substance abuse.

Contact: Jimmy Willborn, 221 East 11th Street, Austin, Texas 78701, (512) 463-1957.

Filed: October 22, 1992, 10:09 a.m.

TRD-9214313

Monday, November 9, 1992, 9 a.m. The Governor's Drug Policy Advisory Board of the Office of the Governor, Criminal Justice Division will meet at the Austin Marriott at the Capitol, 701 East 11th Street, Austin. According to the agenda summary, the board will take testimony from all interested parties, including agency representatives, service providers, and the general public, regarding development of a statewide strategy to combat substance abuse.

Contact: Jimmy Willborn, 221 East 11th Street, Austin, Texas 78701, (512) 463-1957.

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

TRD-9214314

Tuesday, November 10, 1992, 9 a.m. The Governor's Drug Policy Advisory Board of the Office of the Governor, Criminal Justice Division will meet at the Lubbock Plaza Hotel and Conference Center, 3201 Loop 289 South at Indiana Avenue, Lubbock. According to the agenda summary, the board will take testimony from all interested parties, including agency representatives, service providers, and general public, regarding development of a statewide strategy to combat substance abuse.

Contact: Jimmy Willborn, 221 East 11th Street, Austin, Texas 78701, (512) 463-1957.

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

TRD-9214315

Monday, November 16, 1992, 9 a.m. The Governor's Drug Policy Advisory Board of the Office of the Governor, Criminal Justice Division will meet at the Arlington Hilton Hotel, 2401 East Lamar Boulevard, Arlington. According to the agenda summary, the board will take testimony from all interested parties, including agency representatives, service providers, and general public, regarding development of a statewide strategy to combat substance abuse.

Contact: Jimmy Willborn, 221 East 11th Street, Austin, Texas 78701, (512) 463-1957.

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

TRD-9214316

Tuesday, November 17, 1992, 9 a.m. The Governor's Drug Policy Advisory Board of the Office of the Governor, Criminal Justice Division will meet at the Fort Brown Hotel, 1900 East Elizabeth, Brownsville. According to the agenda summary, the board will take testimony from all interested parties, including agency representatives, service providers, and general public, regarding development of a statewide strategy to combat substance abuse.

Contact: Jimmy Willborn, 221 East 11th Street, Austin, Texas 78701, (512) 463-1957.

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

TRD-9214317

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Texas Department of Human Services

Wednesday, November 4, 1992, 1 p.m. Indigent Health Care Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, Classroom 1, Winters Complex, Austin. According to the complete agenda, the committee will call the meeting to order; discuss approval of minutes; welcome and introduce new members; draw for length of terms; discuss program summary reports and comparison to past years; provider notification requirements; income exemptions for medicaid eligibles; feedback from prior recommendations; open comment period on agenda items; and discuss suggestions for future agenda items.

Contact: Jane Jaggard, P.O. Box 149030, Austin, Texas 78714-9030, (512) 338-6461.

Filed: October 22, 1992, 2:06 p.m.

TRD-9214323

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Texas Department of Insurance

Thursday, November 5, 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 commissioner's hearing section will conduct a public hearing to consider the application of Benjamin F. Vance, Jr., Bryan, Texas, to acquire control of General Security Life Insurance Company, Bryan, Texas, pursuant to the provisions of Texas Insurance Code, Article 21.49-1, Section 5.

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

Filed: October 26, 1992, 2:47 p.m.

TRD-9214475

Thursday, November 5, 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 commissioner's hearing section will conduct a public hearing to consider the application of Garlin Wesley, Arlington, Texas, for a Group I, Legal Reserve Life Insurance Agent's license.

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

Filed: October 26, 1992, 2:47 p.m.

TRD-9214476

Thursday, November 12, 1992, 3 p.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will hold a public hearing under Docket Number 1904 concerning a request by Sechrist-Hall Company for a hearing on calculation of experience modifiers applicable to workers' compensation insurance. The board will reconsider the proposal for decision submitted by the hearings' officer; and consider the legal memoranda submitted by the parties and deliberate and render a decision.

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

Filed: October 27, 1992, 8:45 a.m.

TRD-9214499

Friday, November 13, 1992, 9 a.m. The State Board of Insurance of the Texas Department of Insurance will meet in Room 100, William P. Hobby Building, 333 Guadalupe Street, Austin. According to the complete agenda, the board will hold a public hearing concerning Docket Number 1953; Zurich-American Insurance Group's

Workers' Compensation Insurance rate filings.

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

Filed: October 23, 1992, 2:23 p.m.

TRD-9214399

Monday, November 16, 1992, 10 a.m. The State Board of Insurance of the Texas Department of Insurance will meet in Room 100, William P. Hobby Building, 333 Guadalupe Street, Austin. According to the complete agenda, the board will hold a public hearing concerning Docket Number 1954; ITT Hartford Group Workers' Compensation Insurance rate filings.

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

Filed: October 23, 1992, 2:24 p.m.

TRD-9214401

Monday, November 23, 1992, 9 a.m. The State Board of Insurance of the Texas Department of Insurance will meet in Room 100, William P. Hobby Building, 333 Guadalupe Street, Austin. According to the complete agenda, the board will hold a public hearing concerning Docket Number 1952; Kemper National Insurance Companies Workers' Compensation Insurance rate filings.

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

Filed: October 23, 1992, 2:23 p.m.

TRD-9214400

Tuesday, November 24, 1992, 1:30 p.m. The State Board of Insurance of the Texas Department of Insurance will meet in Room 100, William P. Hobby Building, 333 Guadalupe Street, Austin. According to the complete agenda, the board will hold a public hearing under Docket Number 1948 concerning an appeal from commissioner's Order Numbers 92-0929 and 92-0755 and motion to stay orders filed on behalf of John Kelley Habbas.

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

Filed: October 27, 1992, 8:45 a.m.

TRD-9214498

Texas Department of Licensing and Regulation

Tuesday, November 3, 1992, 9 a.m. The Inspections and Investigations, Air Conditioning of the Texas Department of Licensing and Regulation will meet at 920 Colo-

rado 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 Cecil W. Campbell doing business as Campbell Heating and Air Conditioning, for violation of Vernon's Texas Civil Statutes, Articles 2861, §16 and 9100.

Contact: Paula Hamje, 920 Colorado Street, E. O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: October 26, 1992, 9:09 a.m.

TRD-9214435

Texas Council on Offenders with Mental Impairments

Friday, November 6, 1992, 10 a.m. The Program Committee of the Texas Council on Offenders with Mental Impairments will meet at TDCJ-Pardons and Paroles Division, 8610 Shoal Creek Boulevard, Austin. According to the complete agenda, the committee will call the meeting to order; make introductions; hear public comments; discuss approval of minutes of previous meeting; review fiscal year 1992 expenditures; receive an overview of fiscal year 1993 contracts; discuss recent Project ACTION evaluation; review substance abuse curriculum; discuss Project CHANCE funding; and adjourn.

Contact: Pat Hamilton, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5406.

Filed: October 27, 1992, 8:33 a.m.

TRD-9214497

Texas Parks and Wildlife Department

Wednesday, November 4, 1992, 1 p.m. The Land Acquisition and Development, Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters Complex Building B, First Floor, 4200 Smith School Road, Austin. According to the agenda summary, the commission will discuss approval of minutes; land acquisition-Presidio County; land divestiture-Mason County; land exchange-Chambers County; land acquisition-Cameron County; land acquisition-Rusk County; and briefing-Fiscal Year 1993 Acquisition Program.

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

Filed: October 23, 1992, 1:41 p.m.

TRD-9214386

Wednesday, November 4, 1992, 1 p.m. The Land Acquisition and Development Committee of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters Complex Building B, First Floor, 4200 Smith School Road, Austin. According to the agenda summary, the commission will discuss approval of minutes; report on six-year capital plan; meet in executive session; and discuss Land Acquisition Program items.

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

Filed: October 23, 1992, 1:40 p.m.

TRD-9214385

Wednesday, November 4, 1992, 3 p.m. The Regulations Committee, Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will discuss approval of minutes; proposed program to implement white-tailed deer herd management tags; proposed legislative needs for fur-bearing animals; rulemaking petition for sand, shell, and gravel dredging in the San Jacinto River with public testimony; discuss other issues that may properly come before the regulations committee; and discuss proposed rules to increase the mallard bag limit and reduce length of the extended falconry waterfowl season.

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

Filed: October 23, 1992, 1:41 p.m.

TRD-9214387

Wednesday, November 4, 1992, 4 p.m. The Finance Committee, Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Building C, Second Floor, 4200 Smith School Road, Austin. According to the agenda summary, the commission will discuss approval of committee minutes from August 25, 1992, meeting; 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 23, 1992, 1:41 p.m.

TRD-9214388

Wednesday, November 4, 1992, 6 p.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department

will meet at the Ruth's Chris Steakhouse, 3010 Guadalupe, Austin. According to the agenda summary, the commission will have dinner at 6 p.m., although this function is primarily a social event and no formal action is planned, the commission may discuss items on the public hearing agenda scheduled for 9 a.m., November 5, 1992.

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

Filed: October 23, 1992, 1:41 p.m.

TRD-9214389

Thursday, November 5, 1992, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will discuss approval of minutes; present retirement certificates and service awards; discuss wildlife expo resolution; employee incentive program recognition award; recognize donors to Quail Management Program; discuss proposed print program artwork; proposed amendment to State Park Bond Authorization; proposed White-tailed Deer Herd Management Tag Program; proposed amendments to late season migratory game bird proclamation, 1992-1993; proposed State Park hunting schedule; partners in parks program briefing; proposal for decision on the application of Lubbock County Water Control District Number 1 to Stock Buffalo Springs Lake with 3,000 black bass; land acquisition-Rusk County, Presidio County, and Cameron County; land divestiture-Mason County; and land exchange-Chambers County.

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

Filed: October 23, 1992, 1:42 p.m.

TRD-9214390

Thursday, November 5, 1992, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will discuss approval of minutes; land acquisition-Rusk County, Presidio County, and Cameron County; land divestiture-Mason County; and land exchange-Chambers County.

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

Filed: October 23, 1992, 1:42 p.m.

TRD-9214391

State Preservation Board

Tuesday, November 3, 1992, 2 p.m. The Permanent Advisory Committee of the State Preservation Board will meet at the Lorenzo de Zavala Library and Archives Building, Room 314, Austin. According to the agenda summary, the committee will call the meeting to order; discuss approval of minutes; discuss old or unfinished business; new business; and adjourn.

Contact: Dealey Herndon, 201 East 14th Street, Room 503, Austin, Texas 78701, (512) 463-5495.

Filed: October 26, 1992, 4:20 p.m.

TRD-9214486

Texas Department of Protective and Regulatory Services

Saturday, October 31, 1992, 10 a.m. The Texas Board of Protective and Regulatory Services of the Texas Department of Protective and Regulatory Services will meet at 701 West 51st Street, Public Hearing Room, First Floor, East Tower, Austin. According to the complete agenda, the board will consider minutes; public testimony; hold a work session on the strategic plan and LAR; take action as necessary on the strategic plan and the LAR; interim executive director's report on policy issues for board attention and legislation; discuss future board meetings; meet in closed executive session to evaluate and consider the duties of personnel in exempt positions; consider Protective and Regulatory Services and support staff reassignments and transfers, and filling the position of executive direct; and reconvene in open session to take action, if necessary, resulting from discussion in executive session.

Contact: Sherry Wilkie, P.O. Box 149030, Mail Code W-639, Austin, Texas 78714-9030.

Filed: October 22, 1992, 2:06 p.m.

TRD-9214324

Saturday, October 31, 1992, 10 a.m. (Revised agenda). The Texas Board of Protective and Regulatory Services of the Texas Department of Protective and Regulatory Services will meet at 701 West 51st Street, Public Hearing Room, First Floor, East Tower, Austin. According to the agenda summary, the board will consider approval of the minutes; hear public testimony; hold a work session on the strategic plan and the LAR; following the work session the board will take action as necessary on the strategic plan and the LAR; plan future board meetings; meet in closed executive session to evaluate and consider the duties of person-

nel in exempt positions; consider protective and regulatory services and support staff reassignments and transfers; filling the position of executive direct; and reconvene in open session to take action, if necessary, resulting from discussion in executive session.

Contact: Sherry Wilkie, P.O. Box 149030, Mail Code W-639, Austin, Texas 78714-9030, (512) 450-4890.

Filed: October 23, 1992, 4:54 p.m.

TRD-9214417

Public Utility Commission of Texas

Monday, October 26, 1992, 3:15 p.m. The Public Utility Commission of Texas met at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete emergency agenda, the commission considered extending the time for acting on the Appeal of Examiner's Order Number 11 and Oral Ruling concerning trade secrets in Docket Number 11000, application of Houston Lighting and Power Company to amend certificate of convenience and necessity for the DuPont Project Generating Unit. The emergency status was necessary as prompt commission action was necessary to preserve jurisdiction over the subject matter of the appeal.

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

Filed: October 26, 1992, 1:01 p.m.

TRD-9214453

Wednesday, October 28, 1992, 7:30 a.m. The Public Utility Commission of Texas met at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete emergency agenda, the commission considered the Appeal of Examiner's Order Number 11 and Oral Ruling concerning trade secrets in Docket Number 11000, Application of Houston Lighting and Power Company to amend certificate of convenience and necessity for the DuPont project generating unit. The emergency status was necessary as prompt commission action was necessary to preserve jurisdiction over the subject matter of the appeal.

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

Filed: October 26, 1992, 4:55 p.m.

TRD-9214495

Wednesday, November 4, 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 divi-

sion held a prehearing conference in Docket Number 11498-application of GTE Southwest Incorporated for permanent approval of its community calling plan for the Buda and Dripping Springs exchanges.

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

Filed: October 23, 1992, 3:12 p.m.

TRD-9214406

Tuesday, November 17, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a joint prehearing conference in Docket Numbers 10094 and 10109: Docket Number 10094, application of Southwestern Bell Telephone Company to add tariff for telecommunications service priority system; and Docket Number 10109, application of E Southwest, Inc. to revise tariff to a telecommunications service priority system.

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

Filed: October 22, 1992, 3:16 p.m.

TRD-9214345

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Texas Racing Commission

Wednesday, November 4, 1992, 1 p.m. The Texas Racing Commission will meet at the Echelon IV Conference Room, Suite 240, 9430 Research Boulevard, Austin. According to the complete agenda, the commission will conduct a public hearing pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, regarding proposed rule §303.43. This rule concerns the granting of race dates to Class 1 racetracks. A copy of the proposed rule may be obtained from Paula Cochran Carter, General Counsel, 9240 Research Boulevard, Echelon III, Suite 200, Austin, Texas 78759, (512) 794-8461. All persons who wish to testify regarding this proposed rule are urged to attend this hearing.

Contact: Paula Cochran Carter, 9240 Research Boulevard, Echelon III, Suite 200, Austin, Texas 78759, (512) 794-8461.

Filed: October 27, 1992, 8:22 a.m.

TRD-9214496

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Texas Low-Level Radioactive Waste Disposal Authority

Wednesday, November 11, 1992, 8:30 a.m. The Board of Directors of the Texas

Low-Level Radioactive Waste Disposal Authority will meet at the University of Texas at El Paso, Geological Sciences Building, Room 310, El Paso. According to the agenda summary, the board will discuss approval of the minutes; hear technical committee reports; general manager's report on year-to-date financial status; adopt a resolution and approve a lease agreement for capital acquisition lease purchase program; be updated on the 1994-1995 appropriations request and planning and implementation fees; consider interregional access for waste management; access contract for the Barnwell, S.C. site; be updated on status of compacts; transfer of the agency's legal services to the AG's office; be given status reports on site characterization, licensing, disposal facility design, and access considerations; and hear a report on community development in Hudspeth County and results of a QA audit. The board will reconsider a contract for procedures development; consider new contracts; contract amendments; lease agreements; and hear public comments.

Contact: L. R. Jacobi, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Filed: October 27, 1992, 9:30 a.m.

TRD-9214506

Tuesday, November 10, 1992, 2:45 p.m. The Board of Directors of Texas Low-Level Radioactive Waste Disposal Authority will meet at 203 FM 1111 South, Sierra Blanca. According to the complete agenda, the board will call the meeting to order; tour Faskin Ranch site; meet with Sierra Blanca citizens working groups; and adjourn.

Contact: L. R. Jacobi, Jr. P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Filed: October 27, 1992, 9:30 a.m.

TRD-9214505

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Railroad Commission of Texas

Monday, November 2, 1992, 9:30 a.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, First Floor Conference Room 1-111, Austin. Agendas follow.

The Commission will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in

executive session as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-6921.

Filed: October 23, 1992, 11:21 a.m.

TRD-9214379

The Commission will consider and act on the Personnel Division Director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-7187.

Filed: October 23, 1992, 11:16 a.m.

TRD-9214370

The Commission will consider and act on the Division Director's report on budget and personnel matters related to organization of the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: October 23, 1992, 11:17 a.m.

TRD-9214371

The Commission will consider and act on the Investigation Director's report on division administration, investigations, budget, and personnel matters.

Contact: Marcelo R. Montemayor, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6828.

Filed: October 23, 1992, 11:17 a.m.

TRD-9214372

The Commission will consider and act on the Office of Information Services Director's report on Division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710.

Filed: October 23, 1992, 11:17 a.m.

TRD-9214373

The Commission will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7251.

Filed: October 23, 1992, 11:17 a.m.

TRD-9214374

The Commission will consider category determinations under Sections 102(c) (1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: October 23, 1992, 11:18 a.m.

TRD-9214375

The Commission will consider and act on the Surface Mining and Reclamation Division Director's report on division administration, budget, procedures, and personnel matters. The commission will consider a proposed abandoned mine land reclamation prioritization list for abandoned uranium mines.

Contact: Melvin B. Hodgkiss, P.O. Box 12967, Austin, Texas 78711, (512) 463-6901.

Filed: October 23, 1992, 11:18 a.m.

TRD-9214376

The Commission will consider and act on the Administrative Services Division Director's report on division administration, budget, procedures and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711, (512) 463-7257.

Filed: October 23, 1992, 11:19 a.m.

TRD-9214377

The Commission will consider and act on the Office of the Executive Director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. The commission will discuss the implementation of individual operating budgets for each individual commissioner's office. The commission will discuss a proposed training agreement for the Gas Utility Section of the Legal Division. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel, and pending litigation; and consider a contract for public information services.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: October 23, 1992, 11:21 a.m.

TRD-9214378

The commission will consider Texas Utilities' Mining Company's (TUMCO) progress in remediation pursuant to Cessation Order 003T for TUMCO's Monticello-Winfield Mine, Permit Number 5, in Titus County.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-6921.

Filed: October 23, 1992, 3:59 p.m.

TRD-9214413

Texas Rehabilitation Commission

Tuesday, November 3, 1992, 9 a.m. The Texas Advisory Board of Occupational Therapy of the Texas Rehabilitation Commission will meet at 4900 North Lamar Boulevard, Room 7331, Austin. According to the agenda summary, the board will call the meeting to order; elect chair and vice-chair; appointment to committees; discuss approval of minutes of June 29, 1992 meeting; recess to application review committee; report from application review committee; requested appearance of Betty Baer; requested appearance of Harmon Victor Sturm; report from Texas Occupational Therapy Association; office report; review of Sunset Review Committee recommendations; and adjourn.

Contact: Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4072.

Filed: October 23, 1992, 8:40 a.m.

TRD-9214348

Tuesday, November 3, 1992, 9:15 a.m. The Application Review Committee of the Texas Advisory Board of Occupational Therapy of the Texas Rehabilitation Commission will meet at 4900 North Lamar Boulevard, Austin. According to the agenda summary, the committee will call the meeting to order; review and discuss requests for special consideration from licensees; and adjourn.

Contact: Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4072.

Filed: October 23, 1992, 8:42 a.m.

TRD-9214349

Center for Rural Health Initiatives

Wednesday, November 4, 1992, 2 p.m. The Executive Committee of the Center for Rural Health Initiatives will meet at the Texas Department of Health Conference Room G-107, 1100 West 49th Street, Austin. According to the complete agenda, the committee will discuss the executive director approval process; legislative report development; and advisory committee reports.

Contact: Laura Jordan, 211 East Seventh Street, #915, Austin, Texas 78767, (512) 479-8891.

Filed: October 27, 1992, 9 a.m.

TRD-9214500

School Land Board

Tuesday, November 3, 1992, 10 a.m. The School Land Board will meet at the General Land Office, Stephen F. Austin Building, Room 831, 1700 North Congress Avenue, Austin. According to the complete agenda summary, the board will discuss approval of previous board minutes; lease suspension applications, Aransas County; pooling applications, Camm (Miss.) Field, Young County; Giddings (Austin-Chalk 3) Field, Burleson and Brazos Counties; Spraberry (Trend Area) Field, Midland County; Giddings Field, Fayette County; and Pearsall (Austin Chalk), Frio County; applications to lease highway rights of way for oil and gas, Burleson County; and Brazos County; coastal public lands-consideration of a modification in the rate structure for coastal easements held by a homeowner's association; coastal public lands, commercial lease renewals, Clear Lake, Harris County; commercial lease assignment, Clear Creek, Galveston County; lease applications, Espiritu Santo Bay, Calhoun County; Galveston Bay, Harris County; and Galveston Bay, Chambers County; easement applications, Clear Lake, Harris County; Taylor Lake, Harris County; Little Cedar Creek, Harris County; and Carancahua Bay, Calhoun County; structure permit renewals, Laguna Madre, Kenedy County; Laguna Madre, Kleberg County; and Corpus Christi Bay, Nueces County; structure permit amendment, Guyton Cut, Brazoria County; consideration of wastewater easement from the Texas State Library to the City of Austin; and meet in executive session to discuss pending and proposed litigation.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: October 26, 1992, 4:14 p.m.

TRD-9214484

Texas State Technical College

Tuesday, October 27, 1992, 2:30 p.m. The Board of Regents of the Texas State Technical College held a telephone conference meeting at TSTC System Conference Room 32-01, Waco. According to the complete agenda, the board discussed approval of proposed sublease by Elsinore to Dalfort Aviation.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: October 23, 1992, 3:17 p.m.

TRD-9214407

Texas Tech University

Thursday, October 29, 1992, 10:30 a.m.
The Academic, Student, and Administrative Affairs Committee of Board of Regents of the Texas Tech University met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board discussed approval of minutes of August 20, 1992, meeting; considered change of name of College of Home Economics to College of Human Sciences; discussed ratification of leaves of absence; and reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:19 p.m.

TRD-9214335

Thursday, October 29, 1992, 10:30 a.m.
The Campus and Building Committee of Board of Regents of the Texas Tech University met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board discussed approval of minutes of August 20, 1992, meeting; considered lease agreement with Ex-Students Association for renovation of its building on campus; appointed project architect for: expansion of weight room in Student Recreation Center and replacement of wall/gates residence hall roof; renamed Agricultural Education and Mechanization Building to the Agricultural Education and Communications Building, and the Home Economics Building to the Human Sciences Building; appointed project engineer for: installation of card activated residence halls door access system and constructed emergency fuel oil storage system at Central Heating and Cooling Plant II and received bids; received bids for installation of scoreboard for Dan Law Field; Ratified award of contracts for: stabilization of dairy barn and silo, and renovation of Coronado Room in University Center; and discussed reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:20 p.m.

TRD-9214337

Thursday, October 29, 1992, 10:30 a.m.
The Finance Committee of Board of Regents of the Texas Tech University met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board discussed approval of minutes of August 20, 1992, meeting; considered salary adjustments effective October 1, 1992; discussed approval of establishment of two quasi endowments: Mhyra S. Minnis Graduate Scholarship in Sociology and Agricultural Economics Program Support; and discussed reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:20 p.m.

TRD-9214336

Thursday, October 29, 1992, 10:30 a.m.
The Development and Public Affairs Committee of Board of Regents of the Texas Tech University met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board discussed approval of minutes of August 20, 1992, meeting; and reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:21 p.m.

TRD-9214338

Thursday, October 29, 1992, 10:30 a.m.
The Research Affairs Committee of Board of Regents of the Texas Tech University met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board discussed approval of minutes of August 20, 1992, meeting; considered organization of Texas Tech research foundation; and discussed reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:21 p.m.

TRD-9214339

Thursday, October 29, 1992, 10:30 a.m.
The Governmental Affairs Committee of Board of Regents of the Texas Tech University met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board discussed approval of minutes of August 20, 1992, meeting; and reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:21 p.m.

TRD-9214340

Thursday, October 29, 1992, 10:30 a.m.
The Committee of the Whole of the Board of Regents of the Texas Tech University met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board considered salary adjustments effective October 1, 1992; entered negotiations for lease of baseball field; met in executive session agenda: Vernon's Annotated Civil Statutes, Article 6252-17; consulted with president and general counsel re pending and contemplated litigation; discussed settlement offers; settlement negotiations and matters confiden-

tial pursuant to Code of Professional Responsibility of State Bar of Texas; discussed prospective gifts to the University and Health Sciences Center and contractual negotiations contemplated and those in progress; discussed concerned evaluation and duties of Texas Tech University and Texas Tech University Health Sciences Center officers and employees; and discussed conference with various employees for the purpose of receiving information and asking questions of employees.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:21 p.m.

TRD-9214341

Friday, October 30, 1992, 9 a.m.
The Board of Regents of the Texas Tech University will meet at the Board Suite, Administration Building, Campus, Lubbock. According to the agenda summary, the board will take reports and possibly act on: minutes; president's report; academic, student, and administrative affairs; finance; campus and building; development and public affairs; research affairs; and committee of the whole.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:19 p.m.

TRD-9214334

Texas Tech University Health Sciences Center

Thursday, October 29, 1992, 10:30 a.m.
The Academic, Student, Clinical, and Administrative Affairs Committee of Board of Regents of the Texas Tech University Health Sciences Center met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board discussed approval of minutes of August 20, 1992, meeting; considered agreement with El Paso County Hospital District doing business as R. E. Thomason General Hospital Master Consolidation Agreement to provide various medical services; addendum to Affiliation Agreement with Medical Center Hospital (Odessa, Texas) for funding of resident and other services; established University Breast Care Center at Regional Academic Health Center in El Paso; discussed ratification of faculty development leave; grant emeritus status; and reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:16 p.m.

TRD-9214326

Thursday, October 29, 1992, 10:30 a.m.
The Campus and Building Committee of Board of Regents of the Texas Tech University Health Sciences Center met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board discussed approval of minutes of August 20, 1992, meeting; and reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:17 p.m.

TRD-9214327

Thursday, October 29, 1992, 10:30 a.m.
The Finance Committee of Board of Regents of the Texas Tech University Health Sciences Center met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board discussed approval of minutes of August 20, 1992, meeting; considered salary adjustments effective October 1, 1992; discussed ratification of delegation of authority; and reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:17 p.m.

TRD-9214328

Thursday, October 29, 1992, 10:30 a.m.
The Development and Public Affairs Committee of Board of Regents of the Texas Tech University Health Sciences Center met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board discussed approval of minutes of August 20, 1992, meeting; and reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:17 p.m.

TRD-9214329

Thursday, October 29, 1992, 10:30 a.m.
The Research Affairs Committee of Board of Regents of the Texas Tech University Health Sciences Center met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board discussed approval of minutes of August 20, 1992, meeting; considered organization of Texas Tech research foundation; and discussed reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:18 p.m.

TRD-9214330

Thursday, October 29, 1992, 10:30 a.m.
The Governmental Affairs Committee of Board of Regents of the Texas Tech University Health Sciences Center met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board discussed approval of minutes of August 20, 1992, meeting; and reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:18 p.m.

TRD-9214331

Thursday, October 29, 1992, 10:30 a.m.
The Committee of the Whole of the Board of Regents of the Texas Tech University Health Sciences Center met in Room 2B152, Health Sciences Center Building, Campus, Lubbock. According to the complete agenda, the board considered salary adjustments effective October 1, 1992; met in executive session: Vernon's Annotated Civil Statutes, Article 6252-17; consulted with president and general counsel re pending and contemplated litigation; discussed settlement offers; settlement negotiations and matters confidential pursuant to Code of Professional Responsibility of State Bar of Texas; discussed prospective gifts to the University and Health Sciences Center and contractual negotiations contemplated and those in progress; discussed concerned evaluation and duties of Texas Tech University and Texas Tech University Health Sciences Center officers and employees; and discussed conference with various employees for the purpose of receiving information and asking questions of employees.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:18 p.m.

TRD-9214332

Friday, October 30, 1992, 9:50 a.m.
The Board of Regents of the Texas Tech University Health Sciences Center will meet at the Board Suite, Administration Building, Campus, Lubbock. According to the agenda summary, the board will take reports and possibly act on: minutes; academic, student, clinical and administrative affairs; finance; development and public affairs; research affairs; and committee of the whole.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: October 22, 1992, 2:18 p.m.

TRD-9214333



Texas Water Commission

Wednesday, November 4, 1992, 7 a.m.
The Texas Water Commission will meet at the Stephen F. Austin State Office Building, Room 123, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will meet in executive session to discuss the duties and responsibilities of the executive director.

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

Filed: October 26, 1992, 4:25 p.m.

TRD-9214489

Wednesday, November 4, 1992, 9 a.m.
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 commission will consider approving the following matters: class 2 modification to hazardous waste permits; amendments to permits; renewal to permits; new permits; bonds; appointment of directors to utility; advertise for bids and enter into a contract; rates; water right permits; agreed order; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to rescheduling an item in its entirety or for particular action at a future date or time.

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

Filed: October 23, 1992, 3:57 p.m.

TRD-9214411

Wednesday, November 4, 1992, 9 a.m.
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 commission will consider approving the following matters: enforcement actions; certify questions; rules; motion for rehearing; commission will meet in executive session; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

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

Filed: October 23, 1992, 3:57 p.m.

TRD-9214410

Wednesday, November 4, 1992, 9 a.m. (Revised)
The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue,

Austin. According to the revised agenda summary, the commission will consider an order formalizing the decision of September 30, 1992, regarding the application of Laidlaw Waste Systems.

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

Filed: October 27, 1992, 9:16 a.m.

TRD-9214501

Wednesday, November 18, 1992, 9 a.m. 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 commission will hold a hearing to determine whether to affirm, modify, or set aside Emergency Order Number 92-19E granted on October 14, 1992 to Sanifill of Texas, Inc. The order authorizes Sanifill to discharge accumulated stormwater from their Type IV landfill located at 18666 East Hardy Road in Harris County.

Contact: Ray Winter, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: October 23, 1992, 3:57 p.m.

TRD-9214409

Wednesday, November 18, 1992, 9 a.m. 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 commission will hold a hearing on Harris County Municipal Utility District Number 175's application to impose standby fees on undeveloped property within the district.

Contact: Robert Ferguson, P.O. Box 13087, Austin, Texas 78711, (512) 371-6219.

Filed: October 23, 1992, 9:25 a.m.

TRD-9214360

Thursday, November 19, 1992, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 543, 1700 North Congress Avenue, Austin. According to the complete agenda, the commission will hold a public hearing concerning the priority issues relative to instream flow requirements on an application by the Lower Colorado River Authority to amend the water and drought management plans.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: October 23, 1992, 3:56 p.m.

TRD-9214408

Monday, November 23, 1992, 10 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the revised agenda summary, the commission will consider an application for emergency

rate increase by AM-TEX, Inc., receiver for Tawakoni Utility Corporation, ETAL, Docket Number 9478-R before a hearings examiner.

Contact: Linda Sorrells, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: October 23, 1992, 9:26 a.m.

TRD-9214361

Wednesday, December 2, 1992, 9 a.m. 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 commission will hold a hearing on Rankin Road West Municipal Utility District's application to adopt and impose a standby fee on undeveloped property in the district.

Contact: Randy Nelson, P.O. Box 13087, Austin, Texas 78711, (512) 371-6219.

Filed: October 23, 1992, 9:25 a.m.

TRD-9214359

Wednesday, December 9, 1992, 9 a.m. 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 commission will hold a hearing on Little Cypress Utility District's application for an extension of time to commence and complete modifications of a dam and reservoir on Little Cypress Bayou, tributary of Cypress Bayou, Cypress Basin and Sabine River Basin, and to impound therein not to exceed 193,845 acre-feet of water.

Contact: Arlette Capehart, P.O. Box 13087, Austin, Texas 78711, (512) 475-2347.

Filed: October 23, 1992, 9:25 a.m.

TRD-9214358

Wednesday, December 9, 1992, 9 a.m. 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 commission will hold a hearing on Kristin L. Perryman Land Trust's application for an extension of time to commence and complete modifications of a dam and reservoir on Sandy Creek, tributary of Flat Creek, tributary of the Neches River, Neches River Basin, and to impound therein not to exceed 631 acre-feet of water. The water is authorized to be used for domestic purposes approximately 10 miles northeast of Athens in Henderson County.

Contact: Lann Bookout, P.O. Box 13087, Austin, Texas 78711, (512) 463-8195.

Filed: October 23, 1992, 9:25 a.m.

TRD-9214357

Wednesday, December 16, 1992, 9 a.m. 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 commission will hold a hearing on Newpark Shipbuilding and Repair, Inc.'s application to use not to exceed 245 acre-feet of water per annum from Buffalo Bayou (Houston Ship Channel), tributary of the San Jacinto River, San Jacinto River Basin. The water will be used for industrial purposes in the applicant's shipbuilding and repair business approximately six miles southeast of the Harris County Courthouse, Harris County. Application Number 5432.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 475-4586.

Filed: October 23, 1992, 9:24 a.m.

TRD-9214356

Texas Workers' Compensation Commission

Wednesday, November 4, 1992, 9 a.m. The Medical Advisory Committee of the Texas Workers' Compensation Commission will meet in Room 910-911, Southfield Building, 4000 South IH-35, Austin. According to the complete agenda, the committee will call the meeting to order; review and discuss approval of August 28, 1992 minutes; discuss statutory MMI letters; discuss progress report on spine treatment guidelines, on impairment work group, and on dispute resolution process; discuss criteria for preauthorization disputes; discuss rules presented to commissioners; discuss proposed rules for Section 4.63 of Act; discuss peer review and professional peer review organization; discuss changes to the MAC by-laws; discuss draft rule for pharmaceutical services; establish draft agenda; establish next meeting date; and adjourn.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 448-7962.

Filed: October 26, 1992, 4:17 p.m.

TRD-9214485

Regional Meetings

Meetings Filed October 22, 1992

The Austin Transportation Study Criteria/Financial Plan Committee met at the Austin History Center Reception Room, Ninth and Guadalupe Streets, Austin, October 29, 1992, at 5 p.m. Information may be obtained from Michael Aulick, P.O. Box 1088, Austin, Texas 78767, (512) 499-6441. TRD-9214346.

The Leon County Central Appraisal District Board of Directors met at the Leon County District Court Room, Courthouse,

Centerville, October 26, 1992, at 7 p.m. Information may be obtained from Larry C. Buchanan, P.O. Box 536, Centerville, Texas 75833, (903) 536-2252. TRD-9214322.

The Pecan Valley Mental Health and Mental Retardation Region Board of Trustees met at the Pecan Valley MHMR Regional Clinical Office, 104 Charles Street, Granbury, October 28, 1992, at 8:30 a.m. Information may be obtained from Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806. TRD-9214321.

The Region VIII Education Service Center Board of Directors met at the Holiday Inn Restaurant, Highway 271, Mt. Pleasant, October 29, 1992, at 6:30 p.m. Information may be obtained from Scott Ferguson, P.O. Box 1894, Mt. Pleasant, Texas 75456-1894, (903) 572-8551. TRD-9214325.



Meetings Filed October 23, 1992

The Andrews Center Board of Trustees met at 2323 West Front Street, Board Room, Tyler, October 29, 1992, at 4 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (903) 597-1351. TRD-9214398.

The Atascosa County Appraisal District Board of Directors met at Fourth and Avenue J, Poteet, October 29, 1992, at 1:30 p.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065-0139, (512) 742-3591. TRD-9214415.

The Bexar Appraisal District Agricultural Appraisal Advisory Board met at 535 South Main, San Antonio, October 27, 1992, at 6:30 p.m. Information may be obtained from Beverly Houston, 535 South Main, San Antonio, Texas 78204, (512) 224-8511. TRD-9214414.

The Brazos Higher Education Authority, Inc. Board of Directors met at the Brazos Club of Waco, Cypress Room, Bank One Building, Valley Mills and Waco Drive, Waco, October 29, 1992, at 11 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD-9214418.

The Coastal Bend Council of Governments Executive Board will meet at the Corpus Christi Airport Holiday Inn, Florence Room, 5549 Leopard Street, Corpus Christi, October 30, 1992, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9214355.

The Coastal Bend Council of Governments membership will meet at the Corpus

Christi Airport Holiday Inn, Palermo Room, 5549 Leopard Street, Corpus Christi, October 30, 1992, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9214354.

The Dallas Area Rapid Transit Governmental Relations met at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, October 27, 1992, at 11:30 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9214421.

The Dallas Area Rapid Transit Minority Affairs Committee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, October 27, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9214423.

The Dallas Area Rapid Transit Audit Committee met at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, October 27, 1992, at 1:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9214422.

The Dallas Area Rapid Transit Customer and Community Relations met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, October 27, 1992, at 2:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9214420.

The Dallas Area Rapid Transit Board of Directors met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, October 27, 1992, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9214419.

The Golden Crescent Regional Planning Commission Board of Directors met at the GCRPC Board Room, Regional Airport, Building 102, Victoria, October 28, 1992, at 5 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9214362.

The Grayson Appraisal District Board of Directors met at 205 North Travis, Sherman, October 28, 1992, at 7:15 a.m. (Revised agenda). Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090, (903) 893-9673. TRD-9214405.

The Lamb County Appraisal District Appraisal Review Board will meet at 330 Phelps Avenue, Littlefield, November 10, 1992, at 8 a.m. Information may be obtained from Vaughn E. McKee, P.O. Box

552, Littlefield, Texas 79339, (806) 385-6474. TRD-9214403.

The Lamb County Appraisal District AG Appraisal Advisory Board will meet at 330 Phelps Avenue, Littlefield, November 12, 1992, at 7 p.m. Information may be obtained from Vaughn E. McKee, P.O. Box 552, Littlefield, Texas 79339, (806) 385-6474. TRD-9214402.

The Lee County Appraisal District Appraisal Review Board will meet at 218 East Richmond Street, Giddings, November 4, 1992, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9214353.

The Panhandle Regional Planning Commission Board of Directors met at 2736 West Tenth, PRPC Board Room, Amarillo, October 29, 1992, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9214383.

The Sharon Water Supply Corporation Board of Directors met at the Office of Sharon Water Supply Corporation, Route 5, Box 25-C-10, Winnsboro, October 26, 1992, at 7 p.m. Information may be obtained from Gerald Brewer, Route 5, Box 25-C-10, Winnsboro, Texas 75494, (903) 342-3525. TRD-9214351.

The West Texas Municipal Agency Board of Directors will meet at Room 102, 916 Texas, Municipal, Lubbock, November 2, 1992, at 10 a.m. Information may be obtained from Robert Massengale, P.O. Box 2000, Lubbock, Texas 79457, (806) 767-2015. TRD-9214352.



Meetings Filed October 26, 1992

The Bosque Higher Education Authority, Inc. Board of Directors met at the Brazos Club of Waco, Cypress Room, Bank One Building, Valley Mills and Waco Drive, Waco, October 29, 1992, at 11:45 a.m. Information may be obtained from Murry Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD-9214436.

The Brazos Higher Education Service Corporation Board of Directors met in the Cypress Room, the Brazos Club of Waco, Bank One Building, Valley Mills and Waco Drive, Waco, October 29, 1992, at 11:30 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD-9214434.

The Brazos Student Finance Corporation Board of Directors met at the Cypress Room, the Brazos Club of Waco, Bank One Building, Valley Mills and Waco Drive,

Waco, October 29, 1992, at 11:15 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD-9214433.

The Dallas Area Rapid Transit Board of Directors met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, October 27, 1992, at 4 p.m. The emergency status was necessary as it was of the utmost importance that the DART Board of Directors take immediate action upon implementing the DART Service Plan. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9214455.

The Gregg Appraisal District Appraisal Review Board will meet at 2010 Gilmer Road, Longview, November 4, 1992, at 9 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015. TRD-9214441.

The Guadalupe-Blanco River Authority Board of Directors will meet at the Authori-

ty's Office, 933 East Court Street, Seguin, October 30, 1992, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78156-0271, (512) 379-5822. TRD-9214477.

The Hale County Appraisal District Appraisal Review Board will meet at 302 West Eighth Street, Plainview, November 6, 1992, at 9 a.m. Information may be obtained from Linda Jaynes, P.O. Box 329, Plainview, Texas 79072, (806) 293-4226. TRD-9214443.

The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, November 5, 1992, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9214488.

The Tyler County Appraisal District Appraisal Review Board will meet at 806 West Bluff, Woodville, November 10, 1992, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville,

Texas 75979, (409) 283-3736. TRD-9214487.

The Upper Rio Grande, Quality Work Force Planning-Region VIII will meet at 300 Vocational Drive, El Paso, November 5, 1992, at noon. Information may be obtained from Otis E. Burnett, 1155 Westmoreland, #235, El Paso, Texas 79925, (915) 779-6623. TRD-9214440.

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Meetings Filed October 27,
1992

The Millersview-Doole Water Supply Corporation Board of Directors will meet at the Corporation's Business Office, One Block West of FM 765 and FM 2134, Millersview, November 2, 1992, at 7 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438. TRD-9214504.

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In Addition

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

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

Texas Commission on Alcohol and Drug Abuse

Request for Proposals

The Texas Commission on Alcohol and Drug Abuse (TCADA), under the authority of the Health and Safety Code, Title 6, Subtitle B, Chapter 464, gives notice of a comprehensive alcohol and drug abuse services request for proposals (RFP). The RFP provides an avenue for applicants to request additional funds for currently funded TCADA programs and to develop new alcohol and drug abuse programs. The commission is soliciting applications for alcohol and drug prevention and intervention activities, and development of alcohol and drug treatment services.

To request a copy of the RFP, call the Funding Processes Department at (512) 867-8752 or Tex-An 243-8752, or write to: Texas Commission on Alcohol and Drug Abuse, Funding Processes Department, 720 Brazos Street, Suite 403, Austin, Texas 78701.

The closing date for receipt of applications by the commission is 5 p.m. on February 10, 1993. Approved programs will be funded for the period September 1, 1993–August 31, 1994.

The amount of funds that will be available for the award period is not known at the time the RFP is released. The amount of funds available will not be known until approximately the summer of 1993.

Eligible applicants are public entities or private nonprofit corporations.

Technical assistance will be offered through workshops to be conducted by TCADA. The workshops on November 17, 1992, November 20, 1992, and November 24, 1992, as designed for applicants who have not previously applied through this RFP. The workshop will be devoted to a discussion of RFP requirements and technical assistance with application preparation. It is TCADA's intent that all applicants receive the same information and assistance. Therefore, the workshop will be the single opportunity for applicants to ask questions, and all questions asked and answered will begin the present of all attending. There will be no other opportunities for applicants to receive assistance regarding this RFP. Workshop dates, locations, and times are: November 9, 1992, 9 a.m. to 4 p.m., Corpus Christi, Sheraton Bayfront, 707 North Shoreline Boulevard.

November 10, 1992, 9 a.m. to 4 p.m., McAllen, Texas State Technical College, 3201 West Pecan, Auditorium Building D, co-sponsored by Tropical Texas Center for MHMR and TSTC.

November 13, 1992, 9 a.m. to 4 p.m., Lubbock, Mae Simmons Community Center, 23rd and Oak Streets, co-sponsored by Lubbock Regional Center for MHMR and Mae Simmons Community Center.

November 16, 1992, 9 a.m. to 4 p.m., El Paso Rio Grande Council of Governments, Landmark Building, 1014 Stanton, Suite 100, co-sponsored by Rio Grande Council of Governments.

November 17, 1992, 9 a.m. to 4 p.m., for first-time applicants, and November 18, 1992, 9 a.m. to 2 p.m., for applicants who have previously applied, Dallas, Texas Scottish Rite Hospital, 2222 Welborn Street, Auditorium, co-sponsored by Greater Dallas Council on Alcoholism and Drug Abuse.

November 19, 1992, 9 a.m. to 2 p.m., for applicants who have previously applied, and November 20, 1992, 9 a.m. to 4 p.m., for first-time applicants, Austin, the LBJ School of Public Affairs, Bass Lecture Hall Basement, 2315 Red River, co-sponsored by the University of Texas at Austin, the LBJ School of Public Affairs.

November 23, 1992, 9 a.m. to 2 p.m., for applicants who have previously applied, and November 24, 1992, 9 a.m. to 4 p.m., for first-time applicants, Houston, University of Houston Campus, Law Center-Krost Auditorium, 4800 Calhoun, co-sponsored by Chemical Dependency Counseling Program in the Division of Continuing Education and Off-Campus Institutes, University of Houston.

Individuals needing auxiliary aids or services should notify Lynn Brunn-Shank at (512) 867-8113 at least two working days prior to the workshop by mail, telephone, or RELAY Texas 1 (800) 735-2989.

Issued in Austin, Texas, on October 22, 1992.

TRD-9214366

Bob Dickson
Executive Director
Texas Commission on Alcohol and Drug Abuse

Filed: October 23, 1992

Comptroller of Public Accounts Consulting Proposal 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 an audit of state agency shipping and billing procedures. The purpose of the RFP is to obtain proposals for the services of a consultant who will perform an independent audit of freight billings for selected state agencies over a four-year period ending August 31, 1992, and who will obtain, on behalf of the state, a refund from carriers of any overcharges identified by the audit. A listing of state agencies to be audited will be included in the RFP. The successful proposer will also perform an analysis of current shipping procedures used by the same selected state agencies and recommend changes to current procedures that will result in greater efficiency and cost effectiveness.

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 previous address on Friday, October 30, 1992, between 1 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 13, 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 recommend the best proposal to the deputy comptroller. The deputy comptroller will review the committee's recommendation and make a recommendation to the comptroller. The comptroller will make the final selection. A proposer may be asked to clarify its proposal at any point throughout the evaluation process.

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 the execution of a contract.

The anticipated schedule of events is as follows: RFP available-October 30, 1992, 1 p.m. (CST); notice of intent to propose due-November 9, 1992, 4 p.m. (CST); proposals due-November 13, 1992, 4 p.m. (CST); announcement of contract award-November 24, 1992.

Issued in Austin, Texas, on October 26, 1992.

TRD-9214432 Arthur F. Lorton
Senior Legal Counsel, General Law
Section
Comptroller of Public Accounts

Filed: October 26, 1992



Game Procedures Instant Game Number 06

1.0. Name and Style of Game.

The name of Instant Game Number 06 is "LUCKY 7's." The play style of the game is "three in line."

1	2	3
4	5	6
7	8	9

The second character of the caption will repeat the corresponding Play Symbol (7 or X). The last three characters will be the same numbers as the three digit ticket number. For example, caption 17000 indicates that the Play Symbol

1.1. Price of Instant Ticket.

Tickets for Instant Game Number 06 shall be \$1.00 per ticket.

1.2. Definitions in Instant Game Number 06.

A. Bar Code-The unique bar-coded representation of the game Pack-Ticket Number and the Validation Number.

B. Display Printing-That area of the instant game ticket outside of the area where the Play Symbols appear.

C. Low-Tier Prize-A prize of \$1.00, \$2.00, \$5.00, \$7.00, or \$27.

D. Mid-Tier Prize-A prize of \$77 or \$500.

E. Non-Winning Ticket-A ticket which is not intended to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, Texas Civil Statutes, Article 179g (the Lottery Act), and applicable rules adopted by the Lottery pursuant to the Lottery Act and published in 34 TAC, Chapter 7.

F. Pack-A pack of fanfolded "LUCKY 7's" Instant Game tickets which are attached to each other by perforations the retailer tears when the retailer sells a ticket. Each pack contains 500 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of five. Tickets 000 to 004 are on the top page; tickets 005 to 009 are on the next page, etc.; and tickets 495 to 499 are on the last page. Tickets 000 and 499 are folded down to expose the pack-ticket number through the shrink-wrap.

G. Pack-Ticket Number-The 11-digit code printed on the back of each ticket located above the Bar Code which is printed vertically down the side of the back of the ticket in the form 00-000000-000. The first two digits are the game identification number followed by a six-digit pack number followed by a three-digit ticket number. Numbering begins with 06-000001-000 for this game.

H. Play Symbol-One of the symbols which appears under the nine rub-off spots on the front of the ticket. Each Play Symbol is printed in bold archer font in black ink in positive. The possible Play Symbols are: 7 and X.

I. Play Symbol Caption-A five-character caption will be printed below each Play Symbol in Caption font in black ink in positive. The first character of the caption will indicate the Play Symbol's position in one of the nine play spots on the ticket. The nine spots are as follows:

"7" is in the number "1" position of ticket #000.

One and only one Play Symbol Caption will appear under each Play Symbol.

J. Prize Symbol-Each Prize Symbol is printed in Archer font in black ink in positive. The possible Prize Symbols

are: \$1.00, \$2.00, \$5.00, \$7.00, \$27, \$77, and \$500.

K. Prize Symbol Caption—The small printed material appearing below the Prize Symbol which explains the Prize Symbol. One and only one of these Prize Symbol Captions

\$1.00
\$2.00
\$5.00
\$7.00
\$27.00
\$77.00
\$500

appears under the Prize Symbol, and each is printed in Caption font in black ink in positive. The Prize Symbol Caption which corresponds with and verifies each Prize Symbol is as follows:

ONE\$
TWO\$
FIVE\$
SEVEN\$
TWSEV\$
SVNTY7
FIV HUND

L. Retailer Validation Code—Three small letters found under the removable rub-off covering over the Play Symbols on the front of the ticket, which the retailer uses to verify and validate instant winners.

M. Ticket or Instant Game Ticket, or Instant Ticket—A Texas Lottery "LUCKY 7's" Instant Game Number 06 ticket.

N. Validation Number—A unique 12-digit number applied to the front of each ticket.

2.0. Determination of Prize Winners. The determination of prize winners is subject to the general ticket

validation requirements set forth in Section 2.1 of rules adopted by the Lottery for this purpose, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "LUCKY 7's" Instant Game is determined when the latex material on the front of the ticket is rubbed off to expose the nine Play Symbols on the front of the ticket. The holder of the ticket wins the prize indicated in the Prize Box, if three "7's" appear in three consecutive play spots, either horizontally, vertically, or diagonally on the same ticket. No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the Instant Game. The Play Symbol amounts have the following instant values:

\$1, or
\$2, or
\$5, or
\$7, or
\$27, or
\$77, or
\$500.

2.1. Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. exactly one Play Symbol must appear under each of the nine rub-off spots on the right front portion of the ticket;
2. each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. each of the Play Symbols must be present in its entirety and be fully legible;
4. each Play Symbol Caption must be present in its entirety and be fully legible;
5. each of the Play Symbols and the Play Symbol Captions must be printed in black ink;
6. the ticket shall be intact;
7. the Validation Number, Retailer Validation Code, and Pack-Ticket Number must be present in their entirety and be fully legible;

8. the Validation Number must correspond, using the Lottery's codes, to the Play Symbols on the ticket;

9. the ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

10. the ticket must not be counterfeit in whole or in part;

11. the ticket must have been issued by the Lottery in an authorized manner;

12. the ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Lottery;

13. the Play Symbols, Play Symbol Captions, Validation Number, Retailer Validation Code, and Pack-Ticket Number must be right side up and not reversed in any manner;

14. the ticket must be complete and not miscut, and have exactly one Play Symbol and exactly one Play Symbol Caption under each of the nine rub-off spots on the front of the ticket, exactly one Validation Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

15. the Validation Number of an apparent winning ticket shall appear on the Lottery's Official List of Validation Numbers of winning tickets, and a ticket with that Validation Number shall not have been paid previously;

16. the ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error;

17. each of the nine Play Symbols must be exactly one of those described in Section 1.2.H, and each of the Play Symbol Captions to those Play Symbols must be exactly one of those described in Section 1.2.I;

18. each of the nine Play Symbols on the ticket must be printed in the Symbol Font and must correspond precisely to the artwork on file at the Lottery; the ticket Validation Numbers must be printed in the Validation Font and must correspond precisely to the artwork on file at the Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number Font and must correspond precisely to the artwork on file at the Lottery;

19. the display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Lottery; and

20. the ticket must have been received or recorded by the Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these game procedures, the Lottery's Rules governing the award of prizes of the size to be validated, and any confidential validation and security tests of the Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket in that Instant Game (or ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket.

2.2. Procedure for Claiming Prizes.

A. To claim a "LUCKY 7's" Instant Game prize of \$1.00, \$2.00, \$5.00, \$7.00, \$27, \$77, or \$500, a player shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Lottery Retailer. The Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the player and physically void the ticket; provided that the Lottery Retailer may, but is not required to, pay a \$77 or \$500 ticket. In the event the Lottery Retailer cannot verify the claim, the Lottery Retailer shall provide the player with a claim form and instruct the player on how to file a claim with the Lottery. If the claim is validated by the Lottery, a check shall be forwarded to the player in the amount due. In the event the claim is not validated, the claim shall be denied and the player shall be notified promptly. A player may also claim any of the above prizes under the procedure described in Section 2.2.B.

B. As an alternative method of claiming a "LUCKY 7's" Instant Game prize, the player must sign the winning ticket, thoroughly complete a claim form, and present both at any Lottery claim center. If the claim is validated by the

Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. A player may also claim a prize by signing the winning ticket, thoroughly completing a claim form, and mailing both to: Texas Lottery, Comptroller of Public Accounts, P.O. 16600, Austin, Texas 78752-6600. In the event that the claim is not validated by the Lottery, the claim shall be denied and the player shall be notified promptly.

C. Prior to payment by the Lottery of any prize, the Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, State Treasurer, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General; or

3. in default on a loan guaranteed under Texas Civil Statutes, Chapter 57, the Education Code.

If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.3. Allowance for Delay of Payment. The Lottery may delay payment of the prize pending a final determination by the director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.2.C.

No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.4. Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a prize from the "LUCKY 7's" instant game, the Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.5. Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these game procedures and on the back of each ticket, shall be forfeited.

3.0. Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Director will require

that one of those players whose name appears thereon be designated to receive payment.

B. The Lottery shall not be responsible for lost or stolen Instant Game tickets.

4.0. Number and Value of Instant Prizes. There will be approximately 70,000,000 tickets in the Instant Game Number 06. The expected number and value of prizes in the game are as follows:

<u>PRIZE</u>	<u>APPROXIMATE NUMBER OF WINNERS IN THE GAME</u>	<u>CHANCES OF WINNING</u>
\$1	11,633,280	1:6.02
\$2	2,569,600	1:27.27
\$5	887,680	1:78.95
\$7	373,760	1:187.50
\$27	186,880	1:375.00
\$77	55,961	1:1,252.30
\$500	4,200	1:16,685.71

The actual number of tickets in the game may be increased or decreased at the sole discretion of the Lottery.

5.0. Termination of the Instant Game. The Director may, at any time, announce a termination date for the Instant Game Number 06 without advance notice, at which point no further tickets in that game may be sold.

6.0. Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these game procedures for Instant Game Number 06, the Lottery Act (Texas Civil Statutes, Article 179g), applicable Rules adopted by the Lottery pursuant to the Lottery Act and published in 34 TAC, Chapter 7, and all final decisions of the Director.

Issued in Austin, Texas, on October 22, 1992.

TRD-9214300 Tres Lorton
Senior Legal Counsel, General Law
Section
Comptroller of Public Accounts

Filed: October 22, 1992

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**Texas Lottery Game Procedures Instant
Game Number 07**

1.0. Name and Style of Game. The name of Instant Game Number 07 is "STOCKING STUFFER." The play style of the game is "match 3."

1.1. Price of Instant Ticket. Tickets for Instant Game Number 07 shall be \$1.00 per ticket.

1.2. Definitions in Instant Game Number 07.

A. Bar Code--The unique bar-coded representation of the game Pack-Ticket Number and the Validation Number.

B. Display Printing--That area of the instant game ticket outside of the area where the Play Symbols appear.

C. Low-Tier Prize--A prize of TICKET, \$2.00, \$4.00, \$10, or \$20.

D. Mid-Tier Prize--A prize of \$100.







E. High-Tier Prize--A prize of \$1,000.

F. Non-Winning Ticket--A ticket which is not intended to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, Texas Civil Statutes, Article 179g (the Lottery Act), and applicable rules adopted by the Lottery pursuant to the Lottery Act and published in 34 TAC Chapter 7.

G. Pack--A pack of fanfolded "STOCKING STUFFER" Instant Game tickets which are attached to each other by perforations the retailer tears when the retailer sells a ticket. Each pack contains 500 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of five. Tickets 000 to 004 are on the top page; tickets 005 to 009 are on the next page, etc.; and tickets 495 to 499 are on the last page. Tickets 000 and 499 are folded down to expose the pack-ticket number through the shrink-wrap.

H. Pack-Ticket Number--The 11-digit code printed on the back of each ticket located above the Bar Code which is printed vertically down the side of the back of the ticket in the form 00-000000-000. The first two digits are the game identification number followed by a six-digit pack number followed by a three-digit ticket number. Numbering begins with 07-000001-000 for this game.

I. Play Symbol--One of the symbols which appears under the six rub-off spots on the front of the ticket. Each Play Symbol is printed in bold archer font in black ink in positive. The possible Play Symbols are:

TICKET	TICKET		CANE	PRIZE
\$2.00	TWO\$		BELL	
\$4.00	FOUR\$		BOW	
\$10.00	TEN\$		GIFT	
\$20.00	THIRTY		HOLLY	
\$100	ONE HUND		WREATH	
\$1,000	ONE THOU			

J. Play Symbol Caption—A caption will be printed below each Play Symbol in Caption font in black ink in positive. The captions are: CANE, BELL, BOW, GIFT, HOLLY, and WREATH.

One and only one Play Symbol Caption will appear under each Play Symbol.

K. Prize Symbol—Each Prize Symbol is printed in Archer font in black ink in positive. The possible Prize Symbols are: TICKET \$2.00, \$4.00, \$10, \$20, \$100, and \$1,000.

L. Prize Symbol Caption—The small printed material appearing below the Prize Symbol which explains the Prize Symbol. One and only one of these Prize Symbol Captions appears under the Prize Symbol, and each is printed in Caption font in black ink in positive. The Prize Symbol Caption which corresponds with and verifies each Prize Symbol is as follows:

TICKET	TICKET
\$2.00	TWO\$
\$4.00	FOUR\$
\$10.00	TEN\$
\$20.00	TWENTY
\$100	ONE HUND
\$1,000	ONE THOU

M. Retailer Validation Code—Three small letters found under the removable rub-off covering over the Play Symbols on the front of the ticket, which the retailer uses to verify and validate instant winners.

N. Ticket or Instant Game Ticket, or Instant Ticket—A Texas Lottery "STOCKING STUFFER" Instant Game Number 07 ticket.

O. Validation Number—A unique 12-digit number applied to the front of each ticket.

2.0. Determination of Prize Winners. The determina-

tion of prize winners is subject to the general ticket validation requirements set forth in Section 2.1 of rules adopted by the Lottery for this purpose, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "STOCKING STUFFER" Instant Game is determined when the latex material on the front of the ticket is rubbed off to expose the six Play Symbols on the front of the ticket. The holder of the ticket wins the prize indicated in the Prize Box, if three matching symbols appear on the same ticket. No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the Instant Game. The Play Symbol amounts have the following instant values:

- \$1, or
- \$2, or
- \$5, or
- \$7, or
- \$27, or
- \$77, or
- \$500.

2.1. Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. exactly one Play Symbol must appear under each of the six rub-off spots on the right front portion of the ticket;
2. each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. each of the Play Symbols must be present in its entirety and be fully legible;
4. each Play Symbol Caption must be present in its entirety and be fully legible;
5. each of the Play Symbols and the Play Symbol Captions must be printed in black ink;
6. the ticket shall be intact;
7. the Validation Number, Retailer Validation Code, and Pack-Ticket Number must be present in their entirety and be fully legible;
8. the Validation Number must correspond, using the Lottery's codes, to the Play Symbols on the ticket;
9. the ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
10. the ticket must not be counterfeit in whole or in part;
11. the ticket must have been issued by the Lottery in an authorized manner;
12. the ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Lottery;
13. the Play Symbols, Play Symbol Captions, Validation Number, Retailer Validation Code, and Pack-Ticket Number must be right side up and not reversed in any manner;
14. the ticket must be complete and not miscut, and have exactly one Play Symbol and exactly one Play Symbol Caption under each of the six rub-off spots on the front of the ticket, exactly one Validation Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
15. the Validation Number of an apparent winning ticket shall appear on the Lottery's Official List of Validation Numbers of winning tickets, and a ticket with that Validation Number shall not have been paid previously;
16. the ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error;
17. each of the six Play Symbols must be exactly one of those described in Section 1.2.H, and each of the Play Symbol Captions to those Play Symbols must be exactly one of those described in Section 1.2.I;
18. each of the six Play Symbols on the ticket must be printed in the Symbol Font and must correspond precisely to the artwork on file at the Lottery; the ticket Validation Numbers must be printed in the Validation Font and must correspond precisely to the artwork on file at the Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number Font and must correspond precisely to the artwork on file at the Lottery;

19. the display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Lottery; and

20. the ticket must have been received or recorded by the Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these game procedures, the Lottery's Rules governing the award of prizes of the size to be validated, and any confidential validation and security tests of the Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket in that Instant Game (or ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket.

2.2. Procedure for Claiming Prizes.

A. To claim a "STOCKING STUFFER" Instant Game prize of TICKET, \$4, \$10, \$20, or \$100, a player shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Lottery Retailer. The Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the player and physically void the ticket; provided that the Lottery Retailer may, but is not required to, pay a \$100 ticket. In the event the Lottery Retailer cannot verify the claim, the Lottery Retailer shall provide the player with a claim form and instruct the player on how to file a claim with the Lottery. If the claim is validated by the Lottery, a check shall be forwarded to the player in the amount due. In the event the claim is not validated, the claim shall be denied and the player shall be notified promptly. A player may also claim any of the previously listed prizes under the procedure described in Section 2.2.B.

B. To claim a "STOCKING STUFFER" Instant Game prize of \$1,000, the player must sign the winning ticket, thoroughly complete a claim form, and present both at any Lottery claim center. If the claim is validated by the Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. A player may also claim a prize by signing the winning ticket, thoroughly completing a claim form, and mailing both to: Texas Lottery, Comptroller of Public Accounts, P.O. 16600, Austin, Texas 78752-6600. In the event that the claim is not validated by the Lottery, the claim shall be denied and the player shall be notified promptly.

C. Prior to payment by the Lottery of any prize, the Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, State Treasurer, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General; or
3. in default on a loan guaranteed under Texas Civil

Statutes, Chapter 57, the Education Code.

If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.3. Allowance for Delay of Payment. The Lottery may delay payment of the prize pending a final determination by the director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.2.C.

No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.4. Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a prize from the "STOCKING STUFFER" instant game, the Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

<u>PRIZE</u>	<u>APPROXIMATE NUMBER OF WINNERS IN THE GAME</u>	<u>CHANCES OF WINNING</u>
TICKET	7,335,040	1:9.55
\$2	6,213,760	1:11.28
\$4	1,681,920	1:41.67
\$10	420,480	1:166.67
\$20	280,320	1:250.00
\$100	43,800	1:1,600.00
\$1,000	1,460	1:48,000.00

The actual number of tickets in the game may be increased or decreased at the sole discretion of the Lottery.

5.0. Termination of the Instant Game. The Director may, at any time, announce a termination date for the Instant Game Number 07 without advance notice, at which point no further tickets in that game may be sold.

6.0. Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these game procedures for Instant Game Number 07, the Lottery Act (Texas Civil Statutes, Article 179g), applicable Rules adopted by the Lottery pursuant to the Lottery Act and published in 34 TAC Chapter 7, and all final decisions of the Director.

2.5. Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these game procedures and on the back of each ticket, shall be forfeited.

3.0. Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Director will require that one of those players whose name appears thereon be designated to receive payment.

B. The Lottery shall not be responsible for lost or stolen Instant Game tickets.

4.0. Number and Value of Instant Prizes. There will be approximately 70,000,000 tickets in the Instant Game Number 07. The expected number and value of prizes in the game are as follows:

Issued in Austin, Texas, on October 22, 1992.

TRD-9214299 Tres Lorton
Senior Legal Counsel, General Law
Section
Comptroller of Public Accounts

Filed: October 22, 1992

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**Office of Consumer Credit
Commissioner**

Notice of Rate Ceilings

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

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u>	<u>Commercial (2) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	10/26/92-11/01/92	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	11/01/92-11/30/92	10.00%	10.00%

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

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

TRD-9214267 Al Endsley
Consumer Credit Commissioner

Filed: October 21, 1992

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Texas Cosmetology Commission Awards Dinner Announcement

The Texas Cosmetology Commission will hold its annual awards dinner at 6:30 p.m., on Saturday, November 7, 1992, at the Doubletree Hotel, 6505 IH 35 North, Austin, Texas 78752. Individuals are responsible for the \$20 per plate cost of the meal. Meals must be paid for and reservations made to Alicia Ayers, 5717 Balcones Drive, P.O. Box 26700, Austin, Texas 78755-0700, (512) 454-4674, no later than Monday, November 2, 1992.

The agenda is as follows: social hour; introductions; dinner; inspector of the year award; office person of the year award.

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

TRD-9214293 Ron Resech
Executive Director
Texas Cosmetology Commission

Filed: October 22, 1992

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Chairperson's Advisory Committee Meeting Announcement

The Chairperson's Advisory Committee of the Texas Cosmetology Commission will meet at 11 a.m., on Saturday, November 7, 1992, at the Doubletree Hotel, 6505 IH 35 North, Austin, Texas 78752. The topic of the meeting will be commission goals and how to reach them.

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

TRD-9214292 Ron Resech
Executive Director
Texas Cosmetology Commission

Filed: October 22, 1992

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Employee Oversight Committee Meeting Announcement

The Employee Oversight Committee of the Texas Cosmetology Commission will meet at 8 a.m., on Saturday,

November 7, 1992, at the Doubletree Hotel, 6505 IH 35 North, Austin, Texas 78752. The topic of discussion will be how to devise methods to increase the line of communications between the office and field staff.

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

TRD-9214291 Ron Resech
Executive Director
Texas Cosmetology Commission

Filed: October 22, 1992

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Governor's Energy Office Consultant Proposal Request

This consultant proposal request is filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

Notice of Invitation. The Governor's Energy Office (GEO) invites proposals from qualified agencies and institutions of higher education to develop the next generation of the Energy Conservation Design Standard for New State Buildings that can be integrated into the design process. The contractor(s) selected will be responsible for the review and biennial update of the present standards prescriptive requirements to reflect advances in materials, equipment, processes, and procedures as well as the development of whole building and building component performance standards integrating daylighting and HVAC system performance.

Services to be Performed. The contractor(s) will perform the following services: maintain the existing energy design standard by staying abreast of changes in ASHRAE Standard 90.1, on which the Texas standard is based, and in the prescriptive sections of comparable federal and state (California, Florida, and New York) standards and provide written recommendations to GEO for proposed changes to the standard and provide camera ready copy of the entire standard with the adopted changes; provide a written description of software modifications to accomplish a link between the envelope and lighting system performance criteria to account for and encourage the application of daylighting; provide at least three basic training classes and one advanced class per year to architects, engineers, and state agency personnel in the use of the standard; develop an HVAC system performance procedure similar to that used for envelope and lighting system performance. Provide a written description of the procedure as well as software development to accomplish this task; develop a whole-building energy performance procedure utilizing the latest developments in CADD user interface and energy analysis tools to provide an economically sound, energy performance analysis during the conceptual design of a building.

Filed: October 23, 1992

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Texas Department of Health

Breast and Cervical Cancer Control Program

The Texas Department of Health (TDH), Breast and Cervical Cancer Control Program (BCCCP) with funding from the Centers for Disease Control (CDC), requests proposals to provide detection and early intervention services for breast and cervical cancer in Lubbock, Maverick, Tarrant, and Webb Counties for the period January 1, 1993-June 30, 1993.

The goal of the BCCCP is to reduce breast and cervical cancer mortality by increasing the availability of cancer screening and diagnostic services among medically underserved women who are below 200% of the federal poverty level and who are uninsured or underinsured. Special attention should be given to ensure the participation of women who are low-income, minority, or members of any Indian tribe or tribal organization. The eligible age groups are women who are 40 years and older for breast screening (including mammography) and 18 years or older, or sexually active, for cervical screening.

Activities to be supported under the BCCCP include outreach, eligibility determination, screening, tracking, referral for diagnosis and treatment, and client education. To be funded, contractors must demonstrate: evidence of a population in need; evidence of access to the targeted population; ability to comply with tracking and reporting requirements; ability to meet quality assurance standards; evidence of coordination with existing breast and cervical cancer programs; ability to integrate breast and cervical cancer control program elements into local health care delivery systems; evidence of agreements with identified diagnostic and treatment resources; evidence of intent to maintain current cancer screening services; evidence of intent to adhere to American Cancer Society screening guidelines; and, ability to apply financial eligibility standards.

Eligible applicants include public and private, non-profit and not-for-profit primary health care providers serving women below 200% of the federal poverty level. Primary health care providers offer a range of prevention and early intervention services, including diagnosis and treatment. Primary health care providers include community and migrant health centers, local and regional health departments, family planning clinics, community cancer centers, hospitals, primary care programs, and other primary health care providers in the targeted communities.

It is anticipated up to four to five contracts will be awarded under this request for proposals. Approximately \$300,000 is available in funding and the maximum award for a contract will be \$80,000 for the six-month period January 1, 1993-June 30, 1993. Applicants are not required to provide both breast and cervical cancer screening under this request for proposals, however, funding preference will be given to those applicants who provide assurance that their target population has access to both services.

Selection Criteria/Proposal Format. Proposals to deliver the requested services will be evaluated according to the following criteria and weighting: proposer's demonstrated knowledge of an experience with the current Energy Conservation Design Standard for New State Buildings (20%); proposer's demonstrated experience with the development and/or evaluation of building energy standards (national, state, and/or local) (20%); proposer's qualifications and experience in organizing and conducting training workshops for design professionals (10%); proposer's qualifications and experience in software development/modification (15%); thoroughness of proposer's workplan to implement the project, including a timeline schedule with detailed project milestones and proposed phasing of the workplan for evaluation and implementation (20%); proposed staff and resources assigned to assure timely completion of the project (10%); reasonableness of the proposed budget in relation to the services performed (5.0%).

Award will not necessarily be made to the bidder offering the lowest price. GEO staff will request that the five finalists meet with the review panel and other GEO staff in Austin for a formal interview prior to the selection of the contractor(s). Selection for the interview will be based on the proposer's ability to satisfy the criteria listed previously, and the interview will focus on the published selection criteria. Final selection of the contractor(s) will be based on the results of the interview.

The Governor's Office reserves the right to negotiate both budget and scope of work with the finalists. The Governor's Office also reserves the right to reject any and all proposals and is under no legal requirement to execute a contract on the basis of this request for proposals.

Contact Persons. To obtain more detailed information about the program contact Lee Gros, Governor's Energy Office, P.O. Box 12428, Austin, Texas 78711, (512) 463-1931. Proposals must be presented in the format outlined in the Selection Criteria/Proposal Format of this RFP.

Closing Date. Seven copies of the proposals should be sent to: Blanch Saldivar, Governor's Energy Office, P.O. Box 12428, Austin, Texas 78711.

GEO is located in Room 620 of the Sam Houston State Building, 201 East 14th Street, Austin, Texas 78701. Proposals should be sent by certified mail or by courier and must be received by 5 p.m. on November 30, 1992. Proposals received after that time and proposals submitted by facsimile will not be considered. All potential proposers are encouraged to attend a pre-proposal orientation session on November 12, 1992, from 10 a.m. to 11 a.m. at GEO.

GEO anticipates awarding this contract to one agency, but reserves the right to select multiple contractors based on the quality of the proposals and the needs of the program. Persons employed within the past 12 months by the Governor's Office are not eligible to participate in GEO contracts.

GEO anticipates awarding a contract on or before December 31, 1992. A multiple year contract is anticipated for this program covering all phases of the program. However, the Governor's Office reserves the right to terminate the contract after the completion of one or more phases of the program to seek new proposals for the subsequent phases.

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

Contractors will be reimbursed on a unit cost basis. The unit cost for each procedure will be determined by the applicant and may not exceed the following maximum unit costs:

\$135 for services covering breast and cervical cancer screening (includes clinical breast exam, mammography with interpretation, pelvic exam, and Pap test);

\$101 for breast screening only (includes clinical breast exam and the screening mammogram with interpretation);

\$58 for cervical screening only (includes clinical breast exam, pelvic exam, and Pap test);

\$101 for repeat mammography (includes interpretation);

\$136 for diagnostic mammograms;

\$35 for repeat Pap test;

\$106 for colposcopy; and

\$234 for colposcopy with biopsy.

The previously listed unit costs include the contractor's costs for performing the required project activities (client outreach, eligibility determination, screening procedures, client education, tracking, referral, and follow-up). Reimbursement for overhead costs is not allowed by CDC.

Contractors will provide the clinical breast exam and may subcontract with other local providers for certain services such as screening and diagnostic mammography, including interpretations. All mammography providers must be American College of Radiology accredited and certified by the Health Care Financing Administration. The amount a contractor can pay a local mammography provider for a mammogram cannot exceed the national Medicare average (\$56.76 per mammogram, including interpretation).

Reimbursement for breast screening, including mammography, will only be made for women age 40 or older. Contractors offering cervical screening must provide a clinical breast exam, pelvic exam, and use state-contracted or state approved laboratories for interpretation of Pap smears. The contractor must also either provide or contract for diagnostic services related to abnormal Pap smears (i.e., colposcopy and colposcopy with biopsy). TDH will provide each contractor offering cervical screening the

supplies for Pap tests and will directly reimburse the contracted laboratories for cytology services.

Women participating in the BCCCP may not be charged a fee for services.

Contracts will be effective January 1, 1993, for a six-month period. It is expected that funding will also be available for an additional three years. After June 30, 1993, contractors who successfully implemented services under this request for proposals may request continuation funding for the 12-month contract period starting July 1, 1993.

Information on application procedures and an application package can be obtained from Stephen Wright, Public Information Coordinator, Breast and Cervical Cancer Control, Chronic Disease Prevention Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, or by calling (512) 458-7644. Information on breast and cervical cancer mortality can be obtained from: Dr. Linda Lloyd, Director, Cancer Registry Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, or by calling (512) 458-3177. Proposals must be postmarked (or hand delivered) on or before 5 p.m., December 1, 1992, to be considered. Faxed proposals will not be accepted.

Issued in Austin, Texas, on October 26, 1992.

TRD-9214442

David R. Smith, M.D.
Commissioner of Health
Texas Department of Health

Filed: October 26, 1992

◆ ◆ ◆ Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location -----	Name -----	License# -----	City -----	Amend- ment # -----	Date of Action -----
Houston	McDonnell Douglas Space Systems Co.	L04595	Houston	0	10/09/92
Houston	SpectraCell Laboratories, Inc.	L04617	Houston	0	10/12/92
Irving	Las Colinas Veterinary Clinic	L04602	Irving	0	10/12/92
Throughout Texas	Shell Oil Company	L04554	Deer Park	0	10/01/92

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location -----	Name -----	License# -----	City -----	Amend- ment # -----	Date of Action -----
Alvin	Instrument Control Service, Inc.	L04561	Alvin	1	10/07/92
Austin	Allan Shivers Radiation Therapy Center	L01761	Austin	27	10/12/92
Benavides	Chevron Resources Company	L01234	Hobson	15	10/12/92
College Station	ImmGen, Inc.	L04370	College Station	3	10/05/92
Corpus Christi	McTurbine, Inc.	L04341	Corpus Christi	1	10/08/92
Crockett	Houston County Hospital	L01411	Crockett	13	10/05/92
Dallas	URI, Inc.	L03653	Dallas	16	09/15/92
Dallas	Isolite Corporation, Inc.	L04179	Dallas	1	10/05/92
Dallas	Doctors Hospital	L01366	Dallas	29	10/12/92
Dallas	Human Hospital Medical City Dallas	L01976	Dallas	69	10/12/92
Denton	University of North Texas	L00101	Denton	38	09/30/92
Fort Worth	MASI Healthcare Services	L03212	Fort Worth	19	10/12/92
Freeport	Rhone-Poulenc, Inc.	L02807	Freeport	20	09/28/92
George West	USX Corporation	L02449	George West	27	09/25/92
Houston	West Houston Medical Center	L02224	Houston	20	09/30/92
Houston	Baylor College of Medicine	L00680	Houston	46	10/05/92
Houston	The Methodist Hospital	L00457	Houston	66	10/12/92
Houston	HCA Medical Center Hospital	L02073	Houston	27	10/12/92
Longview	Longview Regional Hospital	L02882	Longview	12	10/12/92
Lubbock	Methodist Diagnostic Imaging	L03948	Lubbock	14	10/05/92
Midland	West Texas Nuclear Pharmacy	L04573	Midland	1	10/05/92
Pasadena	Pasadena Bayshore Medical Center	L00153	Pasadena	41	10/01/92
Pasadena	Air Products Mfg. Corp.	L04560	Pasadena	1	10/13/92
San Antonio	Norman, Brannan, Riley, Works, Stewart and Associates	L00325	San Antonio	68	10/12/92

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

San Antonio	CTRC at Santa Rosa	L00556	San Antonio	26	10/01/92
Temple	Scott and White Memorial Hospital	L00331	Temple	44	10/01/92
Throughout Texas	Arctic Pipe Inspection, Inc.	L02858	Lone Star	10	09/25/92
Throughout Texas	San Antonio Development Agency	L04174	San Antonio	4	09/25/92
Throughout Texas	Halliburton Logging Services, Inc.	L00442	Houston	72	09/28/92
Throughout Texas	Southwestern Laboratories Inc.	L00299	Houston	77	09/24/92
Throughout Texas	DEVELCO	L04452	Houston	13	09/28/92
Throughout Texas	Troxler Electronic Laboratories, Inc.	L01296	Res. Tri. Park, NC	29	09/29/92
Throughout Texas	Schlumberger Technology Corporation	L00109	Houston	37	09/30/92
Throughout Texas	Pro-Technics II, Inc.	L03835	Houston	15	10/05/92
Throughout Texas	Industrial NDT Company, Inc.	L04570	Deer Park	3	10/01/92
Throughout Texas	BIX Testing Laboratories	L02143	Baytown	50	10/05/92
Throughout Texas	Midland Inspection and Engineering, Inc.	L03724	Midland	35	10/05/92
Throughout Texas	Geotech Engineering and Testing	L03923	Houston	8	10/05/92
Throughout Texas	GCT Inspection, Inc.	L02378	South Houston	41	10/05/92
Throughout Texas	DEVELCO	L04452	Houston	14	10/05/92
Throughout Texas	Wilson Inspection X-Ray Services, Inc.	L04469	Corpus Christi	10	10/12/92
Throughout Texas	Permian Non-Destructive Testing	L03683	LaGrange	23	10/12/92
Throughout Texas	Ludlum Measurements, Inc.	L01963	Sweetwater	44	10/12/92
Throughout Texas	International Pipe Inspectors Association	L03736	Houston	5	10/12/92
Throughout Texas	Ultrasonic Specialists, Inc.	L01774	Houston	63	10/07/92
Throughout Texas	Kooney X-Ray Inc.	L01074	Barker	62	10/07/92
Throughout Texas	T&N Laboratories & Engineering, Inc.	L04417	Beaumont	2	10/07/92
Throughout Texas	HVJ Associates, Inc.	L03813	Houston	12	10/05/92
Throughout Texas	Chief Inspection, Inc.	L03381	Huffman	15	10/07/92
Throughout Texas	P & S Perforators	L02396	Victoria	13	10/13/92
Throughout Texas	Ultrasonic Specialists, Inc.	L01774	Houston	64	10/13/92
Throughout Texas	Century Inspection, Inc.	L00062	Dallas	56	10/12/92
Throughout Texas	Corpus Christi Inspection & Engineering, Inc.	L04379	Corpus Christi	19	10/12/92
Throughout Texas	Allen Engineering and Testing, Inc.	L02863	Friendswood	8	10/12/92
Throughout Texas	W. H. Henken Industries, Inc.	L00967	Arlington	28	10/12/92
Throughout Texas	Rone Engineers	L02356	Dallas	10	10/12/92
Waxahachie	Baylor Medical Center at Waxahachie	L04536	Waxahachie	3	10/14/92

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Diboll	Temple-Inland Forest Products Corp	L00935	Diboll	19	09/29/92
Longview	King Tool Company	L02750	Longview	10	10/12/92
Midland	G. Murthy Gollapudi, M.D., Ph.D.	L03238	Midland	4	10/01/92
Richmond	Cooper Industries, Inc.	L00312	Richmond	31	09/28/92
Rusk	East Texas Medical Center - Rusk	L03282	Rusk	7	10/01/92
Sugar Land	Nalco Chemical Company	L01023	Sugar Land	12	10/09/92
Throughout Texas	Fugro-McClelland (Southwest), Inc.	L00058	Houston	39	09/28/92
Throughout Texas	Tru-Tag Systems, Inc.	L03783	Houston	12	09/29/92
Throughout Texas	EXLOG, Inc.	L03258	Houston	17	09/29/92
Throughout Texas	W. H. Henken Industries, Inc.	L00967	Arlington	27	10/01/92

RENEWALS OF EXISTING LICENSES ISSUED CONTINUED:

Throughout Texas	North Texas Municipal Water District	L03316	Wylie	5	10/05/92
Throughout Texas	Berger Materials Engineering, Inc.	L03332	Bryan	13	10/05/92
Throughout Texas	City of San Antonio	L00926	San Antonio	22	10/12/92
Webster	Humana Hospital Clear Lake	L01680	Webster	29	10/09/92
Webster	Diagnostic Systems Laboratories, Inc.	L03084	Webster	12	10/13/92

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas, 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, The Exchange Building, 8407 Wall Street, Austin, Texas, from 8 a.m. to 5 p.m. Monday-Friday (except holidays).

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

TRD-9214268 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: October 21, 1992



**Texas Department of Human Services
Public Notice**

The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 92-33, Amendment Number 372. The amendment adds coverage and reimbursement provisions for optional targeted case management services for infants and toddlers with developmental disabilities. The amendment is effective July 1, 1992. If additional information is needed, please contact Terry Beattie, (512) 450-4124.

Issued in Austin, Texas, on October 22, 1992.

TRD-9214343 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: October 22, 1992



The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 92-34, Amendment Number 373. The amendment clarifies benefits periods, waived services, and payment rate for room and board furnished by a nursing facility for Medicaid hospice recipients residing in a facility. The amendment is effective August 1, 1992. If additional information is needed, please contact Rick Vasser, (512) 450-3750.

Issued in Austin, Texas, on October 22, 1992.

TRD-9214344 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: October 22, 1992



**Texas Department of Insurance
Notice of Hearing**

Pursuant to the Texas Insurance Code, Article 5.55, §6, notice is hereby given that a public hearing under Docket Number 1952 will be held before the State Board of Insurance or a duly authorized representative, on November 23, 1992, at 9 a.m., and continue thereafter at dates, times, and places designated by the board.

The purpose of the hearing is to consider rates already in effect for workers' compensation insurance which were

filed by Kemper National Insurance Companies under the file and use provisions of the Texas Insurance Code, Article 5.55 on May 4, 1992. The submissions filed by Kemper National Insurance Companies to be effective July 1, 1992, provide for rates ranging from 0% to 15% based on 1991 rate levels for workers' compensation for the following companies:

Lumbermens Mutual Casualty Company-NAIC 22977, TDI File Number 9205111806; American Motorists Insurance Company-NAIC 22918, TDI File Number 9205111808; American Manufacturers Mutual Insurance Company-NAIC 30562, TDI File Number 9205111809; American Protection Insurance Company-NAIC 18910, TDI File Number 9205111810.

Actuarial analyses of the filing are scheduled to be available on November 2, 1992, in the chief clerk's office. The chief clerk will mail the analyses to each party on November 3, 1992.

The board will consider whether the filed rates are made in accordance with the rate standards as set out in Article 5.55, §2, including, but not limited to, the standard that the rates may not be excessive, inadequate, or unfairly discriminatory.

If, after the hearing, the board finds that the rate does not meet the requirements of Article 5.55, the board shall issue an order specifying how the rate fails to meet such requirements. The order must be issued not later than the 15th day after the close of the hearing and shall specify how the rate fails to meet the requirements of Article 5.55. The order must state the date on which the further use of that rate is prohibited. A disapproval order does not affect a policy made or issued in accordance with the Texas Insurance Code before the expiration of the period established in the order.

This hearing will be held in accordance with the legal authority and jurisdiction provided in the Texas Insurance Code, Articles 1.04 and 5.55. The hearing and procedures will be governed by the contested case provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a and the rules of practice and procedure, 28 Texas Administrative Code Chapter 1, Subchapter A. In contested cases, all parties are entitled to the assistance of their counsel. However, this right may be expressly waived.

Pursuant to the Texas Insurance Code, Article 1.35A, the office of public insurance counsel (OPIC) may appear to intervene as a party in matters involving rates. The office of public insurance counsel has been sent a copy of this notice.

Pursuant to 28 Texas Administrative Code §1.37, a prehearing conference may be held upon motion of the board or on the motion of a party for the purpose of formulating and simplifying issues.

Contact the General Counsel, Gloria Leal, at (512) 463-6331 for answers to any procedural questions. For further information or to request copies of exhibits, please contact Wanda Carr at (512)463-6527. Refer to Docket Number 1952.

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

TRD-9214367 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of Insurance

Filed: October 23, 1992

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Pursuant to the Texas Insurance Code, Article 5.55, §6, notice is hereby given that a public hearing under Docket Number 1954 will be held before the State Board of Insurance or a duly authorized representative, on November 16, 1992, at 10 a.m., and continue thereafter at dates, times, and places designated by the board.

The purpose of the hearing is to consider rates already in effect for ITT Hartford Group under the file and use provisions of the Texas Insurance Code, Article 5.55, on April 23, 1992. The submissions filed by ITT Hartford Group to be effective on either May 1, 1992, or August 1, 1992, provide for rates ranging from -15% to +15% based on the 1991 workers' compensation rates for the following companies:

Hartford Underwriters Insurance Company-NAIC 30104, TDI File Number 9205011448; Twin City Fire Insurance Company-NAIC 29459, TDI File Number 9205011449; Hartford Insurance Company of the Midwest-NAIC 37478, TDI File Number 9205011450; Hartford Casualty Insurance Company-NAIC 29424, TDI File Number 9205011451; Hartford Accident & Indemnity Company-NAIC 22357, TDI File Number 9205011452; and Hartford Fire Insurance Company-NAIC 19682, TDI File Number 9205011453.

Actuarial analyses of the filings are scheduled to be available on October 28, 1992, in the chief clerk's office. The chief clerk will mail the analyses to each party on October 29, 1992.

The board will consider whether the filed rates are made in accordance with the rate standards as set out in Article 5.55, §2, including, but not limited to, the standard that the rates may not be excessive, inadequate, or unfairly discriminatory.

If, after the hearing, the board finds that the rate does not meet the requirements of Article 5.55, the board shall issue an order specifying how the rate fails to meet such requirements. The order must be issued not later than the 15th day after the close of the hearing and shall specify how the rate fails to meet the requirements of Article 5.55. The order must state the date on which the further use of that rate is prohibited. A disapproval order does not affect a policy made or issued in accordance with the Texas Insurance Code before the expiration of the period established in the order.

This hearing will be held in accordance with the legal authority and jurisdiction provided in the Texas Insurance Code, Articles 1.04 and 5.55. The hearing and procedures will be governed by the contested case provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a and the rules of practice and procedure, 28 Texas Administrative Code Chapter 1, Subchapter A. In contested cases, all parties are entitled to the assistance of their counsel. However, this right may be expressly waived.

Pursuant to the Texas Insurance Code, Article 1.35A, the office of public insurance counsel (OPIC) may appear to intervene as a party in matters involving rates. The office of public insurance counsel has been sent a copy of this notice.

Pursuant to 28 Texas Administrative Code §1.37, a prehearing conference may be held upon motion of the

board or on the motion of a party for the purpose of formulating and simplifying issues.

Contact the General Counsel, Gloria Leal, at (512) 463-6331 for answers to any procedural questions. For further information or to request copies of exhibits, please contact Wanda Carr at (512)463-6527. Refer to Docket Number 1954.

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

TRD-9214368 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: October 23, 1992



Pursuant to the Texas Insurance Code, Article 5.55, §6, notice is hereby given that a public hearing under Docket Number 1952 will be held before the State Board of Insurance or a duly authorized representative, on November 13, 1992, at 9 a.m., and continue thereafter at dates, times, and places designated by the board.

The purpose of the hearing is to consider rates already in effect for workers' compensation insurance which were filed by Zurich-American Insurance Group under the file and use provisions of the Texas Insurance Code, Article 5.55 on April 30, 1992. The submissions filed by Zurich-American Insurance Group to be effective June 1, 1992, provide for a rate increase of 15% above workers' compensation rate levels for the following companies:

Zurich Insurance Company-NAIC 16535, TDI File No. 9205081653; American Guarantee and Liability Insurance Company-NAIC 26247, TDI File Number 9205081655; and American Zurich Insurance Company-NAIC 40142, TDI File Number 9205081659.

Actuarial analyses of the filings are scheduled to be available on October 28, 1992, in the chief clerk's office. The chief clerk will mail the analyses to each party on October 29, 1992.

The board will consider whether the filed rates are made in accordance with the rate standards as set out in Article 5.55, §2, including, but not limited to, the standard that the rates may not be excessive, inadequate, or unfairly discriminatory.

If, after the hearing, the board finds that the rate does not meet the requirements of Article 5.55, the board shall issue an order specifying how the rate fails to meet such requirements. The order must be issued not later than the 15th day after the close of the hearing and shall specify how the rate fails to meet the requirements of Article 5.55. The order must state the date on which the further use of that rate is prohibited. A disapproval order does not affect a policy made or issued in accordance with the Texas Insurance Code before the expiration of the period established in the order.

This hearing will be held in accordance with the legal authority and jurisdiction provided in the Texas Insurance Code, Articles 1.04 and 5.55. The hearing and procedures will be governed by the contested case provisions of the

Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a and the rules of practice and procedure, 28 Texas Administrative Code Chapter 1, Subchapter A. In contested cases, all parties are entitled to the assistance of their counsel. However, this right may be expressly waived.

Pursuant to the Texas Insurance Code, Article 1.35A, the office of public insurance counsel (OPIC) may appear to intervene as a party in matters involving rates. The office of public insurance counsel has been sent a copy of this notice.

Pursuant to 28 Texas Administrative Code §1.37, a prehearing conference may be held upon motion of the board or on the motion of a party for the purpose of formulating and simplifying issues.

Contact the General Counsel, Gloria Leal, at (512) 463-6331 for answers to any procedural questions. For further information or to request copies of exhibits, please contact Wanda Carr at (512)463-6527. Refer to Docket Number 1953.

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

TRD-9214369 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: October 23, 1992



Texas Commission on Law Enforcement Officer Standards and Education Public Notice

Notice is hereby given that pursuant to the requirements of the Americans With Disabilities Act (ADA), §35.105(b) and §35.150(d)(i), the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) has conducted an agency self-evaluation and has prepared an agency transition plan. These documents are available for review and public comment. Those interested should contact Dale Williams, TCLEOSE ADA Compliance Coordinator, at 1033 LaPosada, Suite 170, Austin, Texas 78752, (512) 450-0188.

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

TRD-9214384 Fred Toler
Executive Director
Texas Commission on Law Enforcement
Officer Standards and Education

Filed: October 23, 1992



Legislative Budget Office Joint Budget and Strategic Plan Hearing Schedule

Appropriations Requests for 1994-1995 Biennium (For the period of November 2-6, 1992)

EXECUTIVE AND LEGISLATIVE BUDGET OFFICES
Joint Budget and Strategic Plan Hearing Schedule*
Appropriations Requests for the 1994-1995 Biennium
(For the period of Nov. 2-6, 1992)

<u>Agency</u>	<u>Date</u>	<u>Place</u>
Texas Department of Health (Purchased Health Services Programs to be transferred from Department of Human Services)	Nov. 4--9:00 a.m.	Texas Department of Health 1100 West 49th Street Moreton Bldg., Rm. M-739 Austin, Texas
Texas Education Agency	Nov. 5--2:00 p.m.	Room 106, John H. Reagan Building, 15th and North Congress, Austin, Texas

***NOTE:** Please confirm above dates, times and locations in the event you plan to attend a hearing, since experience has shown that some rescheduling always occurs.

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

TRD-9214392

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Assistant Director for Budgets
Legislative Budget Office

Filed: October 23, 1992

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Tax Relief Amendment
Implementation—Limit on Growth of
Certain State Appropriations

Legal References. Texas Constitution, Article VIII, §22, approved by the voters in November 1978, states that: In no biennium shall the rate of growth of appropriations from state tax revenues not dedicated by this constitution exceed the estimated rate of growth of the state's economy. The legislature shall provide by general law procedures to implement this subsection.

This provision does not alter, amend, or repeal Article III, §49a, of the Texas Constitution, the well known "pay-as-you-go" provision.

To implement this provision of the Texas Constitution, the 66th Legislature enacted Article 9, Chapter 302, Laws 1979 (Texas Government Code, §316) which placed with the Legislative Budget Board the responsibility for initial approval of a limitation on the growth of certain state appropriations. A part of the procedure for approving the limitation is set forth in §316.003 and §316.004 as follows.

Section 316.003. Before the Legislative Budget Board approves the items of information required by §316.002, the board shall publish in the *Texas Register* the proposed items of information and a description of the methodology and source used in the calculations.

Section 316.004. Not later than December 1 of each even-numbered year, the Legislative Budget Board shall hold a public hearing to solicit testimony regarding the proposed items of information and the methodology used in making the calculations required by §316.002.

The items of information mentioned above are identified as follows in §316.002: the estimated rate of growth of the state's economy from the current biennium to the next biennium; the level of appropriations for the current biennium from state tax revenues not dedicated by the constitution; and the amount of state tax revenues not dedicated by the constitution that could be appropriated for the next biennium within the limit established by the estimated rate of growth of the state's economy. In this memorandum, each item of information is taken up in the order listed above.

Estimated Rate of Growth of the State's Economy. A definition of the "estimated rate of growth of the state's economy" is set forth in paragraph (b) of §316.002 in the following words.

Except as provided by subsection (c), the board shall determine the estimated rate of growth of the state's economy by dividing the estimated Texas total personal income for the next biennium by the estimated Texas total personal income for the current biennium. Using standard statistical methods, the board shall make the estimate by projecting through the biennium the estimated Texas total personal income reported by the United States Department of Commerce or its successor in function.

If a more comprehensive definition of the rate of growth of the state's economy is developed and is approved by the committee established by Section 316.005, the board may use that definition in calculating the limit on appropriations.

The Commerce Department's Bureau of Economic Analysis defines state personal income as follows: ...the income received by persons from all sources, that is, from participation in production, from both government and business transfer payments, and from government interest. Personal income is the sum of wage and salary disbursements, other labor income, proprietors' income, rental income of persons, personal dividend income, personal interest income and transfer payments, less personal contributions for social insurance.

Table 1 displays the Commerce Department's personal income account for Texas for calendar year 1991. The largest component of Texas personal income is wage and salary disbursements, estimated at \$178.2 billion during calendar 1991. Salary and wage disbursements are added with other labor income—primarily employer contributions to private pensions and welfare funds—and proprietors' income to arrive at total earnings by place of work. Texas total earnings by place of work reached an estimated \$227.1 billion in calendar 1991.

In deriving Texas total personal income, two adjustments are made to total earnings by place of work. Personal contributions for social insurance contributions—principally social security payroll taxes paid by employees and self-employed—are deducted. A place-of-resident adjustment is also made to reflect the earnings of workers who cross state borders to live or work. Dividends, interest and rent income are then added, along with transfer payments. The major types of transfer payments include social security, various retirement and unemployment insurance benefits, welfare, and disability and health insurance payments. Texas total personal income is estimated to be \$300.5 billion for calendar 1991.

The United States Department of Commerce reports personal income estimates by calendar quarter and year. Since the state's fiscal year begins on September 1 and ends August 31, an adjustment is required to present these data on a biennial basis. The Legislative Budget Office uses the data for the first three calendar quarters of a year plus the fourth quarter of the preceding year to represent the state's fiscal year. A biennium is the sum of two fiscal years. The historical record of the rate of growth in Texas personal income for the past fifteen completed biennia using data published by the United States Department of Commerce is shown in Table 4.

Forecasting Texas Personal Income. In reviewing standard statistical techniques for forecasting or projecting Texas personal income, the Legislative Budget Office has obtained the latest economic forecasts from the following sources: the WEFA Group; the Texas Comptroller of Public Accounts; and Data Resources, Inc.. These forecasts are based on econometric models developed and maintained by the forecasting services listed.

While each forecasting service brings its own approach to the development of economic projections, there are several characteristics common to the econometric models from which the Texas total personal income estimates are derived. First, each assumes that the United States economy is the driving force behind Texas economic activity. As a result, forecasts of United States economic variables are

needed to drive each model. Secondly, each of the econometric models is structural in nature, representing certain assumptions about the structure of the Texas economy, consistent with economic theory. Structural models normally entail detailed modeling of key sectors of the state's economy, followed by statistical testing to establish relationships with other sectors of the economy. Previous memoranda published on the constitutional limit include more detailed discussion of the forecasting methods used. See the following issues of the *Texas Register*: (5 TexReg 4272), (7 TexReg 3727), (9 TexReg 5219), (11 TexReg 4590), and (13 TexReg 4599), (15 TexReg 6876).

Table 2 details the Texas personal income growth rates of the various forecasting services for the 1994-1995 biennium over the 1992-1993 biennium. These forecasts range from 1.134 or 13.4% to 1.141 or 14.1%.

Table 5 outlines briefly the sources and dates for the Texas personal income growth rates presented in Table 2.

The personal income growth rates shown in Table 2 or any more recent forecasts will be presented to the Legislative Budget Board for its consideration in adopting this item of information. The board is not limited to one or any combination of the growth rates shown in adopting a Texas personal income growth rate for the 1994-1995 biennium.

Appropriations from State Tax Revenue Not Dedicated by the Constitution-1992-1993 Biennium. The amount of appropriations from state tax revenue not dedicated by the Constitution in the 1992-1993 biennium—the base biennium—is the second item of information to be determined by the Legislative Budget Board. As of October 1, 1992, the staff estimates this amount to be \$28,698,816,855. This item multiplied by the estimated rate of growth of Texas personal income from the 1992-1993 biennium to the 1994-1995 biennium produces the limitation on appropriations for the 1994-1995 biennium under Article VIII, §22, of the Texas Constitution.

Calculating the 1994-1995 Limitation. The limitation on appropriations of state tax revenue not dedicated by the State Constitution in the 1994-1995 biennium may be illustrated by selecting a growth rate and applying it to the 1992-1993 appropriations base. This is shown in Table 3, using the lowest and highest growth rates shown in Table 2. Depending on which personal income growth rate is adopted, current estimates suggest a limitation on 1994-1995 biennial appropriations from non-dedicated state taxes ranging from \$32.55 billion to \$32.74 billion.

Method of Calculating the 1992-1993 Appropriations from State Tax Revenue not Dedicated by the Constitution. The amount of appropriations from state tax revenue not dedicated by the Constitution in the 1992-1993 biennium—the base biennium—is the second item of information to be determined by the Legislative Budget Board. As of October 1, 1992, the staff estimates this item to be \$28,698,816,855. This section details the sources of information used in this calculation.

Total appropriations for the 1992-1993 biennium include those in the General Appropriations Act, House Bill Number 1, 72nd Legislature, First Called Session plus any additional appropriations made in legislation passed by the 72nd Legislature for the 1992-1993 biennium. Any subsequent appropriations made by the 73rd legislature for the 1992-1993 biennium would also be included in total appropriations.

Section I of Table 6, shows for General Revenue Related Funds the total amount of appropriations, the amount

financed from constitutionally dedicated tax revenue, from non-tax revenue and the remainder—the amount financed from tax revenue not dedicated by the Constitution—which is the amount subject to the limitation. General Revenue Related Funds include General Revenue as well as the Available School Fund, the State Textbook Fund, and the Foundation School Fund. The Mixed Drinks Gross Receipts Tax Fund and State Board of Insurance maintenance taxes which affect the limitation are also included in the calculation of the limitation.

I. General Revenue Related Funds.

A. Appropriations are classified in this table as the following: revenue allocations; priority allocations; line item appropriations; and related appropriations.

1. Revenue allocations:

a. The State Parks Fund 064 receives a portion of the cigarette tax—one cent per pack. The amount shown is calculated, based on the actual transfer in fiscal year 1992 and the estimated cigarette tax for 1993. The estimated cigarette tax for 1993 is based on the Comptroller's November 1991 estimate.

b. The Local Parks Fund 467 also receives one cent per pack of the cigarette tax. The amount is calculated based on actual 1992 revenues plus the estimated cigarette tax for 1993. The estimated tax for 1993 is based on the Comptroller's November 1991 estimate.

c. The amounts for restricted fees collected by the Health Department are based on actual 1992 fees and estimated appropriations for FY 1993 shown on page II-21 and in rider 12, page II-25 of House Bill 1.

d. The amount of Hotel-Motel tax allocated to the Department of Commerce is based on actual 1992 revenues and the Comptroller's November 1991 revenue estimate for 1993.

2. Priority Allocations:

a. The estimated transfer to the Teacher Retirement System is based on actual 1992 state contributions and estimated appropriations for 1993 as shown on page III-26 of House Bill 1. It should be noted that state contributions for the final three months of fiscal year 1993 will be delayed to the next biennium resulting in lower appropriations for fiscal years 1992-1993.

b. The appropriated state contribution for the Optional Retirement Program is based on actual 1992 state contributions and the 1993 appropriation as shown in House Bill 1, P. III-26.

3. Line Item Appropriations. Each of these items under the subheading "estimated-to-be" may change under certain circumstances. For purposes of this calculation, the FY 1992 amounts are based on actual 1992 expenditures. Amounts for 1993 are taken from House Bill 1. The amount shown for the Employees Retirement System includes the financing from the General Revenue Fund, the Comptroller's Operating Fund, and that portion of the Department of Human Services' Welfare Administration Operating Fund financed by transfers from the General Revenue Fund. The figure shown for "All Other Line Items" is the difference between total appropriations and the items listed separately. (See Table 7.)

4. Related Appropriations:

a. Rider 146, House Bill 1 appropriates funds to the Comptroller of Public Accounts for a three percent em-

ployee salary increase for each year of the 1992-1993 biennium contingent upon availability of funds. The Comptroller of Public Accounts certified sufficient revenue for a two percent pay raise totaling \$164,902,131 effective September 1991.

b. The Comptroller of Public Accounts certified sufficient revenue for an additional 1.0% pay raise as of August 1992 resulting in appropriations totaling \$45,065,497.

c. Contingency appropriation rider 7, as shown on page I-144, House Bill 1, appropriates an additional \$18,000,000 to the Department of Housing and Community Affairs for the 1992-1993 biennium which was not included in the original appropriations total.

B. Source of Funding-General Revenue. This table shows that of the \$32, 128,986,559 of General Revenue Fund appropriations, \$28,490,035,042 is subject to the limitation because it is financed from state tax revenue not dedicated by the Constitution.

The fiscal year 1992 beginning balance in the General Revenue Fund, excluding oil overcharge revenue, was \$728,462,000. The balance is apportioned between non-tax and tax revenue not dedicated by the Constitution on the basis of the composition of 1990-1991 revenue in the General Revenue Fund. (See item 6.a.)

The beginning balance of Fund 62 is apportioned on the basis of 1990-1991 revenue to that fund from motor fuels taxes (dedicated), fees for collection of city sales taxes and other miscellaneous non-tax sources, and a percentage of revenue from taxes on oil, natural gas production and cigarette sales.

By subtracting the appropriations financed from the known sources listed in items one through six from the total of \$32,129,021,918, it can be established that appropriations totaling \$29,644,289,961, remain to be financed (see item 7).

Dedicated state tax revenues deposited in the General Revenue Fund are estimated to total \$648,851,000 during the 1992-1993 biennium. When the General Revenue Fund and the apportioned Fund 62 balance are added, appropriations from the General Revenue Fund financed from dedicated state taxes total \$659,099,580 for the 1992-1993 biennium. Non-tax revenue in the General Revenue Fund is estimated at \$2,872,582,195 (see the third column). With the apportioned General Revenue Fund beginning balance and the Comptroller's Operating Fund 062 beginning balance added, appropriations from the General Revenue Fund financed from non-tax revenue are estimated at \$2,979, 855,341 for the 1992-1993 biennium.

General Revenue Fund appropriations to be financed from non-dedicated tax revenue are shown in column four. This amount totals \$28,490,066,997 for the 1992-1993 biennium.

B. Source of Funding-Available School Fund. The transfer from motor fuel taxes originates with tax revenue

dedicated to public schools by the Texas Constitution. Interest and dividend income is earned from the investment activity of the Permanent School Fund and is classified as non-tax revenue.

The Comptroller's 1991 Annual Report showed a beginning cash balance of \$51, 464,813 for fiscal year 1992. Subtracting the prior-year apportionment of \$51, 464,813 leaves an effective beginning balance of zero.

C. Source of Funding-State Textbook Fund 003. The State Textbook Fund retains interest on its deposits and receives income from the sale of used textbooks. The revenue received by the fund is deducted from the textbook appropriation in determining how much Available School Fund revenue must be transferred in order to fund the textbook program. The revenue for the 1992-1993 biennium is based on actual 1992 revenues and the Comptroller's November 1991 revenue estimate for fiscal year 1993 receipts.

D. Source of Funding-Foundation School Fund 193. In addition to the occupation tax transfers shown under the General Revenue Fund, the Foundation School Fund receives a distribution of escheated estate income and revenues from certain professional fees each year.

II. Mixed Drinks Gross Receipts Fund 068. The state levies a fourteen percent gross receipts tax on the sale of mixed drinks, of which 78. 57% is deposited into the General Revenue Fund and the remaining 21.43% is distributed among the cities and counties in which the sale occurred. The local share of this tax is included as an appropriation from tax revenue not dedicated by the Constitution.

III. Board of Insurance Taxes. There are a number of taxes paid by insurance companies, the rates of which are set by the Board of Insurance with the statutory intent of producing the revenue necessary to help pay the administrative costs of the board. Over a period of years, the revenue from these taxes should match the portion of the board's administrative costs that is subject to the limitation on the growth of appropriations. In specific years this match may be imperfect because of additions to or reductions in balances in the various funds controlled by the board. The amount shown is based on actual 1992 revenues and the Comptroller's November 1991 revenue estimate of 1993 maintenance tax collections.

Grand Total. A grand total of \$34,863,471,480 in 1992-1993 biennial appropriations is included in this analysis. Of this amount, \$1,582, 797,335 is financed out of taxes dedicated by the State Constitution. Another \$4,581,857,290 is financed out of non-tax revenue. The remaining \$28,698,816, 855 is financed out of tax revenue not dedicated by the State Constitution. This is the amount which serves as a base for calculating the limitation on 1994-1995 biennial appropriations from non-dedicated state taxes, as required by the Texas Constitution, Article VIII, §22.

TABLE 1
U.S. DEPARTMENT OF COMMERCE PERSONAL
INCOME ACCOUNT FOR TEXAS, CALENDAR YEAR 1991
(In Millions of Current Dollars)

	Amount	Percent of Total
Earnings by Place of Work		
Wage and Salary Disbursements	\$178,189	78.4%
Other Income	18,727	8.2
Proprietors' Income		
Farm	\$ 3,758	
Nonfarm	<u>26,469</u>	
Subtotal	<u>30,227</u>	<u>13.3</u>
Total Earnings by Place of Work	\$227,142	100.0%
Derivation of Total Personal Income		
Earnings by Place of Work (from above)	\$227,142	
Less: Personal Contribution for Social Insurance	-14,267	
Plus: Adjustment for Residence	<u>-568</u>	
Equals: Net Earnings by Place of Residence	\$212,307	70.7
Plus: Dividends, Interest and Rent	45,490	15.1
Plus: Transfer Payments	<u>42,687</u>	<u>14.2</u>
Total Personal Income	<u>\$300,484</u>	<u>100.0%</u>

Source: U.S. Department of Commerce, Bureau of Economic Analysis, Quarterly Personal Income By Major Source and Earnings by Industry, July 1992. Totals may not add due to rounding.

TABLE 2
ESTIMATED GROWTH RATES FOR TEXAS PERSONAL INCOME
USING THREE ECONOMETRIC MODELS
1992-93 BIENNIUM TO 1994-95 BIENNIUM

Source of Forecast	1994-95 Texas Personal Income Growth Rate
1. The WEFA Group	1.1381
2. Comptroller of Public Accounts	1.1408
3. Data Resources, Inc. (DRI)	1.1343

Note: The growth rates shown above can be interpreted in percentage terms. For example, the growth rate of 1.1381 for the WEFA forecast of Texas personal income indicates estimated personal income growth of 13.81% for the 1994-95 biennium.

TABLE 3
TWO ILLUSTRATIONS OF A POSSIBLE
LIMIT ON 1994-95 BIENNIUM APPROPRIATIONS
OF STATE TAX REVENUE NOT DEDICATED BY
THE TEXAS CONSTITUTION

1. 1992-93 Base	\$ 28,698.8	\$ 28,698.8
2. Illustrative Growth Rates	<u>X 1.1343</u>	<u>X 1.1408</u>
3. 1994-95 Limitation on Growth in Appropriations	<u>\$ 32,553.4</u>	<u>\$ 32,740.2</u>

TABLE 4
BIENNIUM-TO-BIENNIUM GROWTH RATES IN TEXAS PERSONAL INCOME
1960-61 TO 1990-91 BIENNIA

Base Biennium	Target Biennium	Growth Rate	Percent Increase
1960-61	1962-63	1.102	10.2%
1962-63	1964-65	1.131	13.1
1964-65	1966-67	1.187	18.7
1966-67	1968-69	1.225	22.5
1968-69	1970-71	1.199	19.9
1970-71	1972-73	1.219	21.9
1972-73	1974-75	1.291	29.1
1974-75	1976-77	1.285	28.5
1976-77	1978-79	1.313	31.3
1978-79	1980-81	1.332	33.2
1980-81	1982-83	1.234	23.4
1982-83	1984-85	1.156	15.6
1984-85	1986-87	1.079	7.9
1986-87	1988-89	1.106	10.6
1988-89	1990-91	1.152	15.2

TABLE 5
SUMMARY OF SOURCES AND METHODS FOR
TEXAS PERSONAL INCOME GROWTH RATES FOR THE
1994-95 BIENNIUM

Source	Type of Forecast	Date	Source U.S. Variables
1. The WEFA Group	Econometric	Fall 1992	WEFA
2. Comptroller of Public Accounts	Econometric	Fall 1992	WEFA
3. Data Resources, Inc.	Econometric	Fall 1992	DRI

Source: Compiled by the Legislative Budget Office, October 1992.

TABLE 6
1992-93 BIENNIAL APPROPRIATIONS
INCLUDED IN THE CALCULATION OF
THE LIMITATION BASE

	<u>1992-1993</u> <u>Appropriations</u>
I. General Revenue	
A. Appropriations	
1. Revenue Allocation	
a. State Parks Fund 64	\$ 26,023,586
b. Local Parks Fund 467	26,023,586
Subtotal	\$ 52,047,172
c. Restricted Fees-Department of Health	\$ 18,967,718
d. Hotel-Motel Tax to Department of Commerce	<u>\$ 21,860,545</u>
Subtotal (Revenue Allocations)	<u>92,875,435</u>
2. Priority Allocations	
a. Teacher Retirement System Fund 960	
(1) Retirement Program	\$ 1,613,712,645
(2) Retired Employees Group Insurance Program	108,646,646
b. Optional Retirement Program Fund 963	<u>252,307,322</u>
Subtotal (Priority Allocations)	<u>\$ 1,974,666,613</u>
3. Line Item Appropriations	
a. Appropriations "estimated to be"	
(1) Employees Retirement System	\$ 1,103,630,231
(2) Voter Registration	584,746
(3) Ranger Pensions	51,680
(4) Judiciary (Comptroller's Department)	74,365,006
(5) Comptroller: Social Security	723,317,425
(6) Physical Therapy Examination	138,710
(7) Windham Schools	67,832,598
(8) School Lunch Program	27,255,664
(9) Certification & Proprietary Schools	4,251,081
(10) GED Fees	313,705
(11) Miscellaneous Fees, CEA Administration	255,702

TABLE 6
1992-93 BIENNIAL APPROPRIATIONS
INCLUDED IN THE CALCULATION OF
THE LIMITATION BASE
(continued)

(12) National Research Laboratory Bond Service	58,651,588	
b. All Other Line Items	<u>30,307,844,935</u>	
Subtotal, ("Estimated to be")		<u>\$32,368,493,071</u>
4. Related Appropriations		
a. Adjustment for Original Salary Increase	164,902,131	
b. Article V salary adjustments	45,065,497	
c. Article I-144, Contingency Appropriation Rider	<u>18,000,000</u>	
Subtotal (Related Appropriations)		<u>\$ 227,967,628</u>
SUBTOTAL (General Revenue Related Fund Appropriations)		<u>\$34,664,002,747</u>

	<u>Total Appropriations</u>	<u>Dedicated State Tax Revenues</u>	<u>Non Tax Revenues</u>	<u>Non-Dedicated State Tax Revenue</u>
B. Source of Funding - General Revenue				
1. Parks	\$ 52,047,172			\$ 52,047,172
2. Restricted Fees	18,967,718		18,967,718	
3. Occupation Tax Revenue for Public Schools	1,602,635,000	648,851,000		\$ 953,784,000
4. Hotel-Motel Tax to the Department of Commerce	21,860,545			21,860,545
5. Appropriations from Beginning Balances				
a. General Revenue Book Balance	996,770,785		351,353,453	\$ 645,417,332
b. General Revenue less Oil Overcharge Amount	(268,308,785)		(268,308,785)	
c. Fund 062	38,586,522	10,248,580	24,228,477	4,109,465
6. Motor Fuels (unclaimed motorboat refunds)	22,173,000			22,173,000
7. Appropriations from Other Revenue	<u>29,644,289,961</u>	<u>0</u>	<u>2,853,614,477</u>	<u>26,790,675,484</u>
Subtotal (General Revenue)	<u>\$32,129,021,918</u>	<u>\$ 659,099,580</u>	<u>\$ 2,979,855,341</u>	<u>\$ 28,490,066,997</u>

TABLE 6
1992-93 BIENNIAL APPROPRIATIONS
INCLUDED IN THE CALCULATION OF
THE LIMITATION BASE
(continued)

	<u>Total</u> <u>Appropriations</u>	<u>Dedicated</u> <u>State Tax</u> <u>Revenues</u>	<u>Non Tax</u> <u>Revenues</u>	<u>Non-Dedicated</u> <u>State Tax</u> <u>Revenue</u>
C. Source of Funding - Available School Fund				
1. Transfer from Motor Fuels Taxes	\$ 930,915,994	\$ 923,524,994		\$ 7,391,000
2. Investment Income and Non-Tax Revenue	1,517,608,511		1,517,608,511	
3. Beginning Balance of A.S.F. No. 002	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal (Available School Fund)	<u>\$ 2,448,524,505</u>	<u>\$ 923,524,994</u>	<u>\$ 1,517,608,511</u>	<u>\$ 7,391,000</u>
D. Source of Funding - State Textbook Fund				
1. Sale of Textbooks & Interest on Deposits	<u>10,325,000</u>		<u>10,325,000</u>	
E. Source of Funding - Foundation School Fund				
1. Professional Fees & Escheated Estates	73,840,061		73,840,061	
2. Beginning Balance (unencumbered)	<u>2,291,263</u>	<u>172,761</u>	<u>226,377</u>	<u>1,892,125</u>
Subtotal (Fund 193)	<u>\$ 76,131,324</u>	<u>\$ 172,761</u>	<u>\$ 74,066,438</u>	<u>\$ 1,892,125</u>
Subtotal (General Revenue Fund)	<u>\$ 34,664,002,747</u>	<u>\$ 1,582,797,335</u>	<u>\$ 4,581,855,290</u>	<u>\$ 28,499,350,122</u>
II. Mixed Drinks Gross Receipts Tax Fund 068 (Grants to Cities & Counties only; General Revenue Transfer shown above)				
3777 Voided Warrants	\$ 106,897,466			106,897,466
	<u>2,000</u>		<u>2,000</u>	
Subtotal (Fund 068)	<u>\$ 106,899,466</u>		<u>2,000</u>	<u>\$ 106,897,466</u>
III. Board of Insurance Taxes				
	<u>\$ 92,569,267</u>			<u>\$ 92,569,267</u>
GRAND TOTAL	<u>\$ 34,863,471,480</u>	<u>\$ 1,582,797,335</u>	<u>\$ 4,581,857,290</u>	<u>\$ 28,698,816,855</u>

TABLE 7
CALCULATION OF "ALL OTHER LINE ITEMS"
FOR THE 1992-93 BIENNIUM

	<u>1992</u>	<u>1993</u>	<u>1992-93</u> <u>Biennium</u>
General Revenue Related "Recap" Amount (Adjusted Appropriations Total)	\$ 16,803,423,134	\$ 17,594,950,360	\$ 34,398,373,494
Less:			
State Parks Fund 064 Transfer (HB 1, Article I-193)	13,271,400	13,006,000	26,277,400
State Parks Fund 467 Transfer (HB 1, Article I-194)	13,271,400	13,006,000	26,277,400
Health Department Fees (HB 1, Article II-21)	8,174,252	8,126,375	16,300,627
Hotel-Motel Tax to Dept. of Commerce (HB 1, Article I-51)	10,200,000	10,200,000	20,400,000
Teacher Retirement System Fund 960 (HB 1, Article III-26)	866,528,000	704,189,000	1,570,717,000
Texas Public School Retired Employee Group Insurance Program (HB 1, Article III-26)	51,118,000	55,327,000	106,445,000
Optional Retirement Program (HB 1, Article III-26)	112,660,000	112,660,000	225,320,000
Foundation School Program Fund 193 (HB 1, Article III-1)	0	0	0
Employees Retirement System (HB 1, Article I-98)	510,784,520	609,624,920	1,120,409,440
Voter Registration (HB 1, Article I-64)	3,000,000	500,000	3,500,000
Ranger Pensions (HB 1, Article I-68)	30,000	30,000	60,000
Judiciary (Comptroller's Dept.) (HB 1, Article IV-29)	36,085,994	36,085,994	72,171,988
Comptroller: Social Security (HB 1, Article I-63)	367,721,384	358,510,685	726,232,069
Physical Therapy Examination (HB 1, Article I-209)	55,000	55,000	110,000
Dept. of Criminal Justice, Windham Schools (HB 1, Article III-2)	34,700,000	37,300,000	72,000,000
School Lunch Program (HB 1, Article III-2)	14,000,000	14,000,000	28,000,000
Certification and Proprietary Schools (HB 1, Article III-12)	3,856,131	3,852,139	7,708,270
GED Fees (HB 1, Article III-12)	282,315	282,321	564,636
Miscellaneous Fees (CEA-administration)			

TABLE 7
CALCULATION OF "ALL OTHER LINE ITEMS"
FOR THE 1992-93 BIENNIUM
(continued)

(HB 1, Article III-12)	224,993	224,896	449,889
National Research Laboratory Bond Service (HB 1, Article III-47)	<u>27,399,795</u>	<u>40,185,045</u>	<u>67,584,840</u>
 Subtotal, Line Items shown Separately	 <u>2,073,363,184</u>	 <u>2,017,165,375</u>	 <u>4,090,528,559</u>
 Total, Other Line Items	 <u>\$ 14,730,059,950</u>	 <u>\$ 15,577,784,985</u>	 <u>\$ 30,307,844,935</u>

Issued in Austin, Texas, on October 26, 1992.

TRD-9214444 Jack Huffman
 Assistant Director
 Legislative Budget Board

Filed: October 26, 1992



Public Utility Commission of Texas
Notices of Intent

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Aldine ISD, Houston.

Docket Title and Number. Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for Aldine ISD pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 11535.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Aldine ISD. The geographic service market for this specific service is the Houston area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9214275 John M. Renfrow
 Secretary of the Commission
 Public Utility Commission of Texas

Filed: October 21, 1992



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for John Eagle Dealership, Dallas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for approval of Plexar-Custom

Service for John Eagle Dealership pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 11517.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for John Eagle Dealership. The geographic service market for this specific service is the Dallas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9214276 John M. Renfrow
 Secretary of the Commission
 Public Utility Commission of Texas

Filed: October 21, 1992



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Tyler Junior College, Tyler.

Docket Title and Number. Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for Tyler Junior College pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 11518.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Tyler Junior College. The geographic service market for this specific service is the Tyler area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9214277 John M. Renfrow
 Secretary of the Commission
 Public Utility Commission of Texas

Filed: October 21, 1992

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Texas Water Commission
Meeting Notice

The Galveston Bay National Estuary Program (GBNEP), a joint project of the State of Texas and the United States EPA, is inviting public discussion of Galveston Bay issues and possible management alternatives. This discussion will precede development of a draft comprehensive conservation and management plan (CCMP) for public review in fall 1993, and final submission to the governor and administrator of the EPA in fall 1994. The final CCMP will address preservation and enhancement of water quality and living resources, public health, habitat, and physical conditions in order to manage Galveston Bay as a single integrated ecosystem.

For more information, or to receive a copy of the written summary of issues and alternatives, contact: The Galveston Bay National Estuary Program, 711 Bay Area Boulevard, Suite 210, Webster, Texas 77598, (713) 332-9937, fax (713) 332-8590.

Public meetings will be held at the following times: Monday, November 9, 7 p.m., Houston Garden Center, Hermann Park-next to the Museum of Natural Science; Tuesday, November 10, 7 p.m., Baytown Community Center, 2407 Market Street; Thursday, November 12, 7 p.m., Nassau Bay Hilton, 3000 Nasa Road 1, Nassau Bay (Clear Lake); Monday, November 16, 6:30 p.m., Rosenberg Library, 2310 Sealy Avenue, Galveston; Tuesday, November 17, 6 p.m., Brazosport Center for the Arts and Sciences, 400 College Drive, Lake Jackson; Thursday, November 19, 7 p.m., American Legion Hall, Fort Anahuac Park, Anahuac.

Issued in Houston, Texas, on October 22, 1992.

TRD-9214438 Frank S. Shipley
Program Director
Texas Water Commission

Filed: October 26, 1992

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**Notice of Application For Waste
Disposal Permit**

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of October 19-October 23, 1992.

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

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

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

Callisburg Independent School District; the wastewater treatment facilities; are approximately 0.7 mile east-southeast of the intersection of FM Roads 678 and 3164 in Cooke County; renewal; 13393-01.

Champ's Water Company; the Western Homes Subdivision Wastewater Treatment Facilities; the plant site is at 1714 Sandy Dale in Western Homes Subdivision in Harris County; renewal; 10436-01.

Champ's Water Company; the Aldine Forest Subdivision Wastewater Treatment Facilities; the plant site is approximately 100 feet north and 600 feet east of the intersection of Verhalen Avenue and Reeveston Road, north of the City of Houston in Harris County; renewal; 11739-01.

City of Dallas; the Central Wastewater Treatment Facilities; are on the west bank of the Trinity River at 1020 Sargent Road in the City of Dallas in Dallas County; renewal; 10060-01.

City of Detroit; the wastewater treatment facilities; are approximately 1, 200 feet south of U.S. Highway 82, approximately one mile southeast of the intersection of U.S. Highway 82 and FM Road 2573 in Red River County; renewal; 10724-01.

Fina Oil and Chemical Company; the applicant operates a plant manufacturing polypropylene; the plant site is northeast of the intersection of State Highway 134 (Battleground Road) and Miller Cut Off Road east of the City of Deer Park in Harris County; renewal; 01000.

City of Humble; the wastewater treatment facilities; are on South Dennis Avenue between Isaacks Road and FM Road 1960 in the City of Humble in Harris County; renewal; 10763-01.

City of Menard; the wastewater treatment plant; is on the south bank of the San Saba River, adjacent to FM Road 2092 and approximately 0.5 mile east of the intersection of FM Road 2092 and United States Highway 83 in the City of Menard in Menard County; renewal; 10345-01.

Montgomery County Municipal Utility District Number 39; the wastewater treatment facilities; the plant site is approximately 2,000 feet east of Intersection Highway 45, approximately 1 1/2 mile south of FM Road 1488, adjacent to the Missouri Pacific Railroad Tracks and an unnamed tributary in Montgomery County; renewal; 11658-01.

City of Schulenburg; from Kallus Street wastewater treatment facilities; the plant site is in the 800 block of Kallus Street near its intersection with Hillje Street in the City of Schulenburg, in Fayette County; renewal; 10115-01.

Texas Department of Criminal Justice-Institutional Division; from the Retrieve Prison Farm Wastewater Treatment Facilities; the plant site is approximately four miles southeast of the intersection State Highway 35 and FM Road 521, approximately three miles north of FM Road 2004 and State Highway 332 in Brazoria County; renewal; 10829-01.

Texas Department of Criminal Justice-Institutional Division; the Ramsey III Unit Wastewater Treatment Facilities; the plant site is on the east bank of Oyster Creek along FM Road 655 approximately nine miles northwest of Angleton in Brazoria County; renewal; 12353-01.

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

TRD-9214412 Gloria A. Vasquez
Chief Clerk
Texas Water Commission

Filed: October 23, 1992

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Request for Proposals

The Texas Water Commission (TWC), as the designated lead agency, announces that it wishes to solicit proposals for fiscal year (FY) 1993 Nonpoint Source Program (NPS) implementation grants under the Federal Clean Water Act, §319(h).

Objective. The objective of the request is to promote the preparation and implementation of high-quality, goal-oriented work plans for NPS demonstration and watershed projects to improve and protect water quality in targeted priority areas.

Budget and Schedule. The commission anticipates receiving grant funds of approximately \$2.5 million that will be available for FY 1993 projects. These funds will require a 40% match of non-federal monies by the applicant. The maximum budget allowable will be consistent with the specific scope of work as determined by TWC. Past projects have typically been in the total cost range of \$250,000. Only projects which address waters identified in "Impacted Waters List" or groundwaters identified in "Counties with Impacted Groundwater" are eligible for funding. Lists of these water bodies will be included with the RFP materials, or can be obtained from TWC by contacting Valerie Robinson by phone at (512) 463-8443.

The grant schedule requires that a brief project proposal be submitted to TWC by November 30, 1992. After an initial screening and review process by the commission, these proposals will be forwarded to the United States EPA by December 7, 1992. EPA will provide comments and decisions on potentially eligible projects in January 1993. At that time, fully detailed work plans will be required for projects chosen for potential funding. Commission staff will conduct a mandatory workshop on developing detailed work plans and will work with applicants to finalize formal work plans for resubmittal to EPA by March 1, 1993. Final EPA decisions and comments on eligible projects are anticipated mid-July, with award decisions made in September 1993.

Submittal Information. A copy of the complete request for proposal (RFP) may be obtained in three ways: by sending a regular or certified letter requesting a copy of the RFP to: Valerie J. Robinson, Nonpoint Source and Pollution Abatement Team, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. Upon receipt, TWC will transmit the RFP to the potential applicant by certified mail; by sending an overnight or expedited delivery letter requesting a copy of the RFP to the previous address with a prepaid self-addressed overnight or expedited delivery return envelope to accommodate approximately two pounds of 8 1/2-inch by 11-inch material; or in person with a signed letter receipt at the Texas Water Commission, Stephen F. Austin Building, 1700 North Congress, Room 1134F, Austin.

All requests for the RFP materials must identify the specific NPS management program element, or the combination of program elements that is (are) desired for use in the consideration and preparation of project proposals. A table of available NPS management program elements may be obtained by contacting Valerie Robinson by phone at (512) 463-8443. Ms. Robinson can either fax or mail the table of program elements to interested parties for their use in determining which materials would be appropriate and relevant to their prospective project proposals. Specific program element materials would then be forwarded with the complete RFP package upon request.

Ms. Robinson is the designated person to whom proposals may be made. Additional information may be obtained by calling (512) 463-8443. Six copies of each proposal must be received at the address listed previously before 5 p. m., November 30, 1992, which is the closing date for proposals. Upon submittal, the proposals 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 applicant. 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. All contracting procedures shall be conducted in accordance with all applicable state and federal laws.

Issued in Austin, Texas, on October 26, 1992.

TRD-9214445 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Filed: October 26, 1992

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The Texas Water Commission (TWC) requests various Texas cities, counties, city and/or county health departments, districts, public agencies, and authorities having legal authority to manage the collection and/or disposal of municipal solid waste to submit application proposals for grants to fund programs or activities designed to maximize or increase the collection, handling, and reuse or recycling of automotive use oil generated locally by vehicle owners/operators who change their own oil. In order to be considered for funding, applications must be prepared and submitted in accordance with the request for proposals (RFP) and other printed guidelines and/or instructions available from TWC as part of Grant Application Packet Number 92D. Both new and existing programs are eligible for funding under this RFP. Where the application is for an existing program, the proposal must indicate how, with state financial support, such program is to be expanded or improved. Evaluation criteria are more fully discussed in the RFP.

The deadline for receipt of applications for the first round of funding under this announcement is November 30, 1992. Application deadline dates for subsequent funding cycles are as follows: March 8, 1993, June 7, 1993, and August 30, 1993.

The purpose of this grants program is to carry out the mandate of Senate Bill 1340, 72nd Texas Legislature (1991), which among other things requires TWC to develop and implement an automotive used oil management program that promotes the beneficial reuse and/or recycling of automotive used oil. Eligible activities include,

but are not limited to, curbside pickup of automotive used oil, establishment, implementation, and/or operation of publicly operated do-it-yourself (DIY) used oil collection centers, education and public awareness programs designed to maximize local participation in used oil collection, and other activities as described in the RFP. TWC's authority to offer this financial assistance is set forth in the Texas Health and Safety Code, Chapter 371.

Applicants eligible to receive funding include Texas public agencies, cities, counties, districts, and authorities having legal authority to manage the collection and/or disposal of municipal solid waste. Eligible applicants must have authority to carry out such activities described in the Texas Constitution, Article III, §52(b)(1) or (2), or Article XVI, §59.

TWC is prepared to make multiple grant awards throughout the state. The minimum grant award shall not be less than \$1,000. The maximum grant amount to a single applicant during any contract period shall not be more than \$300,000.

The source of funds for these grants is the used oil collection and recycling fund, which is collected by the State of Texas on all automotive lubricating oil sold in the state.

To apply for a grant under this RFP, applicants must first obtain Grant Application Packet Number 92D from TWC. The packet contains a copy of the RFP, a TWC grant application form, a required supplemental program summary sheet, and all necessary instructions. Individuals wishing to receive the application packet may call TWC's

Environmental and Recycling Information Center, toll-free, at 1-800-64TEXAS. Those writing to receive the packet should mail their request to the Texas Water Commission, Municipal Solid Waste Division, P. O. Box 13087, Austin, Texas 78711 (Attention: Grants Coordinator).

Upon submittal, proposals become the property of the State of Texas. The contents of all proposals shall be considered public record unless deemed otherwise by law. The submittal of information claimed to be confidential or proprietary should be under separate cover. TWC reserves the right to reject the designation of any information as confidential.

By signing the proposal, the proposer affirms that he has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal.

All qualified applicants will receive consideration for funding without regard to race, color, religion, sex, or national origin.

Issued in Austin, Texas, on October 26, 1992.

TRD-9214448 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Filed: October 26, 1992



Texas Register Readers' Choice Awards

We are pleased to announce the winners of the 1991-1992 Texas Register Readers' Choice Award.

The artwork was judged and published in four categories divided by grades kindergarten through third, fourth through sixth, seventh through ninth, and tenth through twelfth throughout the summer and into the fall.

The Texas Register staff has tabulated the vote total and on the following pages has included the "best of the best" school artwork that was selected by YOU, Texas Register readers and subscribers.

A special thanks to the winners:

Kindergarten thru Third Grade Category Winners:

Tied in first place are:

Charlie Moores, 3rd grader at Alamo Elementary, Goose Creek CISD; and Devin Gray, 3rd grader at Montgomery Elementary, Carrollton Farmers Branch ISD

Fourth thru Sixth Grade Category Winner:

Irma Barrera, 6th grader with RISD Academy, Richardson ISD

Seventh thru Ninth Grade Category Winner:

Linda Rodriguez, 9th grader with Rockdale High School, Rockdale ISD

Tenth thru Twelfth Grade Category Winners:

Tied in first place are:

Amanda Farrar, eleventh grader with Richardson High School, Richardson ISD; and Malvin Von Rosenberg, 10th grader at Rockdale High School, Rockdale ISD

Again, the staff of the Texas Register would like to thank everyone who participated in the 1991-1992 Texas Register Readers' Choice contest.

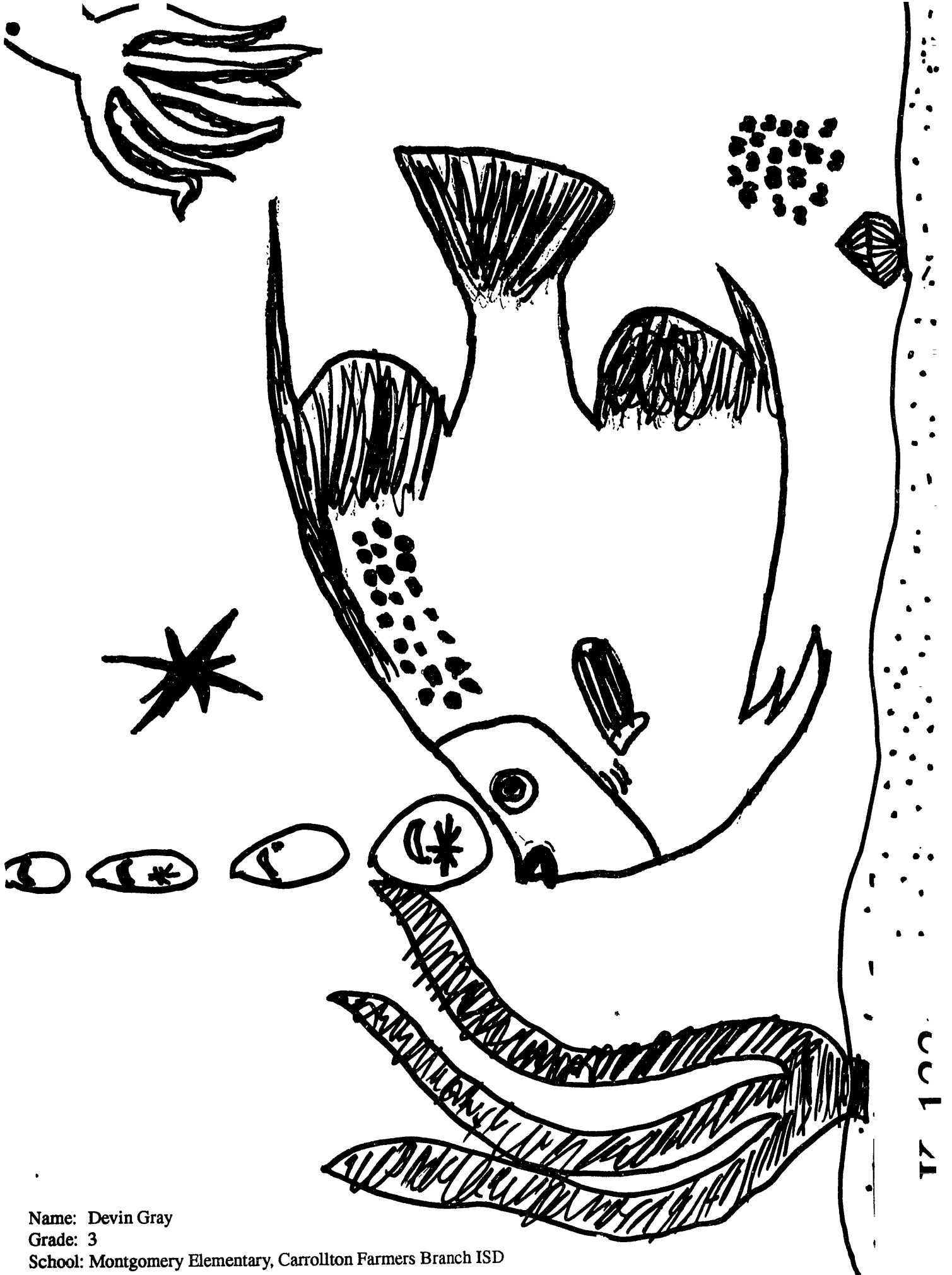
Beginning with the next issue, we will announce the winners of the 1991-1992 Texas Register Readers' Choice Award that was judged in Austin by professionals from the field of art. The artwork was also judged in the respective categories. Criteria for judging included best in originality, craftsmanship, and total composition.

Kindergarten thru Third Grade Winners



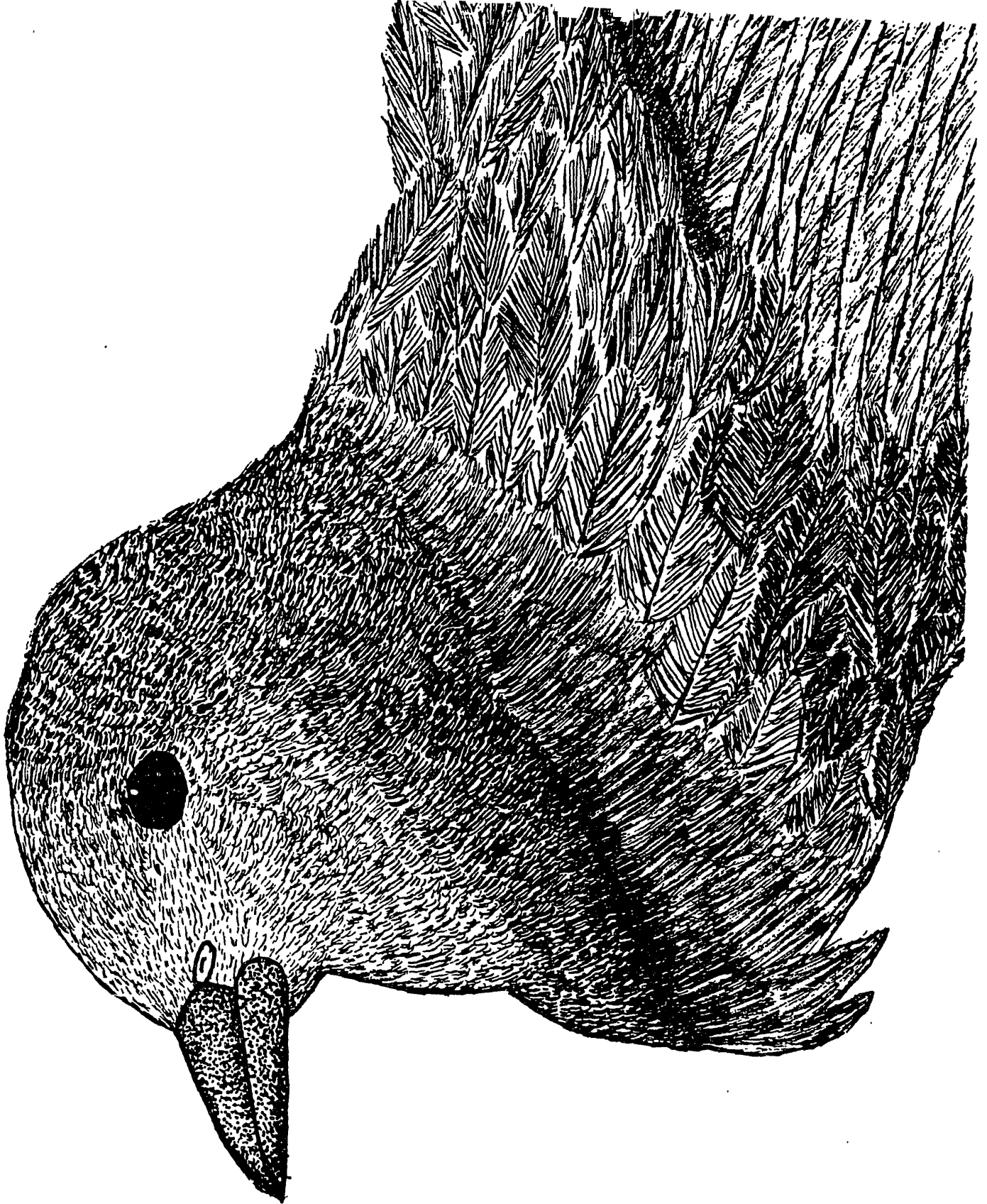
K-105

Name: Charlie Moores
Grade: 3
School: Alamo Elementary, Goose Creek CISD



Name: Devin Gray
Grade: 3
School: Montgomery Elementary, Carrollton Farmers Branch ISD

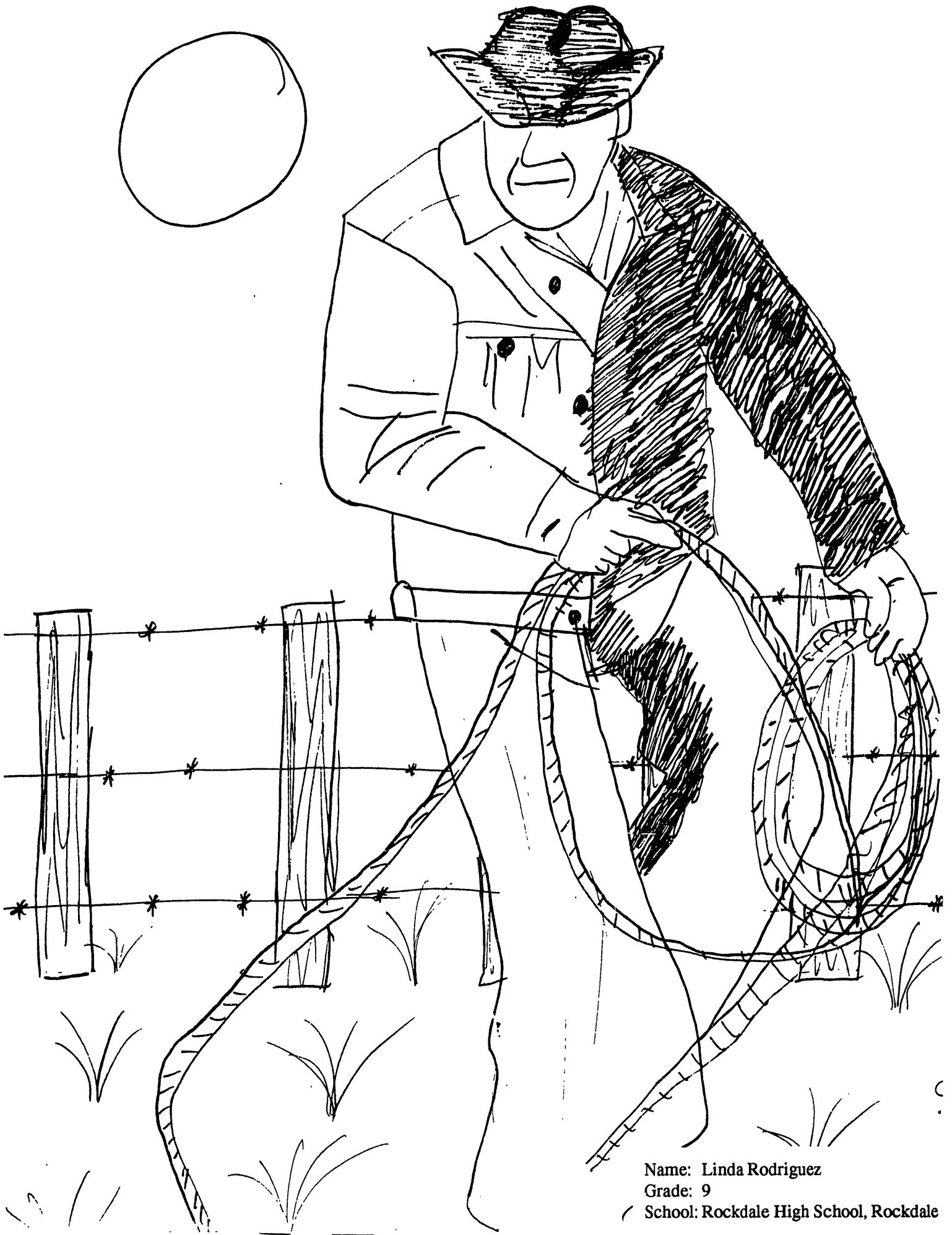
Fourth thru Sixth Grade Winner



4-38

Name: Irma Barrera
Grade: 6
School: RISD Academy, Richardson ISD

Seventh thru Ninth Grade Winner



Name: Linda Rodriguez

Grade: 9

School: Rockdale High School, Rockdale

Tenth thru Twelfth Grade Winners



Name: Amanda Farrar

Grade: 11

School: Richardson High School, Richardson ISD

10-7



10-111

Name: Malvin Von Rosenberg
Grade: 10
School: Rockdale High School, Rockdale ISD

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

Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues requested. Each copy of a back issue is \$5 including postage. You may use your Mastercard or Visa to purchase back issues or subscription services. To order by credit card, please call the *Texas Register* at (512) 463-5561. All purchases made by credit card will be subject to an additional 1.9% service charge. For more information, please write to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824 or call (512) 463-5561.

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