

Texas Register

Volume 17, Number 92, December 11, 1992

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Information Available: The ten sections of the **Texas Register** represent various facets of state government. Documents contained within them include:

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- Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the **Texas Register** six months after proposal publication date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

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

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

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

Texas Administrative Code

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

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

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

Texas Register Art Project

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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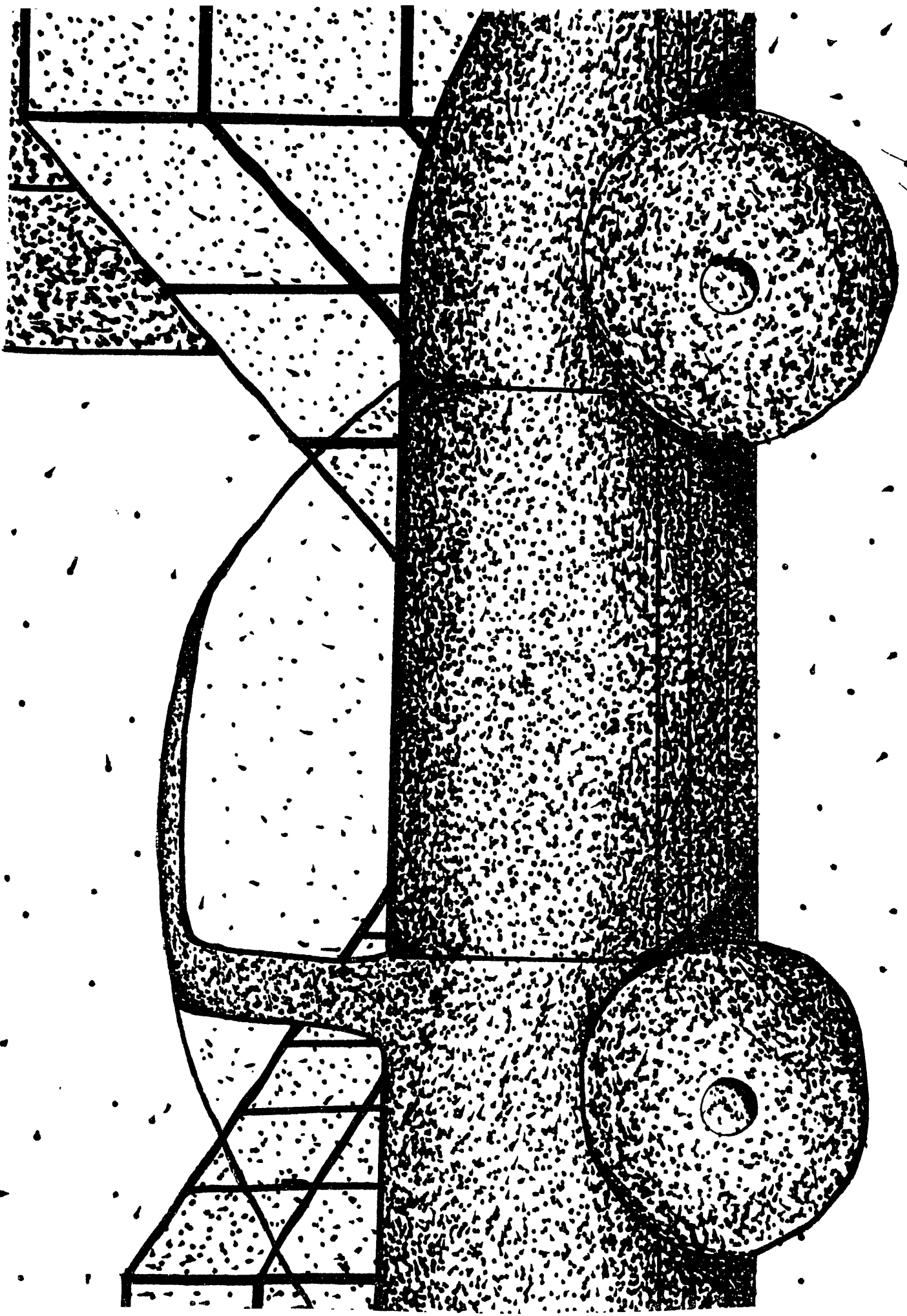
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Texas Workers' Compensation Research Center

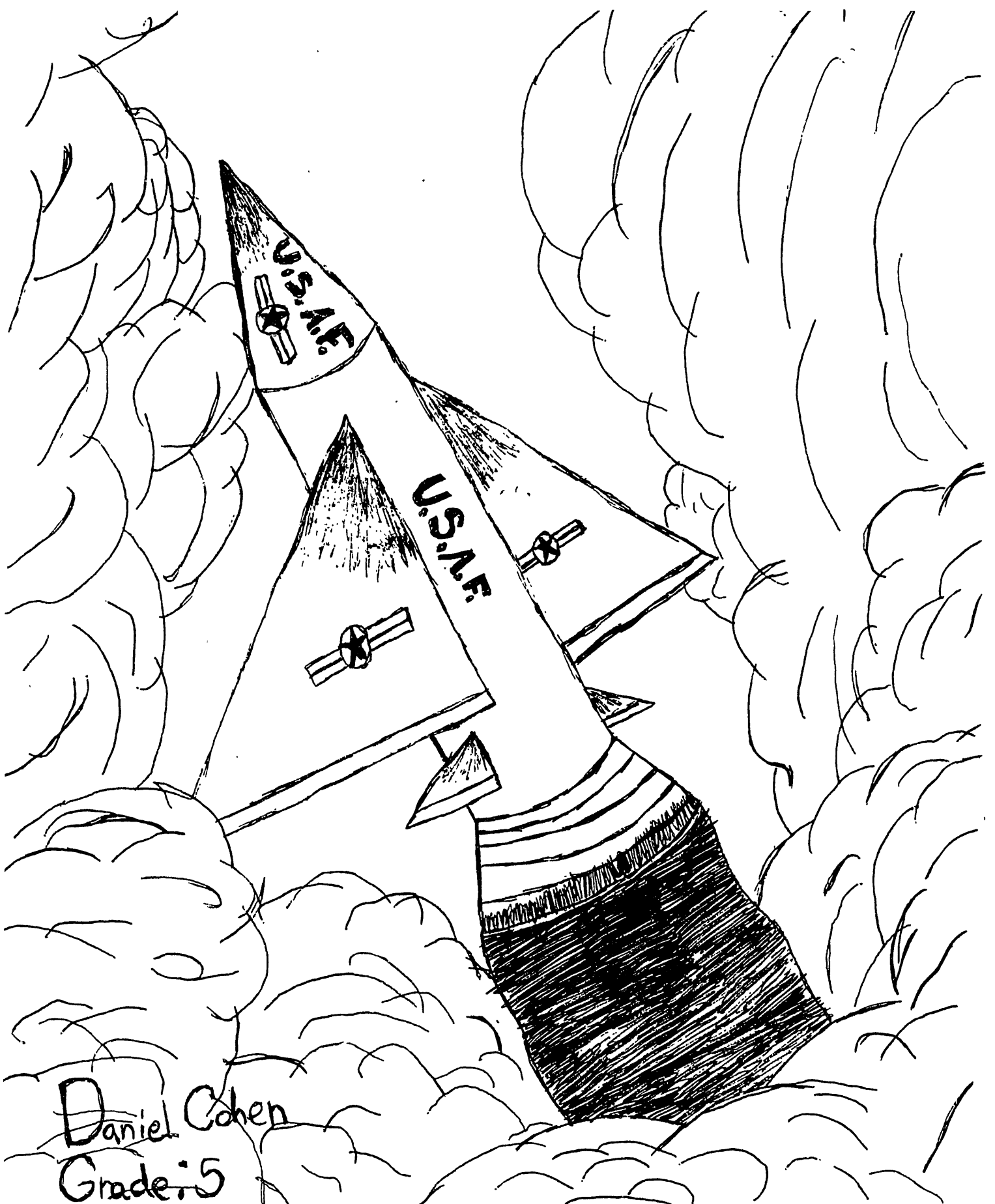
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Daniel Cohen

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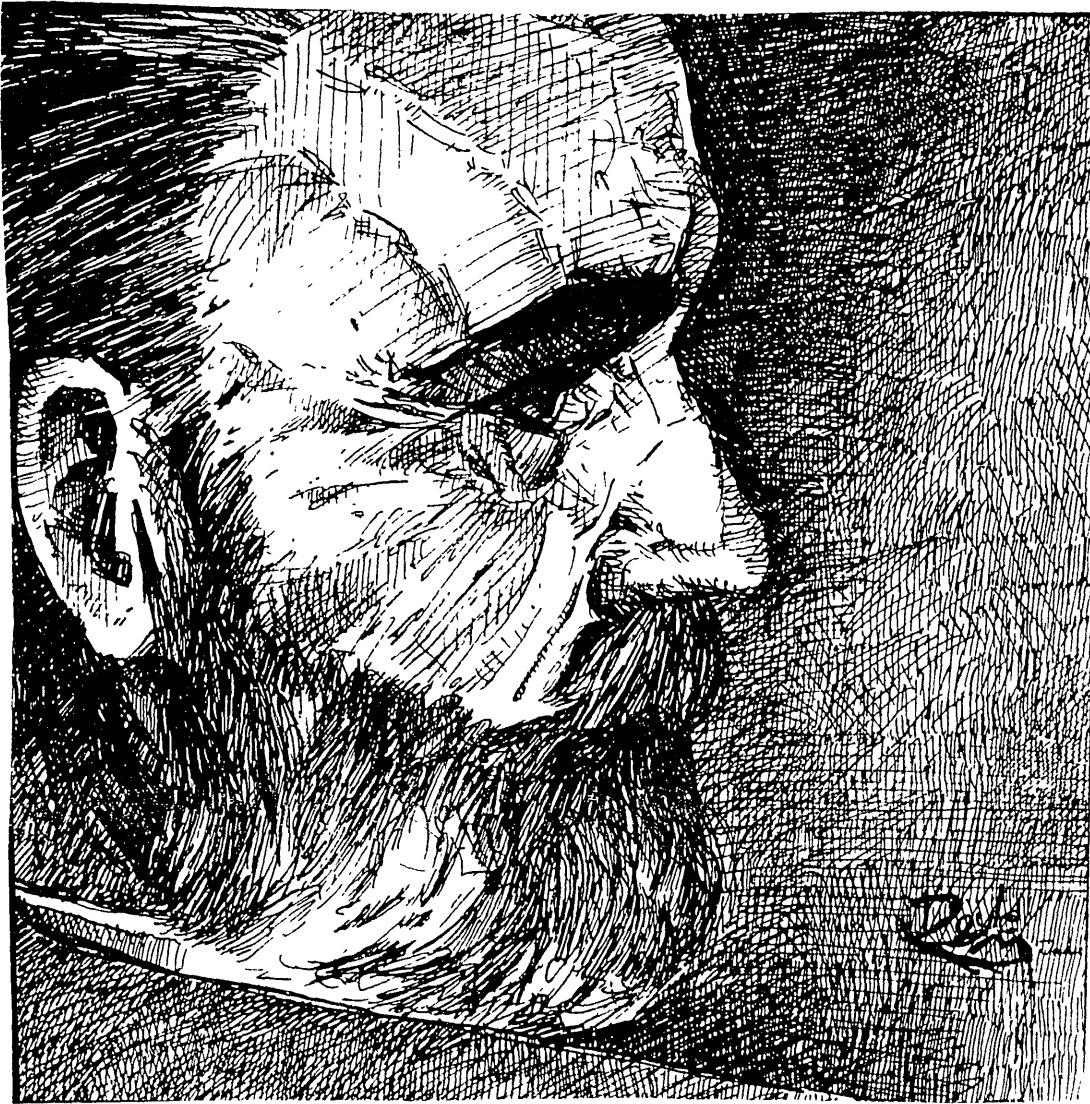
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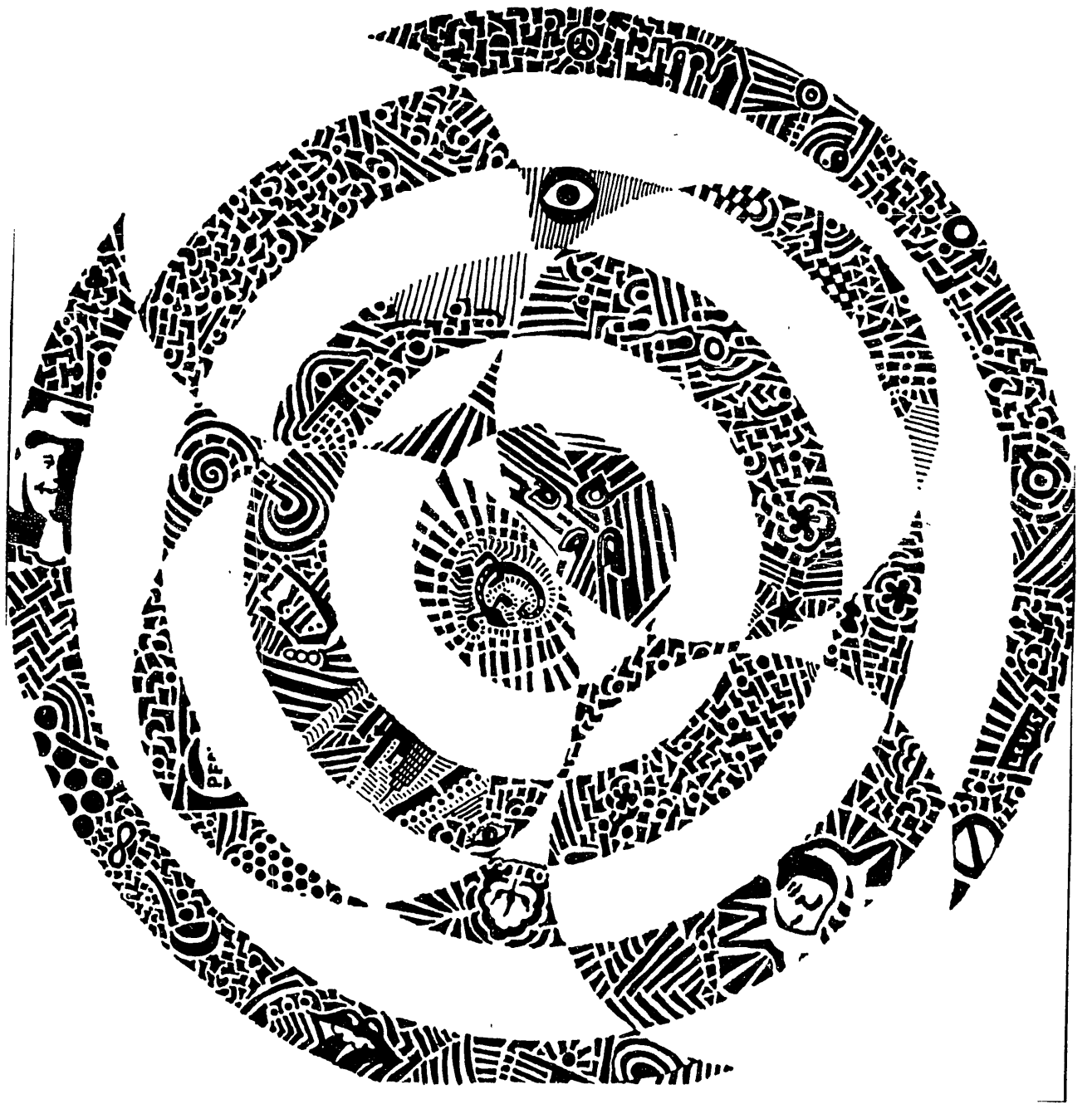
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Attorney General

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

Letter Opinions

LO-92-71 (RQ-364). Request from Ron Wilson, Chairman, Committee on Liquor Regulation, Texas House of Representatives, Austin, concerning questions relating to transfer of funds from the Metropolitan Transit Authority of Harris County of the City of Houston pursuant to Texas Civil Statutes, Article 1118x.

Summary of Opinion. A metropolitan rapid transit authority may not transfer funds from its treasury to a municipality pursuant to Texas Civil Statutes, Article 118x, §6(t) and §6(u) for purposes not authorized by those provisions. A municipality is not prohibited from deducting from its street maintenance budget amounts corresponding to the sum transferred to the city pursuant to §6(t) and §6(u), provided other provisions of the Local Government Code and the city charter or city code governing the city budget are complied with. Peace officers employed by a metropolitan rapid transit authority may investigate traffic accidents occurring within the boundaries of the authority.

TRD-9216048

LO-92-72 (ID-17347). Request from Michael J. Guarino, Criminal District Attorney, Galveston County, Galveston, concerning whether the county is required to reimburse its elected judges for payment of annual dues assessed by the State Bar.

Summary of Opinion. The Galveston County Commissioners Court is not required to reimburse its elected judges for payment of annual dues assessed by the State Bar of Texas.

TRD-9216049

LO-92-73 (ID-17433). Request from R. F. Horka, District Attorney, Kountze, concerning whether an individual may be employed both as a constable elected by the people of his precinct and as a courtroom bailiff for a district court of the same county.

Summary of Opinion. A constable is not precluded from serving simultaneously as a courtroom bailiff for a district court located in the county which he also serves as constable.

TRD-9216050

Opinions

DM-178 (RQ-79). Request from Kenneth H. Ashworth, Commissioner, Texas Higher Education Coordinating Board, Austin, concerning whether a junior college may borrow money to rehabilitate a historic building under the Education Code, §20.45.

Summary of Opinion. The governing body of a junior college has the authority of an independent school district under the Education Code, §20.45, to pledge its delinquent local maintenance taxes as security for a loan. Loan proceeds secured under §20.45 may be used only for maintenance purposes of a school district or junior college district. Accordingly, the Alamo Community College District may use funds secured through a loan under the Education Code, §20.45, only for maintenance purposes of the junior college district.

TRD-9216046

DM-179 (RQ-406). Request from James A. Lynaugh, Executive Director, Texas Department of Criminal Justice, Austin, concerning whether a defendant sentenced under the Penal Code, §12.422 is entitled to credit for the time the defendant is confined in a substance abuse treatment facility toward the satisfaction of the term of confinement in the institutional division of the Texas Department of Criminal Justice.

Summary of Opinion. A judge must not apply time spent in a substance abuse treatment facility pursuant to the Penal Code, §12.422, toward completion of the defendant's sentence if the court revokes the defendant's probation.

TRD-9216047

Requests for Opinions

(RQ-458). Request from Ms. Susan Cory, General Counsel, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, concerning whether Texas Civil Statutes, Article 8308-2.31, makes confidential information regarding an employer's violations of the Texas Workers' Compensation Act.

(RQ-459). Request from Bill Sims, Chairman, Natural Resources Committee, Texas Senate, Austin, concerning whether the Texas Structural Pest Control Act, Texas Civil Statutes, Article 135b06, exempts city employees who perform pest control services from its licensing requirements.

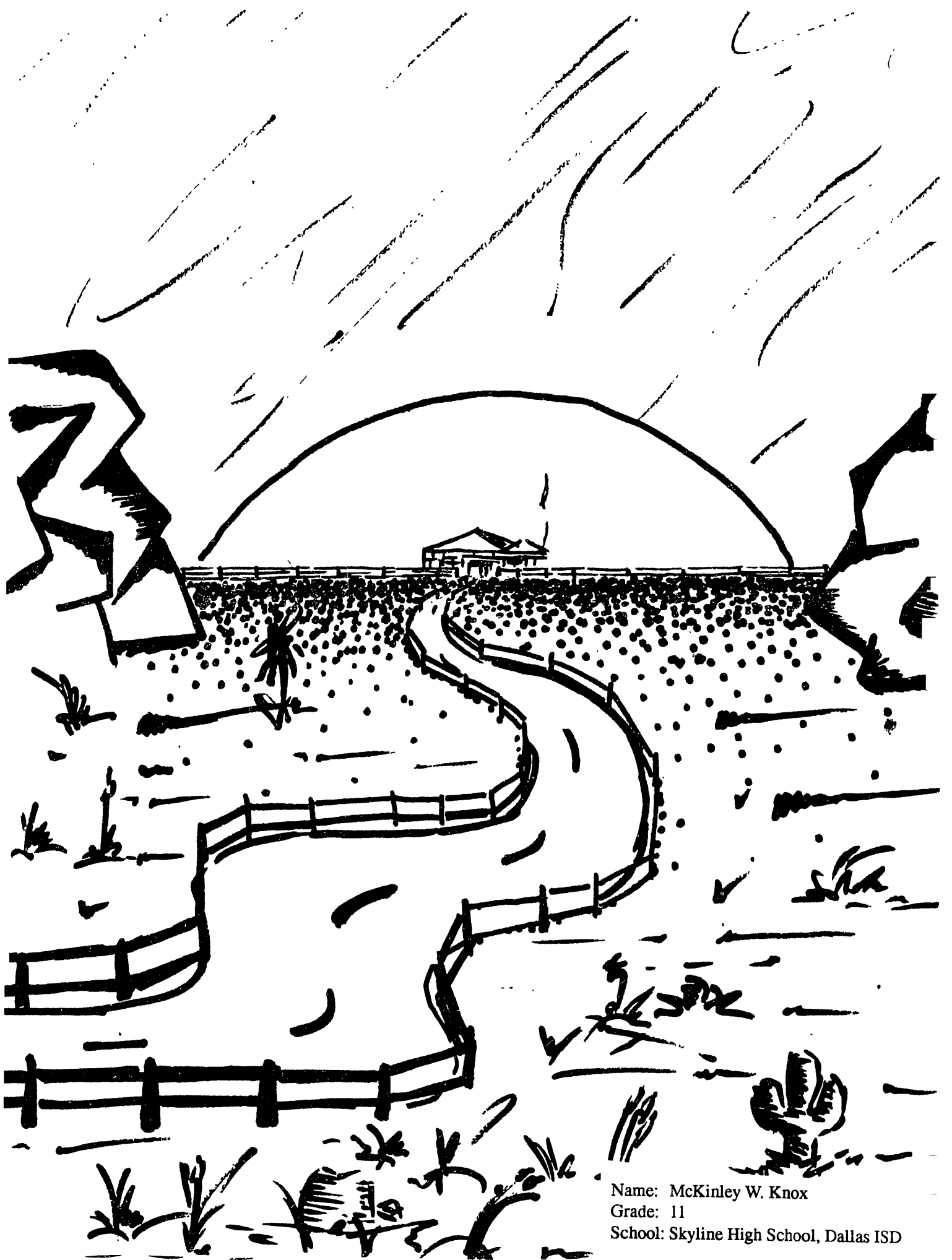
(RQ-460). Request from Annette Gula, Executive Director, Workers' Compensation Research Center, Austin, concerning applicability to research contracts of the Texas Workers' Compensation Research Center of the Appropriations Act order regarding recovery of indirect costs on interagency contracts.

(RQ-461). Request from Mark W. Stiles, Chairman, Committee on Ways and Means, Texas House of Representatives, Austin, concerning whether motor vehicle registration fees and taxes on motor fuels and lubricants may be used to fund public mass transit projects.

(RQ-462). Previously ID #15399. It will be issued as an ORD.

(RQ-463). Request from Mike Driscoll, County Attorney, Harris County, Texas, 1001 Preston, Suite 634, Houston, concerning authority of the Harris County Bail Bond Board to issue more than one bail bond license to a corporate surety, and related questions.

TRD-9216045



Name: McKinley W. Knox
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School: Skyline High School, Dallas ISD

Texas Ethics Commission

The Texas Ethics Commission is authorized by Texas Civil Statutes, Article 6252-9d.1, §1.29, to issue advisory opinions in regard to the following statutes: Texas Civil Statutes, Article 6252-9b; the Government Code, Chapter 302; the Government Code, Chapter 305; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Opinions

AOR-21. File closed. No opinion issued.

AOR-95. File closed. No opinion issued.

AOR-109. File closed. No opinion issued.

AOR-130. File closed. No opinion issued.

The Texas Ethics Commission is authorized by Texas Civil Statutes, Article 6252-9d.1, §1.29 to issue advisory opinions in regard to the following statutes: Texas Civil Statutes, Article 6252-9b; Chapter 302, Government Code; Chapter 305, Government Code; Title 15, Election Code; Chapter 36, Penal Code; and Chapter 39, Penal Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

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

TRD-9216067 Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: December 2, 1992

For further information, please call: (512) 463-5800

AOR-131. The Texas Ethics Commission has been asked to consider whether a \$15 meal is a benefit.

AOR-132. The Ethics Commission has been asked whether a city employee is required to register as a lobbyist and whether the Ethics Commission has adopted a rule under the Government Code, §305.0051.

AOR-133. The Texas Ethics Commission has been asked about the reporting requirements applicable to a luncheon provided for lobby purposes. The specific questions are as follows.

Question 1. Which of the following must be included in reporting the costs of the luncheon: supplies; printing; bus transportation for legislators and [association] members to and from the capitol; meeting room rental; name badges; flowers; food costs; and commemorative gift for legislators (approximately \$10).

Question 2. Should the reportable cost of the items listed above, include the amount spent for [association] members?

Question 3. How would you determine the amount spent per legislator since [association] members and legislators are in attendance?

Question 4. Should the expenses be reported monthly as incurred or in lump sum following the luncheon?

Question 5. I am the registered lobbyist on file for [the association] and do not lobby for other entities. We also have a lobbyist on file with the commission for [the association] who is on retainer and does lobby for other entities. Do we file duplicate reports or can the cost of the luncheon appear only on my report?

AOR-134. The Texas Ethics Commission has been asked to consider whether a legislator may accept a free subscription to a magazine.

AOR-135. The Texas Ethics Commission has been asked to consider whether an appointed member of the Chapter II Advisory committee for the Texas Education Agency is required to file a financial statement under Texas Civil Statutes, Article 6252-9b.

AOR-136. The Ethics Commission has been asked to consider the application of the Ethics laws to the production of a television program featuring an elected official.

The Texas Ethics Commission is authorized by Texas Civil Statutes, Article 6252-9d.1, §1.29 to issue advisory opinions in regard to the following statutes: Texas Civil Statutes, Article 6252-9b; Chapter 302, Government Code; Chapter 305, Government Code; Title 15, Election Code; Chapter 36, Penal Code; and Chapter 39, Penal Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

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

TRD-9216068 Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: December 2, 1992

For further information, please call: (512) 463-5800

AOR-137. The Texas Ethics Commission has been asked whether an officeholder may use political contributions to operate and maintain his personal airplane if the officeholder reimburses his political funds for occasional personal use.

AOR-138. The Texas Ethics Commission has been asked whether a member of an advisory committee of the Department of Transportation is a "state officer" for purposes of Texas Civil Statutes, Article 6252-9b.

AOR-139. The Texas Ethics Commission has been asked to consider questions about a general-purpose political committee that is sponsored by a statewide trade association. The political committee receives contributions from individual and corporate members of the trade association. Those contributions are used for mailings, flyers, printing, and subscriptions to periodicals as well as for food, travel, and telephone expenses for the trustees of the political committee. In this context, the request letter raises the following questions.

Must the names of the local associations, who are members of the state association and who make contributions to the general-purpose committee, be included in the name of general-purpose committee when the name of state association appears in the name of the general-purpose committee?

Must the names of the corporate or other legal entities, who are members of the local and state associations and who make contributions to the general-purpose committee, be included in the name of the general-purpose committee when the name of the state association appears in the name of the general-purpose committee?

Must the names of the corporate or other legal entities, whose principals are members of the local and state associations (corporate entities are not members) of the local or state associations and who make contributions to the general-purpose committee when the name of the state association appears in the name of general-purpose committee?

Must the names of the corporate or other legal entities, whose principals and the entities are not members of the local or state associations and who make contributions to the general-purpose committee, be included

in the name of the general-purpose committee?

How long of a period is an individual, corporation, or other legal entity considered to be a contributor to a general-purpose committee (e.g., a corporation contributes to a general-purpose committee during one period but not the next period) and therefore, how long does §252.003(d) require the name of a corporation contributing to a general-purpose committee to be in the name of the general-purpose committee, if at all?

If §252.003(d) requires the name of every corporation which contributes to the general-purpose committee, must the name of every corporation appear in all communications, solicitations, drafts, and other documents to the public or may the name of every contributing corporation be maintained of record at the Ethics Commission's or Secretary of State's office only?

AOR-140. The Department of Agriculture has asked for an advisory opinion in regard to gifts sent to the department. The request letter sets out the following background information.

The department has regulatory oversight of and provides marketing assistance to various agricultural industries and occasionally receives general food items in addition to flowers and wine from both the public and members of these industries. As the department is directly involved in these industries, it is not unusual to receive samples of these items from business and individuals across the state.

The department would like to accept these gifts on behalf of the department as a whole and would distribute them to our employees at random.

In this context the department asks the following questions.

Does the commission believe that the Texas Department of Agriculture and the Commissioner may receive these items as gifts?

If the gifts may be received, what reporting guidelines must be followed?

If the gifts may not be received, will the commission provide a statement to be included with the letter of appreciation from

the department to the constituent to explain its return?

The Texas Ethics Commission is authorized by Texas Civil Statutes, Article 6252-9d.1, §1.29 to issue advisory opinions in regard to the following statutes: Texas Civil Statutes, Article 6252-9b; Chapter 302, Government Code; Chapter 305, Government Code; Title 15, Election Code; Chapter 36, Penal Code; and Chapter 39, Penal Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

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

TRD-9216186

Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: December 4, 1992

For further information, please call: (512) 463-5800



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 I. Texas State Library and Archives Commission

Chapter 3. State Publications Depository Program

• 13 TAC §§3.1-3.10

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

The Texas State Library and Archives Commission proposes the repeal of §§3.1-3.10, concerning State Publications Depository Program. These sections will be replaced by revised rules which will define more specifically how agencies should comply with the depository law. In addition, the number of publications required to be deposited will be reduced to better meet the needs of the program.

Bonnie Grobar, manager, Information Services Program, has determined that there will be fiscal implications as a result of administering or enforcing administering the repeals. The effect on state government for the first five-year period the repeals are in effect will be an estimated reduction in cost of \$244,600 in 1993; \$273,040 in 1994; \$304,710 in 1995; \$340,710 in 1996 and \$379,500 in 1997. There will be no effect on local government.

Ms. Grobar also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be more specific identification of what is required to be deposited, and a reduction in administrative costs for state agencies to comply with program requirements. 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 Bonnie Grobar, Manager, Information Services Program, Texas State Library, Box 12927, Austin, Texas 78711-2927.

The repeals are proposed under the Government Code, §441.102, which provides the Texas State Library and Archives Commission with authority to establish rules for distribution of state publications to depository libraries.

of state publications to depository libraries.

§3.1. *Definitions.*

§3.2. *Standard Deposit Requirements.*

§3.3. *Exemptions.*

§3.4. *Waivers.*

§3.5. *Publications Contact Person.*

§3.6. *Monthly List of Publications.*

§3.7. *Distribution Priorities.*

§3.8. *Designation of Depository Library Status.*

§3.9. *Termination of Designated Depository Library Status.*

§3.10. *Minimum Standards for Designated Depository Libraries.*

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 December 1, 1992.

TRD-9216074

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Earliest possible date of adoption: January 11, 1993

For further information, please call: (512) 463-5440



The Texas State Library and Archives Commission proposes amendments to §§3.1-3.10, concerning State Publications Depository Program. These new rules define more specifically which publications need to be deposited and which do not need to be deposited, and they reduce the number of copies required for deposit.

Bonnie Grobar, manager, Information Services Program, has determined that there will

be fiscal implications as a result of administering or enforcing administering the sections. The effect on state government for the first five-year period the sections are in effect will be an estimated reduction in cost of \$244,600 in 1993; \$273,040 in 1994; \$304,710 in 1995; \$340,710 in 1996, and \$379,500 in 1997. There will be no effect on local government.

Ms. Grobar 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 costs to print state publications will decrease while access to government information will be maintained; administrative costs to state government will be reduced because the rules are more specific about which publications need and do not need to be deposited with the State Publications Depository Program. 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 Bonnie Grobar, Manager, Information Services Program, Texas State Library, Box 12927, Austin, Texas 78711-2927.

The sections are proposed under the Government Code, §441.102, which provides the Texas State Library and Archives Commission with authority to establish rules for distribution of state publications to depository libraries.

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

State Publications Depository Program—A program of the Texas State Library designed to collect, preserve, and distribute state publications, and promote their use by the citizens of Texas and the United States. All inquiries, correspondence, and publications should be directed to: State Publications Depository Program, Texas State Library, P.O. Box 12927, Austin, Texas 78711.

Commission—The Texas State Library and Archives Commission.

Depository library—The Texas State Library, the Legislative Reference Library, the Library of Congress, or any other library that the commission designates as a depository library for state publications.

State agency—Any entity established or authorized by law to govern operations of the state such as a state office, depart-

ment, division, bureau, board, commission, legislative committee, authority, institution, regional planning council, university system, institution of higher education as defined by Texas Education Code, 61.003, or a subdivision of one those entities.

State librarian-Executive and administrative officer of the Texas State Library and Archives Commission.

State publication-Printed matter which originates in or is produced by the authority or at the total or partial expense of a state agency, and which is distributed on demand or in multiple copies to government, its officers or other persons outside of the creating agency. The term also includes: a publication sponsored by or purchased for distribution by a state agency or released by a research firm, consulting firm, other similar private institution under contract with a state agency, or a publication distributed on microfiche or microform. The term does not include correspondence, an interoffice memorandum, a routine form, or other government record which is compiled or produced solely to meet the internal operating needs of a state agency.

Texas State Library-The staff, collections, archives, and property of the Texas State Library and Archives Commission organized to carry out the commissions responsibilities

§3.2. Standard Deposit Requirements. State agencies are required to deposit copies of all publications that have not been exempted from the program. The standard number of copies to be deposited is based on the number of copies produced.

(1) If 300 or more copies are produced, 55 copies must be deposited with the State Publications Depository Program

(2) If fewer than 300 copies are produced, three copies must be deposited with the program.

§3.3. Special Deposit Requirements. Specific kinds of publications shall be deposited in the following minimum quantities regardless of the number of copies originally intended to be produced by the agency. Agencies are expected to incorporate these deposit requirements into their printing orders

(1) Fifty-five copies of the following publications shall be deposited with the State Publications Depository Program:

(A) annual or biennial report (narrative description and statistics of programs, services, activities);

(B) statistical compilations (annual or multi-year);

(C) state plans (for agency services, programs within its jurisdiction) ;

(D) codes (published as compendia);

(E) regulations (published as compendia); and

(F) directories (of facilities, services, providers).

(2) Three copies of annual financial reports and annual operating budgets shall be deposited with the State Publications Depository Program.

(3) Two copies of requests for legislative appropriations and performance and funds management reports shall be deposited with the State Publications Depository Program.

§3.4. Standard Exemptions. The state librarian has exempted certain kinds of publications from deposit requirements. A state agency is not required to deposit any copies of the publications or other information materials listed as follows:

- (1) agendas;
- (2) advertisements;
- (3) alumni materials;
- (4) announcements;
- (5) artwork;
- (6) audiovisual materials;
- (7) calendars;
- (8) charts;
- (9) computer disks and tapes;
- (10) contracts;
- (11) correspondence;
- (12) course schedules;
- (13) curriculum catalogs (departmental only);
- (14) drafts of plans, reports;
- (15) fiction;
- (16) forms;
- (17) fund raising materials;
- (18) grant proposals, bids;
- (19) hearings (transcripts of);
- (20) job announcements;
- (21) literary criticisms;
- (22) memorabilia;
- (23) memoranda;
- (24) news or press releases;

(25) newsletters (meant only for employee, faculty, or student use);

(26) notices of sale;

(27) daily or weekly periodicals (which are summarized in monthly or quarterly publications);

(28) personnel manuals;

(29) photographs;

(30) poetry;

(31) policy handbooks (student and faculty);

(32) programs (announcements of);

(33) recruitment materials;

(34) reprints (reissued without change);

(35) stationery;

(36) student publications (those produced by students);

(37) telephone directories (meant only for employee, faculty or student use); and

(38) volunteer newsletters.

§3.5. Special Exemptions. Upon written application, the state librarian may exempt other publications from deposit requirements.

§3.6. Publications Contact Person. Each state agency shall designate in writing one or more persons to act as liaison with the program. The number of liaisons designated by an agency should reflect the size and complexity of its publishing activities. Each liaison shall deposit all state publications within the scope of his or her designated responsibility, provide information and resolve problems about them, negotiate exemptions from deposit requirements, and submit monthly publications lists.

§3.7. Monthly Publications List. The publications contact person must submit to the program each month, the monthly publications list form, listing all publications produced by that agency during the preceding month.

§3.8. Designation of Depository Library Status. The director of a library in Texas may apply in writing to the state librarian for depository library status. The state librarian shall make a recommendation to the commission after considering the need for additional access to state publications by the public and the number of copies of publications available for distribution to depository libraries. Upon the commission's approval, the state librarian shall execute a contract with the library setting forth the responsibil-

ities of the program and of the depository library.

§3.9. Termination of Designated Depository Library Status. Depository status may be terminated by either party upon six-month's written notice. In the event of termination, title to the collection shall be retained by the Texas State Library, which may remove the collection to the Texas State Library or another depository library.

§3.10. Minimum Standards for Designated Depository Libraries. The designated depository library must:

- (1) process and shelve deposited publications within 30 days of receipt;
- (2) check all shipping lists to insure that depository items are received, and if not, promptly claimed;
- (3) mark and date publications received in depository shipments to distinguish them from publications received from other sources;
- (4) provide an orderly, systematic record of depository holdings and subsequent arrangement of publications;
- (5) furnish a minimum of 400 linear feet of shelving for state publications;
- (6) designate a professional librarian to be responsible for the collection and to act as liaison with the Texas State Library;
- (7) provide reference service from state publications to all Texas residents;
- (8) provide access to the collection through reference tools, public catalogs, and national, state, and local computer networks which is comparable with that of similar collections in the library;
- (9) implement a circulation and interlibrary loan policy for the collection which is consistent with the institutions general loan policy;
- (10) retain depository publications for a minimum of five years unless otherwise instructed, and submit a disposal list to the Texas State Library for distribution before such publications are discarded;
- (11) provide appropriate equipment for the use and storage of all state publications;
- (12) publicize the depository collection through displays and announcements of significant new publications; and
- (13) display a sign, identifying its depository library status.

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 December 1, 1992.

TRD-9216075

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Earliest possible date of adoption: January 11, 1993

For further information, please call: (512) 463-5440

Part II. Texas Historical Commission

Chapter 17. State Architectural Programs

• 13 TAC §17.4

The Texas Historical Commission proposes an amendment to §17.4 concerning the Texas Preservation Trust Fund. The Texas Preservation Trust Fund was the enactment of Senate Bill 294 of the 71st Legislature, which amended Chapter 442 of the Texas Government Code by adding §442.0071. A minor change in the rules of the Texas Preservation Trust Fund is required and approved by the Texas Historical Commission Quarterly Board Meeting on October 23, 1992.

George Ramirez, Fiscal Office, 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.

Curtis Tunnell, Executive Director, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that this particular rule change will enable better understanding about the Preservation Trust Fund. The rules for the THC will be printed in a new format and distributed to the public. 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 Cindy Laguna Dally, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

The amendment is proposed under the Texas Government Code, Chapter 442, which provides the Texas Historical Commission with the authority to adopt rules as it considers proper for the effective administration of this chapter (§442.005(q)).

§17.4. Texas Preservation Trust Fund.

(a) Definition. The Texas Preservation Trust Fund (hereinafter referred to as Trust Fund or Fund) is a fund in the state treasury, created by enactment of Senate Bill 294 by the 71st Texas Legislature (1989), which amended the Texas Government Code, Chapter 442 by adding §442.0071. The Trust Fund shall consist of

transfers made to the Fund, including state and federal legislative appropriations, grants, donations, proceeds of sales, loan repayments, interest income earned by the Fund, and any other monies received. Funds may be received from federal, state, or local government sources, organizations, charitable trusts and foundations, private individuals, business or corporate entities, estates, or any other source.

(b)-(k) (No change.)

(1) Texas Preservation Trust Fund Membership Organization (hereinafter referred to as "Membership Organization"). The Membership Organization shall consist of individuals and organizations from across the state and beyond that demonstrate support of the goals and purposes of the Texas Preservation Trust Fund through the payment of annual membership dues. Privileges and benefits shall be established by the Texas Historical Commission for each level of membership.]

(1)[(m)] Texas Preservation Trust Fund Staff. The Executive Director of the Texas Historical Commission shall organize and administer the staff for the Texas Preservation Trust Fund.

(m)[(n)] General Provisions.

(1) Code of conduct-The THC Code of Conduct shall apply to members of the Advisory Board and Guardians.

(2) Gender-As used herein, the masculine pronoun shall include the feminine.

(3) Vacancies-Any vacancy on a Trust Fund committee or board may be filled at any time in the same manner as the incumbent member was elected or appointed.

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-9216216

Curtis Tunnell
Executive Director
Texas Historical
Commission

Proposed date of adoption: January 22, 1993

For further information, please call: (512) 463-6100

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 21. Practice and Procedure

Miscellaneous

• 16 TAC §21.181

The Public Utility Commission of Texas proposes an amendment to §21.181, concerning commission forms. The amendment to the section will require commission forms to be referenced in the Miscellaneous Section of the *Texas Register* for public comment prior to adoption by the commission.

Russell Trifovesti, Assistant General Counsel, has determined that for the first five-year period the proposed 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. Trifovesti also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be greater public input in establishing commission forms which will allow for the more efficient processing of information at the commission. 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.

Mr. Trifovesti has determined that for each of the first five years the section is in effect, there will no impact on employment in the geographical areas affected by implementing the requirements of the section.

Comments on the proposal (13 copies) may be submitted to John Renfrow, Secretary of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757. Comments should be submitted within 30 days after publication of the proposed section and should refer to Project Number 11448.

The amendment is proposed under the Public Utility Regulatory Act, §16(a), which provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its power and jurisdiction.

§21.181. *Commission Forms.* Standard forms for certain reports to the commission will be furnished by the commission. These forms may be amended, deleted, or added to at the commission's discretion without having a rulemaking proceeding. Prior to commission adoption, any form that is promulgated, amended, deleted, or added to, will be referenced in the Miscellaneous Section of the *Texas Register* for public comment. A complete set of all commission forms will be kept by the commission filing clerk. Notice of any new or amended form shall be printed in the commission bulletin.

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 December 3, 1992.

TRD-9216228

John Renfrow
Secretary of the
Commission
Public Utility Commission
of Texas

Earliest possible date of adoption: January 11, 1993

For further information, please call: (512) 458-0100

TITLE 22. EXAMINING BOARDS

Part V. Texas State Board of Dental Examiners

Chapter 109. Conduct

Anesthesia and Anesthetic Agents

• 22 TAC §109.173

The Texas State Board of Dental Examiners proposes an amendment to §109.173, concerning Minimum Standard of Care. This rule states that each dentist licensed by the Texas State Board of Dental Examiners and practicing in Texas shall utilize standard of care.

C. Thomas Camp, 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.

Mr. Camp also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. 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 Mei Ling Clendennen, Texas State Board of Dental Examiners, 333 Guadalupe, Tower 3, Suite 3800, Austin, Texas 78701, (512) 463-6400.

The amendment is proposed under Texas Civil Statutes, Article 4551d(a), which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§109.173. *Minimum Standard of Care.* Each dentist licensed by the Texas

State Board of Dental Examiners and practicing in Texas shall [utilize the following standard of care:

[(1) shall maintain a current history and limited physical evaluation on all dental patients. This shall include, but shall not be necessarily limited to, physiologic vital signs, known allergies to drugs and anesthetics, serious illnesses, current medications, previous hospitalizations and surgery, and physiologic system review;

[(2) shall maintain emergency equipment appropriate for patient resuscitation. Such equipment shall include a positive pressure breathing apparatus including oxygen. All emergency equipment shall be present in the dental office and shall be utilized by the licensed dentist or under his/her personal supervision;

[(3) shall provide training of emergency procedures to his/her personnel;

[(4) shall take a course in basic cardiopulmonary resuscitation sponsored by either the American Heart Association or the American Red Cross every two years. Proof of compliance shall be the responsibility of the dentist; and

[(5) should maintain an informed consent for all procedures where a reasonable probability of complications from the procedure exists.] conduct his or her practice in a manner consistent with that of a reasonable and prudent dentist under the same or similar circumstances. Each dentist:

(1) shall maintain a patient record:

(A) From which a diagnosis may be made;

(B) which includes a description of treatment rendered;

(C) includes the date on which treatment is performed; and

(D) which includes any information a reasonable and prudent dentist in the same or similar circumstances would include;

(2) shall maintain and review an initial medical history and limited physical evaluation for all dental patients to wit.

(A) The initial medical history shall include, but shall not necessarily be limited to, known allergies to drugs, serious illness, current medications, previous hospitalizations and significant surgery, and a review of the physiologic systems obtained by patient

history. A "check list", for consistency, may be utilized in obtaining initial information. The dentist shall review the medical history with the patient at any time a reasonable and prudent dentist in the same or similar circumstance would so do.

(B) The initial limited physical examination shall include, but shall not necessarily be limited to, blood pressure and pulse/heart rate on adult patients and as may be indicated for children/adolescents. This examination shall also include an oral examination on all patients. The examination shall also include any other examination which a reasonable and prudent dentist in the same or similar circumstances would perform;

(3) shall obtain and review an updated medical history and limited physical evaluation when a reasonable and prudent dentist under the same or similar circumstances would determine it is indicated;

(4) shall, for office emergencies;

(A) maintain a positive pressure breathing apparatus including oxygen which shall be in working order;

(B) maintain other emergency equipment and/or currently dated drugs as a reasonable and prudent dentist with the same or similar training and experience in the same or similar circumstances would maintain;

(C) maintain such emergency equipment and drugs in the dental office which shall be utilized only by a dentist, physician, or other appropriately trained individuals; and

(D) provide training to dental office personnel in emergency procedures which shall include, but not necessarily be limited to, basic cardiac life support, inspection, and utilization of emergency equipment in the dental office, and office procedures to be followed in the event of an emergency as determined by a reasonable and prudent dentist in the same or similar circumstances;

(5) shall complete a course in basic cardiopulmonary resuscitation every two years offered by either the American Heart Association or the American Red Cross;

(6) shall obtain an informed consent in all situations where required by law. This consent may be obtained, utilizing a written format placed in the

patient's record, and the following information shall be disclosed:

(A) the dental diagnosis;

(B) the proposed treatment and alternatives, including reasonable risks and benefits associated with each.

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 November 30, 1992.

TRD-9216116

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: January 11, 1993

For further information, please call: (512) 463-6400

◆ ◆ ◆
Chapter 115. Extension of
Duties of Auxiliary
Personnel Dental Hygiene

• 22 TAC §115.10

The Texas State Board of Dental Examiners proposes an amendment to §115. 10, concerning Radiologic Procedures. The section outlines the procedures for any person performing radiologic procedures under the supervision of a Texas licensed dentist.

C. Thomas Camp, 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.

Mr. Camp 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 achieve consistency and uniformity with the Administrative Procedure and Texas Register Act. Also, to achieve uniformity in standard civil practices. 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 Mei Ling Clendennen, Texas State Board of Dental Examiners, 333 Guadalupe, Tower 3, Suite 3800, Austin, Texas 78701, (512) 463-6400.

The amendment is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§115.10. Radiologic Procedures.

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

(c) A dental hygienist who is licensed and currently registered in this state, shall be deemed to be registered for the purpose of performing radiologic procedures. [as defined in §115.2(3) of this title (relating to Permitted Duties).]

(d)-(m) (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 November 30, 1992.

TRD-9216117

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: January 11, 1993

For further information, please call: (512) 463-6400

◆ ◆ ◆
Part XXI. Texas State
Board of Examiners of
Psychologists

Chapter 465. Rules of Practice

• 22 TAC §465.18

(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 §465.18, concerning Supervision Guidelines. The Board is replacing the present supervision guidelines with guidelines which more accurately reflect the Board's requirements and professional standards.

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 in effect the public benefit anticipated as a result of enforcing the repeal will be that licensees/certificands of the Board will not 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 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 reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

§465.18. Supervision Guidelines.

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 December 1, 1992.

TRD-9216137 Patricia S Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: January 11, 1993

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

◆ ◆ ◆
The Texas State Board of Examiners of Psychologists proposes new §465.18, concerning supervision guidelines. The Board is replacing its supervision guidelines with guidelines 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 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 reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

§465.18. 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 the Board. The activities of graduate students which are part of their academic program are exempt under the Psychologists' Certification and Licensing Act, §22. If students are employed for experience outside their program, they are subject to these supervisory guidelines;

(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) The supervisee may pay for his/her malpractice insurance. 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.

(f) This section is suggested but does not apply to the provision of psychological services when employed 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 December 1, 1992.

TRD-9216136

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

Earliest possible date of adoption: January 11, 1993

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

◆ ◆ ◆
**TITLE 37. PUBLIC
SAFETY AND CORREC-
TIONS**

**Part XIII. Texas
Commission on Fire
Protection**

**Chapter 427. Training
Facilities**

**Subchapter A. Minimum Stan-
dards For Structure Recruit
Training Facilities**

• **37 TAC §427.1**

The Texas Commission on Fire Protection proposes an amendment to §427.1, concerning minimum standards for recruit training facilities for structural fire protection personnel. The proposed amendment replaces the language requiring a "burn building" with language requiring a "building suitable for live fire training." The change is intended to clarify the resource requirements to permit a training facility to utilize a specially constructed burn building, as well as an acquired structure that is suitable for live fire training.

Alton Bostick, Standards and Licensing Division Director, has determined that for the first five-year period the section is in effect there will be fiscal implications for state or local government as a result of enforcing or administering the section. State agencies and local governmental entities that operate training facilities for fire protection personnel and who seek approval of those facilities from the commission may have additional costs due to the new provision pertaining to the building requirement for live fire training. The cost can vary from \$10,000 to \$1.2 million depending on the size, building materials, fuel material, and/or other required preparation of a specifically designed burn building or an acquired building used for the purpose of live fire training evolutions. The cost of a live fire training structure is often shared by more than one jurisdiction and most jurisdictions may already maintain or have access to a facility which complies with the requirements of §427.1.

Mr. Bostick also has determined that for each year of the first five years the section as amended is in effect the public benefit anticipated as a result of enforcing the section will be a more efficient organization of the requirements for training facility resources and minimum acceptable levels of safety for live fire training evolutions. There will be no effect on small or large businesses except for private fire training schools, if any, which will have the same costs as training facilities operated by public entities. There is no anticipated additional cost to persons who are required to comply with the section as proposed inasmuch as training costs are usually borne by the employing governmental entity.

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

The amendment is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and the Texas Government Code, §419.028(b)(1), which provides the commission with authority to approve or revoke the approval of an institution or facility for a school operated by or for the state or a local government specifically for training fire protection personnel or recruits.

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

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

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

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

(5) A [burn] building suitable for live fire training and meeting the requirements of the Basic Fire Suppression Curriculum shall be available for use by the instructors to teach live fire training. NFPA 1403, Standard on Live Fire Training Evolutions in Structures, shall be used as a guide when conducting live fire training.

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 December 4, 1992.

TRD-9216241

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: January 11, 1993

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

Chapter 485. Volunteer Fire Fighter Continuing Education

• 37 TAC §§485.1, 485.3, 485.5, 485.7

The Texas Commission on Fire Protection proposes new §§485.1, 485.3, 485.5, and 485.7, concerning continuing education for certified volunteer fire fighters. The proposed new sections outline the objective of continuing education for volunteer fire fighters, define terms, and establish the continuing education requirements for renewal of volunteer fire fighter certification.

John Jandt, Volunteer Standards Program Director, has determined that for the first five-year period that the new sections will be in effect, there will be minimal fiscal implications for state or local governments as a result of enforcing or administering the new sections as proposed inasmuch as current training resources and personnel can be used to satisfy the continuing education requirements.

Mr. Jandt 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 competence of certified volunteer fire fighters will be maintained and volunteer fire fighters will be exposed to new developments in the fire service. There will be no effect on small businesses. The anticipated economic cost to persons required to comply with these sections will be minimal inasmuch as certified volunteers could satisfy the continuing education requirements by attending training sessions given by a participating volunteer fire department to other members of their department seeking certification at no charge.

Comments on the proposal may be submitted to Armando O'cana, Chairman, Volunteer Fire Fighter Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under the Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and §419.071(e), which provides the Texas Commission on Fire Protection with authority to establish rules for qualifications relating to education, training programs, continuing education, and testing procedures for the volunteer certification program.

§485.1. Objective. In order to maintain volunteer certification a participating individual must submit to the commission documentation of annual continuing education. Such continuing education shall be intended to maintain or increase the knowledge and skills pertinent to the fire service.

§485.3. Definitions.

(a) Certification period—That period from the time a certification is obtained or renewed until it is time for the certificate to be renewed again.

(b) Qualified instructor—An individ-

ual who has, as a minimum, met the requirements for basic instructor certification.

§485.5. Requirements.

(a) Continuing education shall be required to renew certification for volunteer fire fighter certification. Continuing education shall consist of 20 hours of training to be conducted during the certification period. Continuing education may consist of either of the following types:

(1) in-service training in basic subjects contained in the commission approved basic fire fighter curriculum intended to maintain basic knowledge and/or skills. This type of training shall be conducted by a qualified instructor and administered by a certified instructor;

(2) advanced level training intended to increase knowledge and/or skills. This type of training shall be submitted to the commission for prior approval and must meet all requirements set by the commission for such approval.

(b) An individual who fails to comply with the continuing education requirements in this chapter shall be notified by the commission of the failure to comply and must complete one of the following requirements in order to maintain volunteer fire fighter certification:

(1) complete the continuing education requirements for the certification period in which the individual failed to comply, within 60 days from the end of that certification period. The training officer or chief of the department shall document to the commission in writing that the individual's continuing education requirements for the certification period in question were met within the 60 day period allowed; or

(2) if more than 60 days have passed since the end of the certification period and the continuing education requirements were not met, the individual desiring certification must pass a commission administered exam pertaining to the certification desired; or

(3) if more than 60 days have passed since the end of the certification period and the continuing education requirements were not met, the individual desiring certification must complete the current requirements set by the commission that would have been required had the individual never been certified.

§485.7. Subject For Satisfying Fire Fighter Requirements.

(a) Subject selected to satisfy the continuing education requirements may be selected from either of the following tracts or a combination of the two.

(1) Tract "A".

(A) Subject acceptable for continuing education in Tract "A" may be any subject contained in the commission approved fire fighter curriculum, except for the following subjects:

- (i) commission rules and regulations;
- (ii) emergency medical courses;
- (iii) hazardous materials courses;
- (iv) physical fitness;
- (v) records and reports (TEXFIRS is permissible).

(B) No more than four hours per year in any one subject may be counted toward the 20 hour continuing education requirement.

(C) Hours of training in a subject may not be used to satisfy the continuing education requirement for the current year if the same topic within the subject was used to satisfy the requirements for the previous year.

(2) Tract "B"-administrative/supervisory.

(A) All Administrative/Supervisory courses must be submitted to, and approved by the commission.

(B) There shall be no "hour per subject limit" placed on Tract "B" courses.

(C) A particular course will not qualify for continuing education more than one time. The repetition of the course will not qualify for credit.

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 December 4, 1992.

TRD-9216240

Jack Woods
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: January 11, 1993

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 11. Food Distribution and Processing

The Emergency Food Assistance Program (TEFAP)

- 40 TAC §§11.6003, 11.6004, 11.6007, 11.6008

The Texas Department of Human Services (DHS) proposes amendments to §§11.6003, 11.6004, 11.6007, and 11.6008, concerning applicant responsibilities, applicant rights, responsibilities of contracted agencies, and reimbursement, in its Food Distribution and Processing rule chapter. The amendments add requirements for the sale, transfer, and disposal of commodities and requirements for conducting activities unrelated to commodity distribution. The amendments also add information the contract manager requests if a claim for reimbursement is submitted after the 60-day time limit for submitting claims. Other changes consist of minor editorial corrections.

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 governments 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 clearer rules concerning responsibilities of contracted agencies and reimbursement of contractors. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of the proposal may be directed to Karen Van Reenen at (512) 467-5827 in DHS's Special Nutrition Programs. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-920284, 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 amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

§11.6003. Applicant Responsibilities. Applicants for The Emergency Food Assistance Program [emergency food assistance] must:

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

- (3) repay, on demand, to the Texas Department of Human Services (DHS) or its contractors the value of commodities received if an error in eligibility is found because of erroneous information provided by the household. If the household is found to have received multiple issuances of commodities, the contractor may deny the household receipt of commodities for as many months as equals the extra issuances;

- (4) not sell or exchange United States Department of Agriculture [USDA] commodities.

- (5) (No change.)

§11.6004. Applicant Rights. If eligible and commodities are available, all persons have the right to apply and receive commodities under The Emergency Food Assistance Program [emergency food assistance] without regard to race, color, national origin, sex, age, disability, religion, or political beliefs. They also have the right to appeal the eligibility decision.

§11.6007. Responsibilities of Contracted Agencies. To qualify as a contractor for The [the] Emergency Food Assistance Program (TEFAP), contractors must fulfill the following requirements:

- (1) inform the public of the availability of commodities or the lack of commodities. Each monthly distribution must be advertised in a manner specifically targeted to the eligible population, including low income households, the elderly, and persons with disabilities [the handicapped]. Suggested methods of advertisement include, but are not limited to, the following:

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

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

- (4) inform the applicant of his right to appeal the eligibility decision within 90 days from the date of the decision. The contractor must hold an administrative review of the decision within five days after receiving the household's request. If the applicant is dissatisfied with the review decision, the contractor must refer the appeal immediately to the Texas Department of Human Services (DHS);

- (5)-(11) (No change.)

- (12) not require, solicit, or accept payment from clients in money, materials, or services for, or in connection with, receiving commodities;

- (13) not require the applicant or subcontractors for emergency food assistance to belong to, attend meetings of, or pay dues to a specific organization;

- (14) (No change.)

- (15) report suspected fraud or misuse of commodities to the contract manager [DHS's regional commodity office].

- (16)-(17) (No change.)

- (18) not sell or dispose of commodities in commercial channels.

- (19) not transfer commodities to any other entity without prior approval from DHS.

- (20)[(18)] ensure that persons conducting activities unrelated to commodity distribution at distribution sites comply with the requirements in subparagraphs (A) and (B) of this section. If contractors and distribution sites do not comply [ensure compliance] with these requirements, DHS may immediately terminate their participation in TEFAP [them from the Temporary Emergency Food Assistance Program (TEFAP)] or, if another contractor or distribution site is unavailable, delay termination and monitor their distribution for compliance. Contractors may appeal the termination according to DHS's [DHS'] appeal procedures.

- (A) The person conducting the activity must make it clear that the activity is not [neither] a part of TEFAP, is not [nor] endorsed by the United States Department of Agriculture (USDA), and is not a condition for receiving commodities.

- (B) (No change.)

§11.6008. Reimbursement.

- (a) The Texas Department of Human Services (DHS) reimburses for allowable actual, direct costs for storage and distribution of commodities. The actual reimbursement rate depends on available funds. According to the terms of the contract, DHS will notify contractors of any changes in the reimbursement rates. The contractor must submit a completed and signed claim for reimbursement and State of Texas purchase voucher within 60 days after the last day of the claim month. [Contractors must submit claims to DHS within 60 days of the end of the month of services.]

- (b) If a claim for reimbursement is submitted after the 60-day time limit, the contractor must submit to DHS:

- (1) written justification explaining why the claim was submitted late; and

- (2) a corrective action plan explaining how the contractor will prevent late submittal of claims in the future.

(c) DHS determines whether good cause exists, based on the information in subsection (b) of this section, and:

(1) if good cause exists, DHS pays the claim;

(2) if good cause does not exist, DHS does not pay the claim. The contractor may appeal this action.

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 December 7, 1992

TRD-9216178 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

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

Chapter 31. Case Management Services

Subchapter D. Early Childhood Intervention

General Provisions

The Texas Department of Human Services (DHS) proposes new §§31.401-31.408 and §§31.501-31.506, concerning general provisions and reimbursement methodology for the Texas Early Childhood Intervention (ECI) program. The ECI program is a state and federally funded interagency effort to provide early identification and needed intervention services for children from birth to age three who are developmentally delayed or who have medical problems which cause or are likely to cause developmental delay. The program is administered by the Texas Interagency Council on ECI Services, which was established by the Texas Legislature in 1981 and is the policy-making body for the program.

DHS is proposing the repeal of existing ECI rules from Chapter 33 of this title (relating to Early and Periodic Screening, Diagnosis, and Treatment) and proposing the new programmatic and reimbursement methodology rules and rates to implement ECI targeted case management services as Medicaid reimbursable services. DHS is proposing the repeal of existing ECI rules in this issue of the Texas Register.

Burton F. Raiford, commissioner, has determined that for the first five-year period the new sections will be in effect there will be fiscal implications as a result of enforcing or administering the sections. There will be no fiscal implications for state government. The effect on local government for the first five-year period will be an estimated increase in revenue of \$1,409,096 for fiscal year 1993; \$2,136,104 for fiscal year 1994; \$2,507,590 for fiscal year 1995; \$2,758,350 for fiscal year

1996; and \$3,034, 184 for fiscal year 1997. The increase in revenue is based on increased Medicaid payments to local government ECI providers. There will be no fiscal implications for small businesses.

Mr. Raiford also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be that developmentally disabled infants and toddlers will have access to medical, social, educational, developmental, and other appropriate services to help them fully participate in the community. There is no anticipated economic cost to persons who are required to comply with the new sections.

Questions about the content of the proposal may be directed to Terry Beattie at (512) 450-4124 in DHS's Health Care Services Division. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-283, 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 §§31.401-31.408

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

§31.401. Introduction. Case Management Services for Infants and Toddlers with Developmental Disabilities are included in the Texas Medical Assistance Program (Medicaid). The general operation of the Texas Early Childhood Intervention (ECI) program is governed by the Texas Interagency Council on Early Childhood Intervention Services.

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

Assessment—The ongoing procedures used by appropriate qualified personnel throughout the period of a child's eligibility to identify:

(A) the child's unique needs and strengths;

(B) the family's strengths and needs related to their child's development; and

(C) the nature and extent of intervention services needed by the child and the family in order to meet requirements of subparagraphs (A) and (B) of this paragraph.

Caregiver—A person, such as a parent, foster parent, grandparent, child-care

worker, who has responsibilities for the care of a child.

Case management—Services provided to assist eligible individuals in gaining access to needed medical, social, educational, developmental, and other appropriate services.

Case manager (service coordinator)—An Early Childhood Intervention (ECI) program staff person who is assigned to a child and/or family who is the single contact point for families, and who is responsible for assisting and empowering families in accessing services and coordinating those services.

Comprehensive needs assessment—Written documentation developed by the case manager in a face-to-face conference with the Medicaid client's family. The documentation lists medical, social, nutritional, educational, developmental, and other appropriate needs of the child. The comprehensive needs assessment is a part of the child's assessment.

Developmental delay—A significant variation in normal development in one or more of the following areas as measured and determined by appropriate diagnostic instruments and procedures by an interdisciplinary team and by informed clinical opinion: cognitive development; physical development, including vision and hearing; gross and fine motor skills, and nutrition status; communication development; social and emotional development; and adaptive development or self-help skills.

Developmental disability—Children from birth to age three who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

DHS—The Texas Department of Human Services

Early Childhood Intervention (ECI) services—Individualized intervention services provided to children from birth to age three, and their families, as:

(A) determined by the interdisciplinary assessment and listed in the individualized family services plan; and

(B) provided in accordance with the rules of the Texas Interagency Council on Early Childhood Intervention Services in 25 Texas Administrative Code §621 (relating to Early Childhood Intervention Program).

EPSDT—Early and Periodic Screening, Diagnosis, and Treatment.

Individualized family services plan (IFSP)—A written plan, developed by the interdisciplinary team, based on all assessment and evaluation information and including the family's description of their strengths and needs, which outlines the intervention services for the child and the child's family.

Interdisciplinary team—The child's parent(s) and a minimum of two professionals from different disciplines who meet to share evaluation information, determine eligibility, assess needs, and develop the individualized family service plan (IFSP). The team must include the case manager (service coordinator) who has been working with the family since the initial referral, or the person responsible for implementing the IFSP, and a person directly involved in conducting the evaluations and assessments.

Initial intake—Initial contact with the family of the Medicaid client to assist an individual in gaining access to the evaluation and assessment process. The intake may be done by telephone, through face-to-face contact with the client, or by referral from another professional. The initial intake can be conducted in conjunction with or as a part of the ECI intake service which is used to establish potential eligibility for ECI services, to provide a basic introduction to the program's philosophy and operating procedures, to gather information needed for enrollment, and to schedule and help the family prepare for a comprehensive interdisciplinary evaluation and assessment.

Monitoring—Periodic tracking and observation to ensure services have been delivered, that services have been delivered on a timely basis, and that the services are addressing the clients' needs. Monitoring activities are documented in the child's case folder.

Plan of care—A written plan of care to address the specific needs of the child and family as identified in the comprehensive evaluation and assessment. The plan of care summarizes assessment results, includes the services necessary to enhance the development of the child and the capacity of the family to meet the child's unique needs, and must be coordinated with other service providers involved in delivery of services to the child and family. The plan of care is the service coordination (case management) component of the IFSP.

Reassessment—Formal documentation of the client's progress and needs, conducted at least every six months. The case manager documents whether modifications to the service plan are necessary and if the level of involvement by the case manager should be adjusted. Reassessment may take place in conjunction with or as a part of the child's interdisciplinary reassessment.

Service implementation—The actual delivery of services to meet the clients' needs. The case manager assists the family in taking responsibility for ensuring that services are performed, and he works with medical providers, ECI staff, and other community resources to coordinate care.

§31.403. Reimbursable Services.

(a) Case management services are reimbursable to Medicaid providers who

meet the conditions for provider participation as specified in §31.406 of this title (relating to Conditions for Case Management Provider Participation). Reimbursable case management services include face-to-face and telephone contacts with the child's caregiver on behalf of the child, or with other service providers or professionals on behalf of the child, for the purpose of assisting that child in gaining access to needed medical, social, educational, developmental, and other appropriate services.

(b) Case management services are not reimbursable as Medicaid services when another payor is liable for payment or if case management services are associated with the proper and efficient administration of the state plan. Case management services associated with the following are not payable as optional targeted case management services under Medicaid:

- (1) Medicaid eligibility determinations and redeterminations;
- (2) Medicaid eligibility intake processing;
- (3) Medicaid preadmission screening;
- (4) prior authorization for Medicaid services;
- (5) required Medicaid utilization review;
- (6) early and periodic screening, diagnosis, and treatment (EPSDT) program administration;
- (7) Medicaid "lock-in" provided for under the Social Security Act, §1915(a);
- (8) services that are an integral or inseparable part of another Medicaid service;
- (9) outreach activities that are designed to locate individuals who are potentially eligible for Medicaid; and
- (10) any medical evaluation, examination, or treatment billable as a distinct Medicaid-covered benefit. However, referral arrangements and staff consultation for such services are reimbursable as case management services.

§31.404. Recipient Eligibility for Early Childhood Intervention (ECI) Case Management Services. In order to receive ECI services, the recipient must meet the following criteria:

- (1) be eligible for Medicaid services during the month that the services are provided; and
- (2) have a developmental disability, as defined in §31.402 of this title (relating to Definitions). ECI providers must determine developmental disability based on the criteria described below.

(A) Children are eligible who have a medically diagnosed physical or mental condition that has a high probability of resulting in developmental delay, including, but not limited to:

- (i) Down Syndrome and other chromosomal abnormalities;
- (ii) sensory impairments, including vision and hearing;
- (iii) inborn errors of metabolism;
- (iv) microcephaly;
- (v) failure to thrive;
- (vi) seizure disorders;
- (vii) fetal alcohol syndrome or fetal alcohol effects;
- (viii) testing positive for the Human Immunodeficiency Syndrome (HIV) virus after 15 months of age.

(B) Children are eligible who are delayed in one or more of the following areas of development: cognitive, motor, communication, social-emotional, or adaptive skills. Eligibility must be verified by the determination of the specific level of delay by a test performance on a validated comprehensive developmental inventory or standardized test.

(C) Observation and documentation by a qualified professional of atypical development during:

- (i) administration of an assessment device; or
- (ii) informal testing procedures in a variety of settings.

§31.405. Provider Reimbursement. The Texas Medical Assistance (Medicaid) Program reimburses eligible Early Childhood Intervention (ECI) providers for ECI case management services provided to eligible recipients by qualified personnel.

§31.406. Conditions for Case Management Provider Participation. In order to be reimbursed for Early Childhood Intervention (ECI) services as specified in §31.403 of this title (relating to Reimbursable Services), a provider must:

- (1) be certified by the Texas ECI program as meeting the standards for service providers established by the Texas Interagency Council on Early Childhood Intervention Services, as specified in 25 Texas Administrative Code, Chapter 621, concerning Early Childhood Intervention Program;

(2) comply with all applicable federal and state laws and regulations governing the services provided;

(3) ensure that services are provided by appropriately qualified staff as specified in §31.407 of this title (relating to Qualified Personnel);

(4) be enrolled and approved for participation in the Texas Medical Assistance (Medicaid) Program;

(5) sign a written provider agreement with the Texas Department of Human Services (DHS) or its designee;

(6) comply with the terms of the provider agreement and all requirements of the Texas Medical Assistance Program, including regulations, rules, handbooks, standards, and guidelines published by DHS or its designee; and

(7) bill for services covered by the Texas Medical Assistance Program in the manner and format prescribed by DHS or its designee.

§31.407. Qualified Personnel. Early Childhood Intervention (ECI) case management services must be provided by case managers who meet the educational and work experience requirements, commensurate with their job responsibilities, as specified in 25 Texas Administrative Code §621.24(c)(4); Texas Early Childhood Intervention Staff Qualification Policies (ECI Policy III.8); and who have also completed, or are in the process of completing, the ECI Case Management Curriculum.

§31.408. Retention of Records. Providers of Early Childhood Intervention (ECI) services must maintain and retain all necessary records and claims, as specified in §69.202 of this title (relating to Contractors' Records), to fully document the services and supplies provided to a Medicaid recipient. These records must be maintained for a period of five years from the date of service or until all audit questions, appeal hearings, investigations, or court cases are resolved. These records must be made available promptly upon request to the Texas Department of Human Services (DHS), the Texas attorney general's office, DHS's designee, and representatives of the United States Department of Health and Human Services. Upon request, the provider must submit copies of their records, at no cost, to representatives of the agencies specified in 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.

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

TRD-9216256

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

Proposed date of adoption: February 1, 1993

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

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**Reimbursement Methodology
for the Early Childhood In-
tervention Program**

• **40 TAC §§31.501-31.506**

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

§31.501. General Reimbursement Information. The Texas Department of Human Services (DHS) reimburses Early Childhood Intervention (ECI) program providers according to the reimbursement methodology in §31.11 of this title (relating to Case Management for Individuals with Mental Retardation or Related Condition). DHS will develop a specific reimbursement methodology using cost-based prospective rates after the provider implements service delivery under the ECI program and all cost and statistical data are available.

§31.502. Cost Reporting Procedures. Provider agencies must submit to the Texas Department of Human Services (DHS) financial and statistical information at least annually on cost report forms provided by DHS or on forms which are formatted according to DHS specifications and are preapproved by DHS staff. Providers must complete the cost report according to the rules and specifications set forth in this section. The Texas Board of Human Services determines reimbursement rates as specified in §24.101 and §24.102 of this title (relating to General Specifications and Methodology).

(1) Cost report due date. Unless otherwise notified, provider agencies must submit cost reports to DHS no later than 90 days following receipt of the cost report forms.

(2) Extension of due date. DHS may grant extensions of due dates for good cause. A good cause is defined as one that the provider agency could not reasonably be expected to control. Provider agencies must submit requests for extensions in writing to DHS before the cost report due date. Staff of DHS's Provider Reimbursement Section respond to requests within 10 workdays of receipt.

(3) Reporting period. The provider agency must prepare the cost report to reflect the activities of the provider agency during the previous contract year. Cost reports may be required for other periods at DHS's discretion. If a provider agency terminates its contract (provider agreement) with DHS, the provider must submit a cost report for that period beginning with the first day not included in a previous cost reporting period and ending with the effective date of termination of its provider agreement.

(4) Failure to file an acceptable cost report. If a provider agency fails to file a cost report or cost report supplement according to all applicable rules and instructions, DHS may withhold all provider payments until the provider agency submits an acceptable cost report.

(5) Accounting requirements. The provider agency must ensure that financial and statistical information submitted in cost reports is based upon the accrual method of accounting, except for governmental institutions operated on the cash method of accounting. The provider agency's treatment of any financial or statistical item must reflect the application of the generally accepted accounting principles (GAAP) approved by the American Institute of Certified Public Accountants.

(6) Allocation method. If allocation of cost is necessary, provider agencies must use reasonable methods of allocation. DHS adjusts allocated costs if DHS considers the allocation method to be unreasonable. The provider agency must retain work papers supporting allocations.

(7) Cost report certification. Provider agencies must certify the accuracy of cost reports submitted to DHS in the format specified by DHS. Provider agencies may be liable for civil and/or criminal penalties in the case of misrepresented or falsified information.

(8) Cost report supplements. DHS may at times require additional financial and statistical information other than the information contained in the cost report.

(9) Review of cost reports. DHS staff review each cost report to ensure that all financial and statistical information submitted conforms to all applicable rules and instructions. The review of the cost report includes a desk audit. DHS reviews all cost reports according to the criteria in §24.201 of this title (relating to Basic Objectives and Criteria for Desk Review of Cost Reports). If a provider agency fails to complete cost reports according to cost report instructions or rules, DHS returns the cost reports to the provider agency for proper completion. DHS may require information other than that contained in the cost report to substantiate reported information.

(10) On-site audits. DHS may perform on-site audits on all provider agencies that participate in the ECI program. DHS determines the frequency and nature of audits but ensures that they are not less than that required by federal regulations related to the administration of the program.

(11) Notification of exclusions and adjustments. DHS notifies providers of exclusions and adjustments to reported expenses made during desk reviews and on-site audits of cost reports as specified in §24.401 of this title (relating to Notification).

(12) Access to records. Each provider agency or its designated agent(s) must allow access to any and all records necessary to verify information submitted to DHS on cost reports. This requirement includes records pertaining to related-party transactions and other business activities engaged in by the provider agency. If a provider agency does not allow inspection of pertinent records within 30 days following written notice from DHS, DHS places a hold on vendor payments until access to the records is allowed. If the provider agency continues to deny access to records, DHS may cancel the provider agency's contract.

(13) Failure to maintain adequate records. If a provider agency fails to maintain adequate records to support the financial and statistical information reported in cost reports, DHS allows 90 days for the provider agency to bring record keeping into compliance. If a provider agency fails to correct deficiencies within 90 days from the date of notification of the deficiency, DHS may cancel the provider agency's contract for services.

§31.503. Reimbursement Rate Determination. The Texas Department of Human Services determines rate reimbursement as follows.

(1) Exclusion of certain reported expenses. Provider agencies must ensure that all unallowable costs are eliminated from the cost report. DHS excludes any unallowable costs that are included in the cost report.

(2) Cost determination. Overhead costs are determined from reported costs in the following cost centers.

(A) Facility cost expenses include building rental, depreciation or use allowance, interest, insurance and tax expense, and operation and maintenance expenses.

(B) Program administration expenses include administrative salary expenses, program administrative expenses, program supplies and equipment, client

transportation, and other client service expenses.

(C) Indirect costs are based on preapproved indirect cost rates, which may include but are not limited to: supplies; administration and facility costs, including utilities which are not included in cost centers specified in subparagraphs (A) and (B) of this paragraph. Indirect costs are those costs required to support Early Childhood Intervention services which are outside of the costs for direct delivery of these services.

(D) Employee benefit expenses include Federal Insurance Contributions Act (FICA) contributions, unemployment insurance, workers compensation insurance, and other employee benefits.

(E) Direct care staffing costs include direct care staff salary and wage expenses, direct care contractual salary and wage expenses, and direct care travel expenses.

(3) Projected cost areas. DHS projects all allowable expenses from each of the cost areas for the period from each provider's reporting period to the next ensuing rate period. DHS determines reasonable and appropriate economic adjusters as described in §24.301 of this title (relating to Determination of Inflation Indices) to calculate the projected expenses. DHS also adjusts rates if new legislation, regulations, or economic factors affect costs as specified in §24.501 of this title (relating to Adjusting Rates When New Legislation, Regulations, or Economic Factors Affect Costs).

(4) Rate setting methodology. DHS staff develops proposed reimbursement rates and recommends them to the Texas Board of Human Services. DHS currently has insufficient cost and service delivery data from case management services for developmentally disabled infants and toddlers to accurately set reimbursement rates. Since there is only partial historical cost and service delivery data from which to establish a rate for this program, DHS calculates the initial rates according to §31.11 of this title (relating to Reimbursement Methodology for Case Management for Individuals with Mental Retardation or Related Condition). DHS uses the cost and time study data from the approved Medicaid Case Management Services Program for Persons with Mental Retardation because the nature of the services that are delivered under that program are similar to the Early Childhood Intervention program. In addition, the Medicaid Case Management Services Program for Persons with Mental Retardation has ongoing available historical

cost and time-study information. DHS will develop a specific reimbursement methodology for Case Management Services for Developmentally Disabled Infants and Toddlers using cost-based prospective rates after the service is implemented. The reimbursement rate will not exceed the median cost of case management services provided by state employees.

(5) Rate setting authority. The Texas Board of Human Services establishes the reimbursement rate in an open meeting after consideration of financial and statistical information and public testimony. The Board sets rates which, in its opinion, are within budgetary constraints, adequate to reimburse the cost of operations for an efficient and economic provider, and justifiable given current economic conditions.

(6) Reviews of cost report disallowances. A provider agency may request notification of the exclusions and adjustments to reported expenses made during either desk reviews or on-site audits, according to §24.401 of this title (relating to Notification). Providers may request an informal review and, if necessary, an administrative hearing to dispute an action taken by DHS under §24.601 of this title (relating to Reviews and Administrative Hearings).

§31.504. Allowable Cost Information.

(a) Factors affecting allowable costs. To be allowable under the Early Childhood Intervention (ECI) program, costs must be:

(1) necessary and reasonable for the proper and efficient administration of the program to deliver services for which DHS has contracted;

(2) authorized or not prohibited under state or local laws or regulations,

(3) consistent with any limitations or exclusions described in this section, federal or state laws or other governing limitations as to types or amounts of cost items;

(4) consistent with policies, regulations, and procedures that apply uniformly to both the ECI program and other activities of the organization of which the provider agency is a part;

(5) treated consistently using generally accepted accounting principles appropriate to the circumstances;

(6) not allocable to or included as a cost of any other program in either the current or a prior period; and

(7) the net of all applicable credits.

(b) Reasonableness. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by

an ordinarily prudent person in the conduct of competitive business. In determining the reasonableness of a given cost, DHS considers the following:

(1) whether the cost is of a type generally recognized as ordinary and necessary for the operation of the business or the performance under the contract;

(2) the restraints or requirements imposed by generally accepted sound business practices, arm's length bargaining, federal and state laws and regulations, and contract terms and specifications; and

(3) the action that a prudent person would take in the circumstances, considering his responsibilities to the public, the government, his employees, clients, shareholders, or members, and the fulfillment of the purpose for which the business was organized.

§31.505. List of Allowable Costs. The following list of allowable costs is not comprehensive, but rather serves as a general guide and clarifies certain key expense areas. The absence of a particular cost from this list does not necessarily mean that it is not an allowable cost.

(1) Compensation of Early Childhood Intervention (ECI) employees. Only those employees who provide services that benefit the operation of the ECI program, such as the director, program support staff, and direct care personnel receive compensation, which includes:

(A) wages and salaries. This can include deferred compensation, overtime pay, other monies subject to withholding taxes and Federal Insurance Contributions Act (FICA) deductions;

(B) payroll taxes and insurance. This includes Federal Insurance Contributions Act (FICA or social security), unemployment compensation insurance, workmen's compensation insurance;

(C) employee benefits. This includes employer-paid health and life insurance premiums and employer contributions to employee retirement accounts.

(2) Transportation. Expenses directly related to the provision of transportation services for ECI recipients. These expenses include the rental, lease, or contract costs of transportation equipment, depreciation, and operating and/or maintenance costs. Expenses based on mileage are allowable if there is adequate documentation of the mileage and if the expenses were related to delivery of services for which DHS has contracted.

(3) Building, equipment, supplies, and capital expenses.

(A) Depreciation and amortization expense. Property owned by the provider and improvements to owned, leased, or rented property valued at more than \$500 at the time of purchase must be depreciated or amortized, using the straight-line method, with the following restrictions.

(i) For buildings, allowable depreciation is calculated by deducting the estimated salvage value from the historical cost and dividing the result by the asset's remaining years of useful life.

(ii) For building equipment, allowable depreciation expenses include air conditioners, furnaces, chairs, tables, beds, and building and grounds improvements.

(B) Rental and lease expense. Rental and lease expense paid to a related party is limited to whichever is lower: the actual cost to the related party, or the actual cost if rented or purchased elsewhere. This includes buildings, building equipment, and furniture.

(C) Interest expense.

(i) Interest expense is allowable on loans for the acquisition of allowable items, subject to all of the requirements for allowable costs specified in §31.504 of this title (relating to Allowable Cost Information), plus the following:

(I) the loan must be evidenced in writing; and

(II) the loan must be made in the name of the provider entity as maker or comaker of the note.

(ii) Interest expense on related-party loans is limited to the lesser of:

(I) the cost to the provider entity, which is the cost to the related party; or

(II) the prevailing national average prime interest rate during the year in which the loan contract was finalized, as reported by the U. S. Department of Commerce, Bureau of Economic Analysis, in the Survey of Current Business and the Business Conditions Digest.

(D) Tax expense. This includes ad valorem, real and personal property taxes, motor vehicle registration fees, sales taxes, Texas corporate franchise taxes, and organization filing fees.

(E) Insurance expense. This includes facility fire and casualty, professional liability and transportation equipment liability insurance.

(F) Utilities expense. This includes electricity and natural gas, water, waste water, garbage collection, and telephone.

(G) Materials and supplies. This includes office, reproduction and printing, postage and shipping, program activities, and educational and expendable medical supplies.

(H) Training expenses. These are limited to direct costs for travel, lodging, food, registration fees for personnel who provide services directly to ECI recipients.

(I) Food purchases. These are limited to the cost of food used for children in the ECI program to enhance the nutritional and occupational therapy feeding components of the program

(J) Contract services provided by outside vendors. This includes consultants who provide direct service to ECI recipients, as well as those providing indirect services, such as laundry and linen service, janitorial service, plant operation and maintenance expenses, and professional services such as those of accountants and attorneys.

§31.506. List of Unallowable Costs. Unallowable costs are expenses incurred by a provider agency which are not directly or indirectly related to the provision of contracted services according to applicable laws, rules, and standards. A provider agency may expend funds on unallowable cost items, but those costs must not be included in the cost report and are not used in calculating a rate recommendation. The following list is a general guide to the various unallowable costs frequently encountered in cost reports submitted by provider agencies and is not intended to be inclusive of all possible unallowable costs:

(1) advertising expenses other than those for employee recruitment, yellow page listings no larger than one column width and one inch length, and advertising to meet statutory or regulatory requirements,

(2) allowances for bad debts or other similar accounts;

(3) expenses not related to the provision of services for which the Texas Department of Human Services (DHS) has contracted;

(4) contributions to political activities or contributions to charity;

(5) headquarters expenses that are not directly involved in providing services or supplies used by Early Childhood Intervention Program staff in normal operations related to early intervention services;

(6) depreciation expenses other than those based on straight-line depreciation;

(7) discounts for administrative reasons; courtesy, cash, trade, and quantity discounts; rebates; or other discounts granted;

(8) dues and membership fees to organizations whose primary emphasis is not related to the services for which DHS has contracted;

(9) entertainment expenses, such as the costs of amusements and social activities;

(10) fund-raising expenses;

(11) expenses which are not the legal obligation of the provider agency;

(12) fines and other penalties for violation of statutes or ordinances; penalties for late payment of taxes, utilities, mortgages, loans, and other similar penalties;

(13) premiums for life insurance policies in which the beneficiary is the provider organization, unless life insurance is a requirement of a loan agreement and the loan is related to client care;

(14) interest expenses on loans for assets not related to the delivery of services for which DHS has contracted. Interest expense must be reduced or offset by interest income, except interest income from funded depreciation accounts or qualified pension funds;

(15) medical equipment and supplies, other than expendable medical equipment and supplies;

(16) personal compensation not related to the delivery of services for which DHS has contracted;

(17) personal expenses not related to the delivery of services for which DHS has contracted;

(18) expenses for the purchase of services, facilities, or supplies from related organizations or parties, if the expenses exceed whichever is lower: the cost to the related party or organization; or the price of comparable services, facilities, or supplies purchased in an arm's length transaction;

(19) rental or lease expense on any item not related to the delivery of services for which DHS has contracted;

(20) tax expense for federal, state, or local income tax; any tax levied on assets not related to the delivery of services for which DHS has contracted;

(21) transportation expenses for vehicles which are not generally suited to functions related to the provision of services for which DHS has contracted. Mileage expense may be included at a cost per mile not to exceed the current reimbursement rate set by the legislature for state employee travel;

(22) building depreciation expenses based on less than a 30-year life;

(23) contributions to self-insurance funds that do not represent payment on current liabilities;

(24) expenses that cannot be adequately documented;

(25) forms of compensation that are not clearly enumerated to dollar amount or that represent profit distributions;

(26) insurance premiums pertaining to items of unallowable cost; and

(27) values assigned to the services of unpaid workers or volunteers.

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 December 7, 1992.

TRD-9216257

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

Proposed date of adoption: February 1, 1993

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

◆ ◆ ◆
**Chapter 33. Early and Periodic
Screening, Diagnosis, and
Treatment**

**Subchapter U. Early Childhood
Intervention**

General Provisions

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

The Texas Department of Human Services (DHS) proposes the repeal of §§33.501-33.508 and §§33.601-33.606, concerning general provisions and reimbursement meth-

odology for the Texas Early Childhood Intervention (ECI) program. DHS is proposing the repeal of existing ECI rules and proposing new programmatic and reimbursement methodology rules and rates to implement ECI targeted case management services as Medicaid reimbursable services. DHS is proposing the new rules in this issue of the *Texas Register* in Chapter 31 of this title (relating to Case Management Services).

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

Mr. Raiford 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 that the new sections being proposed in their place will provide developmentally disabled infants and toddlers access to medical, social, educational, developmental, and other appropriate services to help them fully participate in the community. There is no anticipated economic cost to persons who are required to comply with the repeals.

Questions about the content of the proposal may be directed to Terry Beattie at (512) 450-4124 in DHS's Health Care Services Division. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-283, 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 §§33.501-33.508**

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

§33.501. *Introduction.*

§33.502. *Definitions.*

§33.503. *Reimbursable Services.*

§33.504. *Recipient's Eligibility for ECI Services.*

§33.505. *Provider Reimbursement.*

§33.506. *Conditions for Provider Participation.*

§33.507. *Qualified Personnel.*

§33.508. *Retention of Records.*

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 December 7, 1992.

TRD-9216258

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

Proposed date of adoption: February 1, 1993

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

◆ ◆ ◆
**Reimbursement Methodology
for the Early Childhood In-
tervention Program**

◆ ◆ ◆
• 40 TAC §§33.601-33.606

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

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

§33.601. *General Reimbursement Information.*

§33.602. *Cost Reporting Procedures.*

§33.603. *Reimbursement Rate Determination.*

§33.604. *Allowable Cost Information.*

§33.605. *List of Allowable Costs.*

§33.606. *List of Unallowable Costs.*

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 December 7, 1992.

TRD-9216259

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

Proposed date of adoption: February 1, 1993

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

**Part IX. Texas Department
on Aging**

**Chapter 255. State Delivery
Systems**

**Planning and Service Area
Designation**

• 40 TAC §255.12

(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 Department of Aging or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Department of Aging proposes the repeal of §255.12, concerning designation of planning and service areas, as a result of changes made to the Older Americans Act of 1965 as amended by the 1992 amendments.

Ann Ammons, Director of Field Operations, Texas Department on Aging, 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. Ammons 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 greater understanding of the roles and missions of the Texas Department on Aging as a result of the changes to the Older Americans Act of 1965 as amended by the 1992 amendments to the Act. 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 Ann Ammons, Director of Field Operations, Texas Department on Aging, P.O. Box 12786, Austin, Texas 78711.

The repeal is proposed under the Human Resources Code, §101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

§255.12. Designation of PSA.

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 December 4, 1992.

TRD-9216223

Mary Sapp
Executive Director
Texas Department on
Aging

Earliest possible date of adoption: January 11, 1993

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

Statutes and Regulations

• 40 TAC §255.12

The Texas Department of Aging proposes new §255.12, concerning state procedures to provide due process in the revocation, designation, division, or other actions pertaining to or otherwise affecting the boundaries of planning and service areas in the state. It incorporates into the Texas Administrative Code important aspects of the changes made to the Older Americans Act of 1965 as amended by the 1992 amendments.

Ann Ammons, Director of Field Operations, Texas Department on Aging, 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. Ammons also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be greater understanding of the roles and missions of the Texas Department on Aging as a result of the changes to the Older Americans Act of 1965 as amended by the 1992 amendments to the Act. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Ann Ammons, Director of Field Operations, Texas Department on Aging, P.O. Box 12786, Austin, Texas 78711.

The new section is proposed under the Human Resources Code, §101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

§255.12. State Procedures to Provide Due Process.

(a) The Texas Department on Aging procedure for due process to affected parties, if the state agency initiates an action or proceedings to revoke designation, designate additional planning and service areas, divide the state into different planning and service areas, divide the state into different planning and service areas (PSA), or other action otherwise affecting the boundaries of the PSA in the state, will be as follows:

(1) the State agency will provide notice of an action or proceedings to the affected parties by certified mail;

(2) the State agency will provide in the notice the documentation for the need of the action or proceedings;

(3) the State agency will conduct a public hearing for the action or proceeding;

(4) the State agency will request written comment from area agencies on aging, service providers, and older individuals on the action or proceeding; and

(5) the State agency will allow an appeal to the Administration on Aging Commissioner of the decision of the Texas Board on Aging on the action or proceedings.

(b) An adversely affected party involved in an action or proceeding described in subsection (a) of this section, pertaining to due process, may bring an appeal as provided in subsection (a)(5) of this section, pertaining to appeals to the Commissioner on Aging, on the basis of the following:

(1) the facts and merits of the matter that is the subject of the action or proceeding; or

(2) procedural grounds.

(c) The Administration on Aging Commission's decision on the appeal described in subsection (a)(5) of this section, pertaining to submission of appeals to the Administration on Aging, may affirm or set aside the decision of the State agency and the Texas Board on Aging. If the Administration on Aging Commissioner sets aside the decision, the state agency shall nullify its action.

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 December 4, 1992.

TRD-9216224
Mary Sapp
Executive Director
Texas Department on
Aging

Earliest possible date of adoption: January 11, 1993

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

Part XVI. Interagency Council on Sex Offender Treatment

Chapter 510. Sex Offender Treatment Provider Registry

• 40 TAC §510.1

The Interagency Council on Sex Offender Treatment proposes an amendment to §510.1, concerning the Sex Offender Treatment Provider Registry. The amendment proposes the definition for the "Registry" of the Interagency Council on Sex Offender Treatment. Comments on Proposed rules may be expressed at public hearing scheduled December 11, 1992, from 9 a.m.-11 a.m.

Eliza May, Executive Director, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be that in 1993-1997 revenue will

increase by amounts earned from providers (\$100-35 registration fee).

Ms. May 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 access to treatment of sex offenders may lead to reduced recidivism.

This section is promulgated under the authority of the Texas Tax Code, Title 2; therefore no analysis of the effect on small businesses is required. The cost of compliance with the section for small businesses will be minimal. Possibly affected small counseling offices may pay \$100 or \$35 in fees for registration of providers. The cost would remain the same for small and large businesses. The possible economic cost to persons who are required to comply with the section as proposed will be \$100 or \$35 in the years 1993-1997.

Comments on the proposals may be submitted to Eliza May, Executive Director, Interagency Council on Sex Offender Treatment, P.O. Box 12546, Austin, Texas 78711-2546; or may express in public hearing scheduled December 11, 1992, from 9 a.m.-11 a.m.

The amendment is proposed under Texas Civil Statutes, Article 4413(51), §13 and §15, which provide the Interagency Council on Sex Offender Treatment with the authority to establish and maintain a registry, develop procedures and eligibility requirements, and set a reasonable fee for registration.

§510.1. Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicate otherwise.

Registry—A database of persons maintained by the Council, who have met the Council's criteria in the treatment of sex offenders, and who, provide mental health or medical services for the rehabilitation of sex offenders.

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 November 23, 1992.

TRD-9216109
Eliza May
Executive Director
Interagency Council on
Sex Offender Treatment

Earliest possible date of adoption: January 11, 1993

For further information, please call: (512) 454-1314

• 40 TAC §§510.2, 510.3, 510.6, 510.7, 510.8, 510.9

(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 Interagency Council on Sex Offender Treatment or in the Texas Register office, Room 245, James

Earl Rudder Building, 1019 Brazos Street, Austin.)

The Interagency Council on Sex Offender Treatment proposes the repeal of §§510.2, 510.3, 510.6-510.9, concerning the Sex Offender Treatment Provider Registry.

The Council is repealing the rules to replace them with new sections which clearly define new criteria for the Registry; renewal to the Registry; availability of applications; documentation requirements; revocation and appeals process. Comments on Proposed rules may be expressed at public hearing scheduled December 11, 1992, from 9 a.m.-11 a.m.

Eliza May, executive director, has determined that there will be fiscal implications as a result of enforcing or administering the repeals. The effect on state government for the first five-year period the repeals will be in effect will be that in 1993-1997 revenue will increase by amounts earned from providers (\$100-35 registration fee).

Ms. May 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 access to treatment of sex offenders may lead to reduced recidivism.

This section is promulgated under the authority of the Texas Tax Code, Title 2; therefore no analysis of the effect on small businesses is required. The cost of compliance with the section for small businesses will be minimal. Possibly affected small counseling offices may pay \$100 or \$35 in fees for registration of providers. The cost would remain the same for small and large businesses. The possible economic cost to persons who are required to comply with the repeals as proposed will be \$100 or \$35 in 1993-1997.

Comments on the proposals may be submitted to Eliza May, Executive Director, Interagency Council on Sex Offender Treatment, P.O. Box 12546, Austin, Texas 78711-2546; or may express in public hearing scheduled December 11, 1992, from 9 a.m.-11 a.m.

The repeals are proposed under Texas Civil Statutes, Article 4413(51), §13 and §15, which provide the Interagency Council on Sex Offender Treatment with the authority to establish and maintain a registry, develop procedures and eligibility requirements, and set a reasonable fee for registration.

§510.2. Registry Criteria.

§510.3. Registry Renewal.

§510.4. Fees.

§510.5. Application Availability.

§510.6. Documentation of Experience and Training.

§510.7. Revoke, Refuse or Refuse to Renew.

§510.8. Appeals Process.

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 December 3, 1992.

TRD-9216110

Eliza May
Executive Director
Interagency Council on
Sex Offender Treatment

Earliest possible date of adoption: January 11, 1993

For further information, please call: (512) 454-1314



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 XXI. Texas State
Board of Examiners of
Psychologists

Chapter 465. Rules of Practice

• 22 TAC §465.35

The Texas State Board of Examiners of Psychologists has withdrawn from consideration for permanent adoption a proposed new §465.35 which appeared in the October 30, 1992 issue of the *Texas Register* (17 TexReg 7643). The effective date of this withdrawal is December 24, 1992.

Issued in Austin, Texas, on December 3, 1992

TRD-9216131

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

Effective date: December 24, 1992

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



TITLE 37. PUBLIC SAFETY AND CORREC- TIONS

Part III. Texas Youth
Commission

Chapter 85. Admission and
Placement

Placement Planning

• 37 TAC §85.37

The Texas Youth Commission has withdrawn from consideration for permanent adoption a proposed amendment to §85.37 which appeared in the June 8, 1992, issue of the *Texas Register* (17 TexReg 4336). The effective date of this withdrawal is December 28, 1992.

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

TRD-9216274

Gail Graham
Policy and Manuals
Coordinator
Texas Youth Commission

Effective date: December 28, 1992

For further information, please call: (512)
483-5244





Name: Maria T. Rodriguez
Grade: 9
School: Skyline High School, Dallas ISD

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 1. ADMINISTRATION

Part IV. Office of the Secretary of State

Chapter 78. Athlete Agents

Contracts

• 1 TAC §78.51

The Office of the Secretary of State adopts new §78.51, concerning athlete agent contracts, without changes to the proposed text as published in the October 20, 1992, issue of the *Texas Register* (17 TexReg 7303).

Adoption of the new rule will provide individuals and companies with a clarification of the minimum amount of information that an athlete agent contract or financial services contract must contain.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-13a, §4(a)(1) and the Athletic Agents Act, Texas Civil Statutes, Article 8871, which provide the secretary of state with the authority to prescribe and adopt rules.

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

Issued in Austin, Texas, on November 25, 1992.

TRD-9216141 Audrey Selden
Assistant Secretary of
State
Office of the Secretary of
State

Effective date: December 24, 1992

Proposal publication date: October 20, 1992

For further information, please call: (512) 463-5558

Chapter 81. Elections

Voter Registration

• 1 TAC §81.11

The Office of the Secretary of State adopts an amendment to §81.11, concerning disbursement of funds under the Texas Election Code, Chapter 19, without changes to the proposed text as published in the November

3, 1992, issue of the *Texas Register* (17 TexReg 7732).

The amendment will allow Chapter 19 purchasing guidelines to better reflect county purchasing guidelines.

The amendment also disallows the use of a voter registrar's name in Chapter 19 funded materials.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Election Code, §31.003 and §19.002(b), which provides the Office of the Secretary of State with the authority to obtain and maintain uniformity in the application, interpretation, and operation of provisions under the Texas Election Code and other election laws, and in performing such duties, to prepare detailed and comprehensive written directives and instructions based on such laws, and to adopt rules consistent with the Election Code.

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 December 7, 1992.

TRD-9216278 Audrey Selden
Assistant Secretary of
State
Office of the Secretary of
State

Effective date: December 28, 1992

Proposal publication date: November 3, 1992

For further information, please call: (512) 463-5650

TITLE 13. CULTURAL RESOURCES

Part I. Texas State Library and Archives Commission

Chapter 7. Local Records

Microfilming Standards for Local Governments

• 13 TAC §§7.21, 7.22, 7.23, 7.24, 7.26, 7.28, 7.30, 7.31, 7.34, 7.35

The Texas State Library and Archives Commission adopts amendments to §§7.21, 7.22, 7.23, 7.24, 7.26, 7.28, 7.30, 7.31, 7.34, and 7.35, concerning rules for the microfilming of local government records, without changes to

the proposed text as published in the October 2, 1992, issue of the *Texas Register* (17 TexReg 6731).

The amendments are adopted in order to provide local governments with a consistent foundation upon which to base microfilming programs that ensure the physical protection and informational integrity of public records and to enable local governments to comply with statutes regarding retention and microfilming of local government records.

The amendments modify certain standards and procedures concerning the production, processing, testing, certification, and storage of microfilmed local government records for local government offices and records custodians to follow if they microfilm public records.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Local Government Code, §204.004, which requires the Texas State Library and Archives Commission to adopt rules establishing standards and procedures for the microfilming of local government records.

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 December 1, 1992.

TRD-9216076 Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Effective date: December 23, 1992

Proposal publication date: October 2, 1992

For further information, please call: (512) 463-5440

TITLE 22. EXAMINING BOARDS

Part V. Texas State Board of Dental Examiners

Chapter 101. Dental Licensure

General Qualifications

• 22 TAC §101.1

The Texas State Board of Dental Examiners adopts an amendment to §101.1, concerning general qualifications, without changes to the proposed text as published in the October 9, 1992, issue of the *Texas Register* (17 TexReg 6994).

The Board adopts the amendment to this §101.1 to ensure that applicants for dental licensure receive the highest standards and to assure that the people of the State of Texas receive the highest quality of dental care.

The section states the general qualifications for any person desiring to practice dentistry in the State of Texas.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4545, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 November 30, 1992.

TRD-9216107 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Effective date: December 24, 1992

Proposal publication date: October 9, 1992

For further information, please call: (512) 463-6400

◆ ◆ ◆ • 22 TAC §101.5

The Texas State Board of Dental Examiners adopts an amendment to §101.5, concerning examinations, with changes to the proposed text as published in the October 9, 1992, issue of the *Texas Register* (17 TexReg 6995). Paragraph (3)(G) was changed to correct the word Prosthetics to "Prosthodontics."

The Board adopts the amendment to ensure that applicants for dental licensure receive the highest standards and to assure that the people of the State of Texas receive the highest quality of dental care.

This section states that examinations shall be administered annually by the Texas State Board of Dental Examiners. They will include written examination, dental clinical examination, and specialty examination.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4544, Article 4547a, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§101.5. *Examinations.* The following examinations shall be administered annually by the Texas State Board of Dental Examiners:

- (1)-(2) (No change.)
- (3) specialty examination:

- (A) endodontics;
- (B) oral pathology;
- (C) oral and maxillofacial surgery;
- (D) orthodontics;
- (E) pediatric dentistry;
- (F) periodontics;
- (G) prosthodontics;
- (H) public health.

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

Issued in Austin, Texas, on November 30, 1992.

TRD-9216114 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Effective date: December 24, 1992

Proposal publication date: October 9, 1992

For further information, please call: (512) 463-6400

◆ ◆ ◆ Chapter 103. Dental Hygiene Licensure

• 22 TAC §103.1

The Texas State Board of Dental Examiners adopts an amendment to §103.1, concerning general qualifications, without changes to the proposed text as published in the October 9, 1992, issue of the *Texas Register* (17 TexReg 6995).

The Board adopts the amendment to ensure that applicants for dental hygiene licensure receive the highest standards and to assure that the people of the State of Texas receive the highest quality of dental care.

This section outlines the qualifications for any person desiring to practice dental hygiene in the State of Texas.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4545, which provides the Texas State Board of Dental Examiners with

the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 November 30, 1992.

TRD-9216115 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Effective date: December 24, 1992

Proposal publication date: October 9, 1992

For further information, please call: (512) 463-6400

◆ ◆ ◆ Part XXI. Texas State Board of Examiners of Psychologists

Chapter 461. General Rulings

• 22 TAC §461.2

The Texas State Board of Examiners of Psychologists adopts an amendment to §461.2, concerning unofficial statements, with changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7571).

The Board determined that clarification was needed concerning the types of issues which must be decided by the Board, en banc, rather than by individual Board members or persons employed by the Board.

Decisions must be made by the Board in public meetings. Individuals cannot act alone or make a decision inconsistent with board rulings. The public is assured that the Board collectively has decided on a matter.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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.

§461.2. *Unofficial Statements and/or Decisions.* Unofficial statements made by a Board member or staff are not binding on the Board. No member of the Board, or representative of the Board, may make statements or decisions which are binding upon the Board in its deliberations upon ultimate issues presented for Board decision. Among those issues which ordinarily require Board decision are settlements of contested matters regarding applications,

applicant qualifications, certificating and/or licensing of applicants, complaint resolution and/or legal matters involving modification, or Board rehearing of any prior decision rendered by the Board in performance of those statutory duties imposed by the provisions of the Psychologists' Certification and Licensing Act.

This agency hereby certifies that the 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 December 1, 1992.

TRD-9216119 Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

◆ ◆ ◆
• 22 TAC §461.12

The Texas State Board of Examiners of Psychologists adopts the repeal of §461.12, concerning approval of institutions of higher education, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7571).

The Board determined that the rule is unnecessary as the Psychologists' Certification and Licensing Act specifically exempts regionally accredited institutions of higher education from the requirements of the Act.

The repeal reduces a duplication of material to read. The requirement is already in the law and not needed in Board rules.

No comments were received regarding adoption of the repeal.

The repeal is adopted 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.

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 December 1, 1992.

TRD-9216120 Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

Chapter 463. Applications

◆ ◆ ◆
• 22 TAC §463.1

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.1, concerning qualifications of subdoctoral candidates, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7572).

The Board determined that the rule needed to be updated to reflect current statutory and Board requirements for subdoctoral applicants.

The amendment will notify persons of the specific sections of the Psychologists' Certification and Licensing Act that must be satisfied to meet the subdoctoral requirements.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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.

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 December 1, 1992.

TRD-9216121 Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

◆ ◆ ◆
• 22 TAC §463.4

The Texas State Board of Examiners of Psychologists adopts the repeal of §463.4, concerning applicant interviews, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7572).

The Board determined that the rule is unnecessary in that the requirements for applicants by reciprocity are found in the Psychologists' Certification and Licensing Act and other Board rules.

The information distributed by the Board will more accurately reflect current requirements. All applicants will be treated the same, i.e., none must come to the Board's office for interviews. The Board has not enforced this rule for many years.

No comments were received regarding adoption of the repeal.

The repeal is adopted 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.

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 December 1, 1992.

TRD-9216122 Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

◆ ◆ ◆
• 22 TAC §463.10

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.10, concerning written examinations required, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7573).

The Board determined that there was a need to specify the examinations required of doctoral and subdoctoral applicants for certification before the Board and to specify that said examinations must be taken prior to the granting of a certificate.

The amendment provides information about the requirement of the Board for applicants to sit for the Examination for the Professional Practice of Psychology and the Board's Jurisprudence Examination prior to being certified.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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.

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 December 1, 1992.

TRD-9216123 Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

Chapter 465. Rules of Practice

• 22 TAC §465.1

The Texas State Board of Examiners of Psychologists adopts the repeal of §465.1, concerning consultants, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7574).

The Board determined there was a need to replace its rule concerning consultants with a rule that reflects the current requirements of the Board regarding how non-licensed personnel may be listed.

Psychologists will no longer have to adhere to this rule. The requirements of this rule have been combined into another Board rule concerning advertisements and listings.

No comments were received regarding adoption of the repeal.

The repeal is adopted 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.

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 December 1, 1992.

TRD-9216124
Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

◆ ◆ ◆
The Texas State Board of Examiners of Psychologists adopts new §465.1, concerning listings, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7574).

The Board determined there was a need for clarification concerning how non-licensed personnel may be listed on professional publications/advertisements.

Psychologists will be required to adhere to specific guidelines concerning how non-licensed personnel may be listed, so that the consuming public is informed of the professional and/or supervised status of the person providing psychological services.

No comments were received regarding adoption of the new section.

The new section is adopted 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.

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 December 1, 1992.

TRD-9216125
Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

◆ ◆ ◆ • 22 TAC §465.2

The Texas State Board of Examiners of Psychologists adopts an amendment to §465.2, concerning release of patient or client information, with changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7574).

The Board determined that clarification was needed concerning the release of patient or client information. Raw data and protocols belong to the psychologist, not the patient.

Amendment clarifies that raw data and protocols belong to the psychologists, not the patient. Also, helps to protect the patient from possible misuse of raw data and protocols by untrained persons.

No comments were received regarding adoption of the amendment.

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

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

This agency hereby certifies that the 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 December 1, 1992.

TRD-9216126
Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

◆ ◆ ◆ • 22 TAC §465.3

The Texas State Board of Examiners of Psychologists adopts the repeal of §465.3, concerning psychological associates listings and reports, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7575).

The board determined that this rule was unnecessary as Board requirements concerning this matter are found in another Board rule.

Psychologists and psychological associates will no longer have to adhere to this rule. The Board's requirements concerning this matter are more clearly identified in another Board rule.

No comments were received regarding adoption of the repeal.

The repeal is adopted 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.

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 December 1, 1992.

TRD-9216127
Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

◆ ◆ ◆ • 22 TAC §465.12

The Texas State Board of Examiners of Psychologists adopts the repeal of §465.12, concerning accountability of licensee for services, without changes to the proposed text as published in the October 30, 1992, issue of the *Texas Register* (17 TexReg 7641).

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.

Psychologists will no longer have to adhere to this rule.

No comments were received regarding adoption of the repeal.

The repeal is adopted 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.

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 December 1, 1992.

TRD-9216128 Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 30, 1992

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

• 22 TAC §465.32

The Texas State Board of Examiners of Psychologists adopts new §465.32, concerning rules of practice, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7575).

The Board determined there was a need to clarify the procedures concerning rules of evidence in contested cases.

The new rule describes the process the Board uses to gather information in the investigation of complaints.

No comments were received regarding adoption of the new section.

The new section is adopted 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.

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 December 1, 1992.

TRD-9216129 Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

• 22 TAC §465.34

The Texas State Board of Examiners of Psychologists adopts new §465.34, concerning rules of practice, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7575).

The Board determined that it is in the public's interest to require licensees/certificants of the Board to report legal actions regarding their practice of psychology to the Board.

The new rule will help assure the ethical and legal practice of psychology by requiring licensees/certificants to report any legal actions involving the practice of psychology to the Board.

No comments were received regarding adoption of the new section.

The new section is adopted 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.

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 December 1, 1992.

TRD-9216130 Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

Chapter 471. Renewals

• 22 TAC §471.1

The Texas State Board of Examiners of Psychologists adopts an amendment to §471.1, concerning renewals, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7576).

The Board is combining two rules so that information concerning renewal due dates and notification of renewal is found in one place.

Two rules concerning renewal due dates and the notification of renewal are being combined so that the information is found in one place and is therefore easier to find and understand.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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.

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 December 1, 1992.

TRD-9216134 Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

• 22 TAC §471.6

The Texas State Board of Examiners of Psychologists adopts the repeal of §471.6, concerning renewals, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7576).

The Board determined to incorporate the relevant portion of this rule into another rule.

By repealing outdated information and incorporating the information concerning due dates for renewals into another Board Rule, renewal information will be found in one place and be easier to find and understand.

No comments were received regarding adoption of the repeal.

The repeal is adopted 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.

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 December 1, 1992.

TRD-9216135 Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: December 24, 1992

Proposal publication date: October 27, 1992

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

TITLE 28. INSURANCE

Part II. Texas Workers' Compensation Commission

Chapter 164. Extra-Hazardous Employer Program

• 28 TAC §164.14

The Texas Workers' Compensation Commission adopts new §164.14, concerning the extra-hazardous employer program, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7577).

This section assigns values to variables used in the calculation of Extra-Hazardous employer status and allows employers to calculate the likelihood of being identified. This section is the final step necessary to implement the Extra-Hazardous employer program.

Comments on the proposal were received from: Jones Brothers Dirt and Paving Contractors, Inc.; AGC of Texas, Highway, Heavy, Utilities and Industrial Branch; Cox Paving Company; Jeanneret and Associates, Inc.; Manpower Temporary Services; Granite Construction Company; Texas Building Branch-AGC; Texas Association of Business; Business Insurance Consumers Association of Texas; and Delta Air Lines, Inc., who all opposed the rule as drafted.

Proposed values of "Y" will result in employers being identified as Extra-Hazardous with one fatality even if their rate of injuries is below expected. This should be changed.

The commission disagrees. The proposed values of "Y" were selected by the Commissioners to recognize the serious consequences of a fatal workplace injury. This is consistent with the Federal Occupational Safety and Health Administration requirement that an investigation by Federal employees be done for every work-related fatality.

While using those values in the identification process can result in identification of an employer that appears to have a workers' compensation injury rate at or below the expected BLS or NSC rate for that industry, it should be noted that the BLS or NSC rate includes all lost time injuries and injuries with days of restricted work activities. The workers' compensation commission injury rate, as used at this time, includes only occupational diseases and lost time injuries of eight or more days. Thus, the employer is given a break in this formula and appears to have a rate lower than the BLS or NSC rate even though they might not if all comparable injuries were included in the workers' compensation rate.

It is a commonly accepted insurance premise that the more frequently minor injuries occur, the more likely it is that a severe injury will occur, with fatalities being the most severe. Based on the limitations on reporting less severe injuries, the occurrence of more serious injuries are indicators of injury potential in that workplace, with fatalities being the most serious and thus the best indicators.

Other comments addressed concerns with other aspects of the program, specifically §164.1, which was adopted and filed with the Texas Register on October 22, 1992. If implementation of this Extra-Hazardous employer program does not resolve those concerns, the commentators may consider petitioning the commission, as described in §104.1 (relating to Contents of Rule-Making Petitions).

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

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 December 3, 1992.

TRD-9216177

Susan Cory
General Counsel
Workers' Compensation
Commission

Effective date: December 25, 1992

Proposal publication date: October 27, 1992

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 290. Water Hygiene

Rules and Regulations for Public Water Systems

• 31 TAC §290.51

The Texas Water Commission (TWC) adopts new §290.51, concerning fees for services to drinking water systems, without changes to the proposed text as published in the October 30, 1992, issue of the *Texas Register* (17 TexReg 7650).

New §290.51 is adopted 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 the TWC effective March 1, 1992, and in response to new federal regulations under the Safe Drinking Water Act that require a significant increase in regulatory involvement with public drinking water supplies. The new section establishes fees to be charged by the TWC for services to drinking water systems similar to those fees previously charged by the 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 in new §290.51 is designed to provide the TWC with the necessary additional revenue by shifting the cost of chemical analyses from the 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.

Comments on proposed §290.51 were submitted by a variety of individuals, associations and governmental subdivisions. In addition, the TWC on its own motion held a public hearing on November 20, 1992, in order to accept both oral and written input from the public concerning the rule. All of the comments received and the TWC's responses to them are summarized below.

A good many of the comments received urged the commission to adopt an amendment to §291.21(i) that would allow the utilities to pass through the proposed fees to the ratepayers. An amendment to Chapter 291 of the commission's rules is outside the scope of this proposed rulemaking. However, commission staff has been instructed to look into the possibility of pass-through provisions for the 1994 fees.

Several commenters were strongly opposed to any changes or increases in fees. Many others noted that additional regulatory costs pose a financial hardship and are a serious threat to the continued viability of many water purveyors. The commission is sympathetic to the added cost, but feels that the fee schedule as proposed provides a more equitable means of generating the necessary revenue to fund the additional federal mandates than did the previous TDH fee schedule. Among the commenters were the City of Port Lavaca, the City of Gavado, the City of Megargel, the City of Glen Rose, the City of Kirby, Dallas County WCID, the City of Jacksonville, the City of Early, San Elizario Grant MUD, the City of Ropesville, Bexar County WCID Number 10, Lakeshore Sites, the City of Lubbock, Benbrook Water and Sewer Authority, the Texas Water Utilities Association, Community Resource Group, Inc. and the Independent Water and Sewer Companies of Texas, Inc.

Several commenters suggested that since the fee revision is primarily the result of new federal regulations, the federal government should fund the increased tasks. Another felt that the State Legislature should provide funding and not force reliance on "hidden taxes" to fund State programs. While these are valid arguments, today's political climate at both the state and the federal level dictates that programs place increased reliance upon fees at the service provider level.

Another commenter suggested that the proposed fee be combined with the current Regulatory Assessment Fee. The commenter suggested that it would be more reasonable to increase this fee and keep both fees under the same name, paperwork and staff. This would also allow pass-through of the fee as previously discussed. Although it may be possible to in some way combine these two fees in the future, the commission believes that

such a combination is not appropriate at this time because the Regulatory Assessment Fee currently applies only to a portion of the public water supplies in this State.

One commenter complained of a perceived inequity in the fee schedule in that districts, water supply corporations, and investor owned utilities are paying two fees and municipalities are not required to do the same. Although this comment concerns the commission, it applies primarily to a fee program funding services not currently being considered for revision.

Two commenters expressed disappointment over the fact that the consolidation of the TDH's jurisdiction over water matters with the TWC has not resulted in cost savings as they had been led to believe, but has instead resulted in increased costs to utilities and ultimately to the taxpayers. The commission is of the opinion that a fee increase would have been necessary to implement federal mandates regardless of the agency affiliation of the Public Water System Supervisory Program.

Another commenter asked that consideration be given to reducing the cost of the surface plant portion of the equation for "small systems." The commission feels that \$300 is an equitable and representative fee per surface water treatment plant.

One commenter felt that no fee increase should be adopted without its council review. This commenter also requested a postponement of adoption of this fee increase until it has had time to understand and review the "complete package". The commission must emphasize that this is not a proposed city ordinance open to local option. It is a state-wide fee that will be applied to all public water systems in the State of Texas.

It was also suggested that a single chemical analyses from the same water source, the Edward's Aquifer as an example, should serve for all systems taking water from that source. This would provide significant savings, which could presumably reduce the fee increase as proposed. It can be readily shown that water quality varies greatly within an underground aquifer. Federal, and consequently, state monitoring requirements specify increased, more intensive monitoring of all individual water supply sources. The general public expects accurate and up-to-date information on the water they are provided, and timely notification of any detrimental constituents in their water. Therefore, it is imperative that each source be monitored at a sufficient frequency to detect localized contamination.

One commenter requested a payment plan. Another stated that an increase is not currently budgeted for the present fiscal year (January 1 through September 30). Although the commission is sympathetic to the fact that some systems may experience a hardship, the fee proposed is a revision of an existing fee that has been in effect since 1986, and commission staff has been actively preparing the regulated community for an eventual fee increase for over a year. Therefore, no deferred or incremental payment plan is contemplated.

Another commenter suggested that it should have the ability to perform chemical analyses in its city laboratory or have access to a commercial laboratory that can perform the analysis. At this time, the TDH Bureau of Laboratories in Austin has the only laboratory in the State of Texas that is certified by the United States Environmental Protection Agency for chemical analyses of public drinking water. Currently there is no state certification program for other laboratories to do this type of analyses. Should the TDH Bureau of Laboratories set up such a certification program and subsequently certify additional laboratories in the State of Texas, the commission will also recognize them.

One industrial commenter felt that it should pay only 7.0% of its calculated fee because only 7.0% of its water is used for drinking water purposes, with the remainder being used for processed water. The commission disagrees with this suggestion. This industrial commenter operates multiple interconnected wells at its facility. The commission feels that because each well must be inspected and monitored no reduction in the fee is appropriate.

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

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 December 3, 1992.

TRD-9216171 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Effective date: December 24, 1992

Proposal publication date: October 30, 1992

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

Chapter 305. Consolidated Permits

Subchapter N. Memorandum of Understanding

• 31 TAC §305.521

The Texas Water Commission (TWC) adopts an amendment to §305.521 to incorporate the amended Memorandum of Understanding (MOU) between the TWC and the Texas Department of Transportation (TxDOT), is adopted without changes to the proposed text as published in the July 3, 1992, issue of the *Texas Register* (17 TexReg 4734).

On August 21, 1992, at 9 a.m., the Texas Department of Transportation (the depart-

ment) and the Texas Water Commission (TWC) conducted a joint public hearing to seek comments concerning the proposed adoption of a rule concerning a memorandum of understanding (MOU) between the department and the TWC.

One commentator requested that his organization be represented on the interagency committee to be established in accordance with Section IV.I. Another commentator suggested that the Texas Parks and Wildlife Department and the United States Fish and Wildlife Service be represented on the interagency committee. Upon final adoption of the MOU, the department and TWC will form the interagency committee and will jointly determine appropriate membership. The request and suggestions will be considered at that time.

One commentator objected to the wording of Section IV.B. which states that the "level of documentation prepared and provided to TWC will be in compliance with NEPA, TxDOT environmental rules, and other state laws, rules, and regulations." The commentator stated "that given the fact that there's a new urgency in protecting the Edwards Aquifer we ought to go beyond just what the laws that exist now are. I think that we need to get tougher laws that are consistent with protecting the quality of water in the aquifer . . ." Texas Civil Statutes, Article 6673g, requires the department to adopt an MOU with each state agency that has responsibilities for the protection of the natural environment. TWC is such an agency. The purpose of the MOUs is to provide a mechanism for or formalize coordination between the department and the resources agencies with regards to department highway construction projects. Establishing or proposing new legislation, as suggested by the commentator, is beyond the scope of the MOU and legislative intent. However, it is the policy of the department to preserve and, where practicable, to enhance the environment and the department intends to administer this policy pro-actively. Further, the department recognizes the sensitivity of the Edwards Aquifer and is striving to fulfill the mission of the agency in a manner consistent with promotion of water quality.

One commentator stated that the MOU "should be not only a legally-based document but a scientifically-based document." He stated that the MOU should include "some indication of the scientific methodology as a basis for this agreement." Article 6673g provides that the MOU must describe agency responsibilities regarding review of highway projects, specify the types of information the department will provide to the reviewing agency, and specify the length of time in which the reviewing agency must review the project. The MOU, therefore, is a policy-setting document which provides for TWC review of highway projects. Under the provisions of the MOU, TWC staff will review environmental documentation prepared by TxDOT and will provide comments to TxDOT regarding water quality impacts. All comments received from TWC will be considered fully by the department. Specific scientific methodology to be used in reviewing projects is beyond the scope of the MOU.

One commentor questioned a recent action by the Austin Transportation Study Policy Advisory Committee, the metropolitan planning organization for the Austin area, concerning the approval of water quality mitigation devices for a highway in southwest Travis County. The commentor also expressed concern about the department's maintenance practices for existing water quality mitigation devices. Neither of the comments pertain to the content of the MOU. Questions concerning actions of the Austin Transportation Study Policy Advisory Committee should be addressed to the committee members. Concerns about maintenance of existing water quality mitigation devices should be expressed to the responsible department district office.

One commentor indicated that "as far as practicable" should be deleted from Section III.A.1.a. The TWC concurs with the comment and the document has been revised accordingly.

Two commentors suggested that the phrase "to the extent practicable" should be deleted from Section IV.D.1. One of the commentors indicated that deleting the phrase would strengthen the document and emphasize the importance of minimizing environmental impacts. The TWC agrees with the comment and has deleted the phrase from the section.

One commentor objected to "the cost of mitigation" being listed as a factor to be considered by TWC when establishing conditions of approval for projects over the Edwards Aquifer recharge zone. "The cost of mitigation" has been deleted from Section IV.D.2. of the document. The first sentence of Section IV.D.2. now reads, "The TWC shall weigh all factors in the review process including the significance of the impact to water quality and public interest."

One commentor expressed objection to the use of the term "human environment." He indicated that the definition of environment should be broader. The department interprets "human environment" comprehensively to include the natural and physical environment and the relationship of people with that environment. This definition is consistent with regulations adopted by the Council on Environmental Quality (40 Code of Federal Regulations §1508.14).

One commentor expressed concern about the sequencing of some construction projects. He specifically cited an example where the permanent water quality controls were to be built after completion of the actual roadway. He stated that if the permanent controls were constructed prior to roadway construction the benefits of the controls would be realized during the construction phase. The TWC shares the commentors concerns and is striving to plan, construct, and maintain the state highway system in a manner consistent with the promotion of water quality. However, it should be noted that it is not generally feasible to construct the permanent controls prior to the commencement of actual roadway construction; therefore, temporary erosion controls are used to minimize the amount of sediment escaping from the project site. It should also be noted that the concern is beyond the scope of the MOU.

Two commentors expressed concern that Section IV.D. of the MOU either conflicts with or weakens the Edwards Aquifer rules (31 TAC Chapter 313) adopted by the TWC in March of 1990. In response to these concerns several changes have been made to Section IV.D. Specifically, as previously stated, "to the extent practicable" has been deleted from Item 1 and "the cost of mitigation" has been deleted from Item 2. In addition, Item 3 has been deleted entirely and Item 4 has been moved to a more appropriate section of the MOU. The TWC recognizes the sensitivity of the Edwards Aquifer and will continue to fully comply with 31 TAC Chapter 313. It should be noted that as state agencies, both the department and TWC have a responsibility to consider public interest when making decisions concerning activities under their jurisdiction.

The amendment is adopted under the Texas Water Code, §5.102 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to protect water quality in the state.

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

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

TRD-9216172 Mary Ruth Holder
Director of Legal Division
Texas Water Commission

Effective date: December 24, 1992

Proposal publication date: July 3, 1992

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 11. Food Distribution and Processing

Food Distribution Program

• 40 TAC §11.107

The Texas Department of Human Services (DHS) adopts an amendment to §11.107, concerning warehousing and distribution of donated foods, without changes to the proposed text as published in the October 27, 1992, issue of the *Texas Register* (17 TexReg 7580).

The justification for the amendment is to change the system DHS uses for the warehousing and distribution of commodities donated by the United States Department of Agriculture (USDA). This change involves implementation by DHS of a commercial

warehousing and distribution system. All recipient agencies must operate under the commercial system, except for those that currently receive direct shipments. Agencies that currently receive direct shipments have the option of continuing direct shipments or permanently switching to commercial delivery.

The amendment will function by improving distribution and warehousing of donated foods which will reduce operating costs to recipient agencies.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

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 December 3, 1992.

TRD-9216179 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: January 1, 1993

Proposal publication date: October 27, 1992

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

Chapter 71. Public Information

Public Interest Information

• 40 TAC §71.40

The Texas Department of Human Services (DHS) adopts an amendment to §71.40, concerning public interest and complaints, in its Public Information chapter, with changes to the proposed text as published in the November 3, 1992, issue of the *Texas Register* (17 TexReg 7763).

The justification for the amendment is to update the office addresses and telephone numbers of the information and referral unit, regional administrators, and civil rights division.

The amendment will function by providing public access to correct information.

No comments were received regarding adoption of the amendment. DHS, however, has initiated minor changes to subsections (e) and (f) to update the civil rights statement, add the telephone number for the Civil Rights Division, and delete the child and elder abuse toll-free hotline number.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 21.015, which requires the department to prepare information of public interest describing the functions of the board and department and describing the procedures by which com-

plaints are filed with and resolved by the board or department.

§71.40. Public Interest; Complaints.

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

(c) The department's centralized source for receipt of statewide complaints and information and referral services for the general public, clients, and elected officials is the Texas Department of Human Services, Information and Referral Unit, Mail Code W-635, P.O. Box 149030, Austin, Texas 78714, (512) 450-3284.

(d) Complaints about the provision of services may also be addressed to the regional administrator in each of the department's 10 regions. Those addresses are as follows.

(1) (No change.)

(2) Region 03/12. Texas Department of Human Services, 1200 Golden Key, El Paso, Texas 79925, (915) 599-3742.

(3) Region 04. Texas Department of Human Services, 4380 Spindletop, Abilene, Texas 79602, (915) 695-5750.

(4) Region 05. Texas Department of Human Services, 631 106th Street, Arlington, Texas 76011, (817) 640-5090.

(5) Region 06. Texas Department of Human Services, 7901 Cameron Road, Building 2, Austin, Texas 78753, (512) 834-3458.

(6) Region 07. Texas Department of Human Services, 502 East Rieck Road, Tyler, Texas 75703, (903) 561-5359.

(7) (No change.)

(8) Region 09. Texas Department of Human Services, 3635 S.E. Military Drive, San Antonio, Texas 78223, (210) 337-3271.

(9) Region 10. Texas Department of Human Services, 285 Liberty Street, 11th Floor, Beaumont, Texas 77701, (409) 835-3751.

(10) Region 11. Texas Department of Human Services, 1300 East 40th Street, Houston, Texas 77022, (713) 696-7100.

(e) Complaints alleging rude or unfair treatment, or discrimination on the basis of race, color, religion, national origin, sex, age, political beliefs, or disability may be addressed to one of the following:

(1) the Texas Department of Human Services, Civil Rights Division, P. O. Box 149030, Mail Code E-609, Austin, Texas 78714, (512) 450-3630; or

(2) (No change.)

(f) The department also maintains toll-free hotlines to respond to complaints. Those hotlines are as follows.

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

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

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

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

TRD-9216260

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

Effective date: December 31, 1992

Proposal publication date: November 3, 1992

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

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 1. Administration

Substance Abuse Program

• 43 TAC §§1.100-1.107, 1.109

The Texas Department of Transportation adopts amendments to §§1.100-1.107, and 1.109, concerning the Substance Abuse Program. Section 1.103 and §1.106 are adopted with changes to the proposed text as published in the June 12, 1992, issue of the *Texas Register* (17 TexReg 4239). Sections 1.100-1.102, 1.104, 1.105, 1.107, and 1.109 are adopted without changes and will not be republished.

These amendments are adopted to comply with recent revisions in Title 28, Texas Administrative Code, §§169.1-169.2, promulgated by the Texas Worker's Compensation Commission which require a state agency to include in its substance abuse policy statement a prohibition against the use of inhalants; to comply with revised regulations issued by the United States Coast Guard under Title 46, Code of Federal Regulations, Part 16, concerning Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel, which clarify covered crewmembers and activities, provide for testing a vessel's entire crew, and reporting a positive test result; and to conform with a technical notice requirement of the Drug Free Workplace Act of 1988, Title 41, United States Code, §§701-707 which includes the consequences for employees who violate criminal drug statutes in the workplace.

Section 1.100 is amended by changing the name "State Highway and Public Transportation Commission" to "Texas Transportation Commission."

Section 1.101 is amended to include new and expanded definitions of terms. The term "aftercare" is amended to include the term "inhalant." The term "counseling" is amended to include the term "inhalants" and a provision allowing employee assistance program staff to prescribe the frequency and duration of counseling sessions in consultation with counseling program staff, as appropriate. The term "crewmember" is amended to expand the definition to include individuals who occupy a position, or perform the duties and functions of a position, required by the vessel's Certificate of Inspection; who perform the duties and functions of patrolmen or watchmen; or is specifically assigned the duties of warning, mustering, or controlling the movement of passengers during emergencies. The term "department" is amended to reflect the statutorily revised designation of this agency's name. The term "Employee Assistance Program (EAP)" is amended to include the term inhalant. The term "inappropriate use of an inhalant" is added since many inhalants are legal and are commonly found in a business setting. The term "inhalant" is added to specify those substances whose inappropriate use is prohibited. The term "operation of a vessel" is added to clarify the definition of a "crewmember." The definition of "program" is amended to include the inappropriate use of inhalants. The definition of "rehabilitation treatment" is amended to include the term "inhalant."

Section 1.102 is amended to prohibit the inappropriate use of inhalants; to prohibit employees from performing official duties while under the influence of inhalants; to encourage employees to voluntarily use employee assistance, counseling, or rehabilitation treatment programs to deal with inhalant abuse, and to inform them that the department will conduct education sessions to inform employees of the dangers of inhalant abuse in the workplace.

Section 1.103 is amended by deleting specific calendar dates for implementation of testing for all employees in safety sensitive positions and substituting therefor dates commensurate with identifying positions as safety sensitive. This change will assure sufficient time in which to properly and accurately identify those employees who are actually engaged in safety sensitive positions.

Section 1.104 is amended by including a provision for selecting a ship at random and testing its entire crew to facilitate the random testing of crewmembers.

Section 1.105 and §1.106 are amended to add the stipulation that in the case of a crewmember, the department shall report a positive drug test result in writing to the nearest Coast Guard Officer in Charge, Marine Inspection (OCMI).

Section 1.106 is also amended by outlining the personnel actions which will be taken against employees who: experience work related problems as a result of the inappropriate use of inhalants; voluntarily admit having a problem with inhalants; or are observed inappropriately using inhalants in the workplace. This section is also amended to specify that when an employee has been

convicted of a criminal drug statute violation which involves the sale, distribution, transportation, or manufacture of dangerous drugs in the workplace, the employee shall be notified within 30 days that he or she is subject to consistently applied discipline, up to and including termination. The revised wording further provides, however, that if an employee is convicted of a criminal drug statute violation occurring in the workplace which involves the possession with intent to use a dangerous drug, the employee shall be notified within 30 days that he or she is required to successfully complete counseling or rehabilitation treatment or be terminated. A third amendment to §1.106 includes adding language which clarifies the penalties for employees who do not successfully complete counseling or rehabilitation treatment after being mandatorily referred.

Section 1.107 is amended by outlining the treatment options available to employees who have an inhalant abuse problem and adding a provision which allows employee assistance program staff to prescribe the content, frequency, and duration of counseling sessions in consultation with counseling program staff, as appropriate.

Section 1.109 is amended by replacing the phrase "deputy director" with "associate executive director."

On July 2, 1992, and July 23, 1992, public hearings were held to receive comments, views, and/or testimony concerning the proposed amendments. Comments were received from three employees at the hearings. The total number of employees who submitted written comments cannot be determined since some of the comments were summarized into one response which was sent in by one employee. One commenter stated that they were not given sufficient notice of the date for the first hearing. Notice was published in the June 12, 1992, issue of the *Texas Register* and circulated to all employees within the department. To assure proper time was given, a second hearing regarding the proposed amendments to the Substance Abuse Program rules was held on July 23, 1992, and the deadline to receive written comments was extended until August 3, 1992. Notice of these actions was published in the July 10, 1992, issue of the *Texas Register* and was circulated to all employees within the department.

Regarding §1.101, Definitions, one commenter made a general statement with regard to "inappropriate use of an inhalant." The commenter stated that "we should include the phrase 'in such a manner as might cause intoxication or impairment' in the workplace after the phrase 'or inappropriately using an inhalant' wherever this phrase appears in the text of the rules." We do not see a need for this change since we want to prohibit the inappropriate use of an inhalant. By prohibiting the inappropriate use of an inhalant, we are prohibiting the behavior which leads to intoxication or impairment.

Regarding §1.103(a)(1), Applicability, one commenter did not understand why maintenance employees will be subject to testing prior to other employees even though both groups engage in safety sensitive activities.

Another commenter felt that the department was "picking" on maintenance personnel. The commenter stated that, "If we have safety sensitive activities, then there should be no differentiation between maintenance personnel and all other employees performing safety sensitive activities as far as the dates to begin testing." In response to these comments, it is true that maintenance positions have received a greater amount of attention in the initial process of identifying safety sensitive positions. Implementing testing requires a great amount of time. If implementation for all employees occurred at one time, the implementation dates would be greatly delayed. Therefore, the department is implementing testing in phases by separating all safety sensitive positions into two groups and implementing testing first for the group which has the greatest number of employees and which has the greatest exposure to activities that could have an immediate, direct impact on the safety of the traveling public and other employees. The amount of time it takes to properly identify safety sensitive positions is a major reason why drug and alcohol testing has not been implemented for covered employees in maintenance and other areas.

Also in §1.103(a)(2) and (3), Applicability, several commenters questioned whether or not pre-employment and post-accident testing would actually start on October 1, 1992. The answer is no. This is due to the time involved in accurately identifying employees in safety sensitive positions. Subsequently, the other categories of testing will also be delayed. Therefore, we are changing the language in §1.103(a)(2) and (3). The department will determine if an employee is actively engaged in work which constitutes a safety sensitive position by reviewing that employee's individual job description. Upon completion of this review, the employee will be notified in writing whether or not he or she is subject to testing.

Another commenter stated that, "I am disturbed that policy as proposed and written in this program still calls for random testing of state employees in non-safety related activities." We agree with this position. Section 1.103(A) (2) and (3) clearly states that only those employees in safety sensitive positions will be subject to testing. A safety sensitive position is further defined in §1.101.

Regarding §1.106(d), Personnel Actions, one commenter suggested that the statement in §1.102(a)(2), Policy, regarding the department being informed of a conviction by the convicted employee, be repeated in this section to avoid confusion and inconsistency. This commenter also recommended adding a definition of conviction for further clarification. Another comment regarding this section recommended that we mention what adverse action will be taken if the employee does not report a conviction within the specified time period. This commenter further recommended adding the adverse action to §1.102, Policy. The rationale for this was that it would protect the department and show a good faith effort to comply with the Drug Free Workplace Act of 1988. First, the conviction could be for a misdemeanor or a felony, so a definition is not needed. Second, we agree with this commenter and will be adding the provision that if an employee does not inform

us of a conviction within five days, he or she will be subject to consistently applied discipline, up to and including termination as outlined in §1.106(d). We will also delete the phrase "either by notification from the convicted employee or other appropriate means" from §1.106(d). With regard to the comment suggesting that we add the adverse action to §1.102(a)(2), Policy, this is not possible since this section was not proposed for amendment.

In §1.106(d)(1), Personnel Actions, one commenter posed the question "Why don't we just require that such a conviction subjects them to termination upon written notification from the department or some other adverse action?" This is a good idea. Therefore, we are removing the phrase "the procedures outlined in subsection (f) of this section." and replacing it with "consistently applied discipline, up to and including termination."

Regarding §1.106(d)(2), Personnel Actions, one commenter questioned why the term "possession" was used in this section. This commenter felt that it made this section more confusing due to the various legal definitions of possession and the fact that this term is not used anywhere else in the text of the rules. The reason we used the term "possession" is that we have equated "possession" with "use" and we have different personnel actions for "using" versus "selling" etc. However, we agree that the use of "possession" is confusing and inconsistent and in an effort to clarify this section, we are adding the phrase "with intent to use" after the term "possession."

We received many comments which addressed sections or section subdivisions which were not being proposed for amendment. While we appreciate all of the comments received, we are not able to consider these comments at this time. We will review and evaluate each of these comments for possible future action.

The amendments are adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation.

§1.103. Applicability.

(a) A crewmember, an employee in a safety sensitive position, and a final applicant for a crewmember or safety sensitive position, will be subject to alcohol and drug tests as provided in this section.

(1) (No change.)

(2) For a position other than a crewmember position:

(A) a final applicant is subject to preemployment testing if the actual work to be performed in that position has been determined by the department to be safety sensitive; and

(B) an employee who is actually engaged in such safety sensitive work is subject to post accident, reasonable cause, and random testing.

(3) The executive director, or his or her designee, may establish the effective dates for initiating preemployment, post accident, reasonable cause, and random testing in order to insure the orderly implementation of this section.

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

§1.106. Personnel Actions.

(a) Consequences of failing an alcohol or drug test.

(1) (No change.)

(2) Covered employee.

(A) A covered employee who fails an alcohol or drug test will be terminated unless he or she meets each of the following criteria:

(i) is referred to the Employee Assistance Program (EAP) and successfully completes counseling or an alcohol or drug rehabilitation treatment program, which may include aftercare for a length of time to be specified by the rehabilitation treatment program's staff physician. The rehabilitation treatment program must be approved by the Texas Department of Mental Health and Mental Retardation or by the Texas Commission on Alcohol and Drug Abuse (successful completion of counseling or rehabilitation treatment program must be certified to the substance control officer in writing by the EAP staff or the rehabilitation treatment center's staff physician);

(ii) passes an alcohol or drug test after successfully completing counseling or rehabilitation treatment; and

(iii) consents, in writing on a form to be prescribed by the director, Human Resources Division, to increased unannounced testing for a period of up to 24 months.

(B) If a crewmember fails an alcohol or drug test:

(i) the department shall report the positive test result in writing to the nearest Coast Guard Officer in Charge, Marine Inspection (OCMI) and shall remove the individual from duties which directly affect the safe operation of the vessel as soon as practicable; and

(ii) the crewmember will be terminated unless he or she meets the requirements of subparagraph (A) of this paragraph and is found by the medical review officer to be drug-free and to pose a

sufficiently low risk for subsequent illegal drug use to justify his or her return to work. (The medical review officer shall determine the length of time, up to 60 months, during which the crewmember will be subject to increased, unannounced testing.)

(3) Subsequent actions. Except as provided in subsection (i) of this section, when a covered employee has experienced work related problems as a result of alcohol or drug use or the inappropriate use of inhalants and has been reinstated under paragraph (2) of this subsection, subsequent disciplinary action will not be taken for the previous work related problems provided the problems cease after reinstatement.

(b) (No change.)

(c) Voluntary admission of an alcohol, inhalant, or drug problem.

(1) An employee who voluntarily admits having a problem with alcohol, inhalant, or drug abuse will be referred to the EAP for counseling or rehabilitation treatment.

(2) Disciplinary action will not be taken against an employee who voluntarily admits having a problem with alcohol, inhalant, or drug abuse; provided, however, that in the case of a covered employee, the admission occurs prior to a determination that the covered employee should be tested pursuant to §1.104 of this title (relating to Test Categories and Requirements). The referred employee must successfully complete counseling or a rehabilitation treatment program, and provide a letter from the EAP staff or the treatment program's staff physician certifying the success to the substance control officer.

(d) Conviction of criminal drug statute violations in the workplace. As soon as the department becomes aware of a criminal drug statute violation in the workplace, the following procedure shall be followed within 30 days. If an employee fails to report a criminal drug statute violation occurring in the workplace, he or she will be subject to consistently applied discipline, up to and including termination.

(1) Employees who are convicted of criminal drug statute violations in the workplace which pertain to the sale, distribution, transportation, or manufacture of dangerous drugs shall be subject to consistently applied discipline, up to and including termination.

(2) Employees who are convicted of criminal drug statute violations in the workplace which involve the possession with the intent to use a dangerous drug shall be required to successfully complete counseling or a rehabilitation treatment program. Failure to successfully complete counseling or a rehabilitation treatment program shall result in immediate termination.

(e) Impaired performance due to lawful use of drugs. When due to the use of lawfully prescribed or over-the-counter substances, the employee is unable to perform his or her assigned duties or perform any duty in a safe manner, the employee will be subject to temporary reassignment of duties or be required to take leave.

(f) Sale, distribution, transportation, or manufacture of dangerous drugs inside and/or outside the workplace. If an employee is reasonably suspected of selling, distributing, transporting, or manufacturing dangerous drugs inside and/or outside the workplace, due to direct observation of such acts in the workplace or by reason of the indictment, arrest, or charge of selling, distributing, transporting, or manufacturing dangerous drugs inside or outside the workplace the following procedure shall be followed.

(1) The employee will be placed on immediate suspension with pay, which would be administrative leave, pending appropriate investigation and confirmation, and if such acts are confirmed, shall be subject to immediate termination.

(2) The employee shall immediately be provided with a letter which:

(A) summarizes the facts upon which such action is taken;

(B) notifies the employee that selling, distributing, transporting, or manufacturing dangerous drugs inside and/or outside the workplace subjects the employee to termination;

(C) advises the employee that he or she will have a specified period of time in which to provide a reasonable explanation; and

(D) advises the employee that if his or her response is insufficient or not acceptable or if an investigation by law enforcement, the department, or other authorities confirms the suspicion, the employee will be terminated.

(3) When suspicious behavior is observed in the workplace, the matter should be turned over to law enforcement authorities at the earliest possible time and a request made of such authorities to investigate.

(4) The employee shall be terminated if:

(A) the employee fails to respond within the specified period or to provide an acceptable explanation; and/or

(B) investigation by law enforcement or other authorities confirms the suspicion that the employee was selling, distributing, transporting, or manufacturing dangerous drugs.

(5) If the investigation reveals that the employee was using dangerous drugs inside the workplace and not selling, distributing, transporting, or manufacturing dangerous drugs inside and/or outside the workplace, the employee will be required to successfully complete counseling or a rehabilitation treatment program.

(6) If the investigation reveals that the employee was using dangerous drugs outside the workplace and not selling, distributing, transporting, or manufacturing dangerous drugs inside and/or outside the workplace, the employee will be given the opportunity to successfully complete counseling or a rehabilitation treatment program.

(g) Suspicious substance found. If a substance which appears to be a dangerous drug is found within an area under the effective control of an employee, actions contained in subsection (f) of this section shall be followed.

(h) Alcohol consumption, drug use, or the inappropriate use of inhalants in the workplace. If an employee is directly observed consuming an alcoholic beverage, taking a dangerous drug, whether orally or by inhalation or injection, or inappropriately using an inhalant in the workplace, the following procedure shall be followed.

(1) The employee will be placed on immediate suspension with pay (administrative leave), pending the employee's response, and if such response is unacceptable, shall be subject to immediate termination.

(2) The employee will be immediately provided with a letter which:

(A) summarizes the observed circumstances and behavior;

(B) notifies the employee that the consumption of alcohol, use of dangerous drugs, or the inappropriate use of an inhalant in the workplace subjects the employee to termination;

(C) advises the employee that he or she will have a specified period of time in which to provide a reasonable explanation; and

(D) advises the employee that if his or her response is insufficient or not acceptable, or if he or she refuses to successfully complete counseling or rehabilitation treatment, the employee will be terminated.

(3) The employee shall be terminated if he or she fails to respond within the specified period or to provide an acceptable explanation, or refuses to successfully complete counseling or rehabilitation treatment.

(i) Recurrence of Substance Abuse. Upon a third occurrence of the necessity to refer an employee to the EAP, counseling or rehabilitation treatment under the department's substance abuse program, the employee will not be referred but will be terminated.

(j) Failure to successfully complete counseling. Employees who are required to successfully complete counseling or a rehabilitation treatment program in accordance with §1.106 of this title (relating to Personnel Actions), shall be subject to termination if they fail to successfully complete counseling or a rehabilitation treatment program.

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

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Chapter 2. Environmental Affairs

Subchapter B. Memoranda of Understanding with Natural Resource Agencies

• 43 TAC §2.24

The Texas Department of Transportation (TxDOT) adopts new §2.24, concerning memorandum of understanding with the Texas Historical Commission and the Texas Antiquities Committee, with changes to the proposed text as published in the August 7, 1992, issue of the *Texas Register* (17 TexReg 5530).

Texas Civil Statutes, Article 6673g, enacted by Senate Bill 352, 72nd Legislature 1991, require the department to adopt a memorandum of understanding with each state agency that has responsibilities for the protection of the natural environment or for the preservation of historical or archeological resources. Article 6673g also requires the department and each of the resource agencies to adopt the memoranda and all revisions by rule. In order to meet this legislative intent and to ensure that natural resources are given full consideration in accomplishing the depart-

ment's activities, this new section is adopted on a permanent basis.

Section 2.24 adopts as Exhibit A a memorandum of understanding among the department, the Texas Historical Commission (THC), and the Texas Antiquities Committee (Committee) which provides for the review of department projects that have the potential to affect historic properties and cultural resources within the jurisdiction of THC and the Committee, and concerns the development of a system by which information developed by TxDOT, THC, and the Committee may be exchanged to their mutual benefit.

On September 14, 1992, at 9 a.m., the department, THC, and the Committee conducted a joint public hearing to seek comments concerning the proposed adoption of §2.24.

A representative of the Lone Star Chapter of the Sierra Club attended the hearing, presented oral testimony concerning the MOU, and submitted written comments following the public hearing. No other comments were received. The narrative that follows addresses the Sierra Club's comments.

The Sierra Club stated that it supports "the concept of MOUs between the Transportation Department and other natural resource agencies, and we support this MOU because we believe it is an improvement over the previous MOU."

A concern was expressed that the MOU does not include an "enforcement factor" to ensure that the MOU is properly administered. It was stated that "the Sierra Club strongly supports the Historical Commission and Antiquities Committee's authority to stop highway projects to avoid destruction of significant archaeological resources." It is the intent of the department to fully comply with the provisions of the MOU and to proceed with projects only after receiving appropriate clearance from THC and the Committee. Although the MOU does not include an enforcement provision, a provision for "Resolution of Objections" has been added. In addition, the MOU includes a "Dispute Resolution" provision. These provisions in the MOU are believed to be adequate for addressing disagreements among the agencies.

It was stated, "This MOU requires that the Department of Transportation receive Antiquities Committee clearance prior to right-of-way designation. This requirement has been ignored in the past and we would like to be assured that this provision will be strictly followed by the Transportation Department and enforced by the Antiquities Committee." The department recognizes its responsibilities related to the protection and preservation of cultural resources and intends to fully comply with the provisions of the MOU.

It was indicated "that the primary impetus that necessitates the need for MOUs between TxDOT and other natural resource agencies is to ensure that scientific surveys and analysis are completed very early in the project development phase of each proposed highway project." It was also suggested that the definition of "project development" in Section II be revised to reflect that "project develop-

ment generally includes all studies of a project prior to actual right-of-way designation or acquisition and construction." It is the intention of the department to complete all studies and surveys necessary to properly evaluate the impact of a project on natural and cultural resources early in the planning process. The department, however, believes that the definition of "project development" included in the MOU is appropriate since under certain circumstances studies cannot be completed or performed prior to acquisition of right-of-way. Such circumstances may involve hardship acquisition of right-of-way as authorized by federal law and denial of access by the property owner. When a property owner denies access to his or her property, the department's ability to perform early studies can be significantly hampered.

A suggestion was made that when previously unknown archeological remains are encountered after award of contract, the department and the review agency should consider re-routing or terminating the project (Section IV.A.5.). The Department disagrees with this comment. Should an archeological site be found during the course of construction, all feasible measures to minimize harm will be considered. However, once construction has commenced the feasibility of selecting an alternative route or cancelling the project is greatly reduced.

It was suggested that a "Failure to Report" section be included in the MOU and that the new section read as follows: "If the review agency determines that any TxDOT survey, testing methods, curation methods, or reporting is inadequate, the review agency shall give TxDOT notice and the highway project shall cease until the inadequacies are corrected." In an attempt to address these concerns Section IV.D., Resolution of Objections, has been included in the MOU.

The Sierra Club indicated that they are pleased with the language in Section IV.C., Artifact Recovery and Curation." It was stated

that "this is a very important part of the MOU, and TxDOT must include artifact recovery and curation as a significant part of the project development phase. TxDOT must ensure that artifacts recovered are properly cleaned, labeled and processed according to state and federal guidelines." Artifacts recovered by the department are treated and processed in accordance with applicable state and federal guidelines.

It was stated that the department must improve its testing and reporting methods. The department works closely with THC and Committee staff to continually improve and refine cultural resources testing and reporting methods.

It was also stated that "THC and TAC must enforce the intent of the Texas Antiquities Code by only giving clearance for right-of-way acquisitions when adequate archaeological surveys have been completed." The department is confident that THC and the Committee fully and appropriately evaluate the cultural resource impacts resulting from department projects and that decisions made by THC and the Committee during the project coordination process are a reflection of careful evaluation. Again it should be noted that, for various reasons, under certain circumstances it may not be possible for the department to complete all studies and surveys prior to acquisition of right-of-way.

It was stated that the "MOU is useless if its provisions are not followed in a timely fashion or if TAC/THC gives rubber stamp approval to highway projects without proper evaluation of the impacts to archaeological resources." The department intends to comply with the provisions of the MOU in a timely manner. Further, the department is confident that THC and the Committee fully and appropriately evaluate the cultural resource impacts resulting from department projects and that these evaluations are reflected in the decisions made by THC and the Committee during the project coordination process.

It was stated that "the Sierra Club continues to strongly urge TxDOT to give the resource agencies time to do their job so that highway projects can be constructed carefully following procedures that will avoid, reduce, or mitigate damage to the state's valuable natural resources." The MOU provides 30 days for project review by THC or the Committee. The department believes that 30 days for review is both reasonable and appropriate.

The new sections are adopted under Texas Civil Statutes, Articles 6666 and 6673g, which provide the Texas Transportation Commission with the authority to promulgate rules and regulations for the conduct of the work of the Texas Department of Transportation, and specifically for the adoption by rule of memoranda of understanding with natural resource agencies.

§2.24. Memorandum of Understanding with the Texas Historical Commission and the Texas Antiquities Committee.

(a) The Texas Department of Transportation (TxDOT) adopts as Exhibit A-24 a memorandum of understanding among TxDOT, the Texas Historical Commission (THC), and the Texas Antiquities Committee (Committee) concerning:

(1) the review of department projects which have the potential to affect historic properties and cultural resources within the jurisdiction of THC and the Committee, in order to assist TxDOT in making environmentally sound decisions; and

(2) the development of a system by which information held by TxDOT, THC, and the Committee may be exchanged to their mutual benefit.

(b) The memorandum of understanding follows as Exhibit A-24.

MEMORANDUM OF UNDERSTANDING

AMONG THE TEXAS DEPARTMENT OF TRANSPORTATION, THE TEXAS HISTORICAL COMMISSION, AND THE TEXAS ANTIQUITIES COMMITTEE

I. NEED FOR AGREEMENT

- A. It is the practice of the Texas Department of Transportation (TxDOT) to:
1. investigate fully the environmental impacts of TxDOT transportation projects, coordinate these projects with applicable state and federal agencies, and reflect these investigations and coordinations in the environmental documentation for each project;
 2. base project decisions on a balanced consideration of the need for a safe, efficient, economical, and environmentally sound transportation system;
 3. complete public involvement and a systematic interdisciplinary approach as essential parts of the development process for transportation projects; and
 4. mitigate project impacts to provide environmentally sound roadway projects where such mitigation is feasible and prudent and where such mitigation is agreed upon by appropriate agencies.
- B. In order to pursue this policy, the Texas Department of Transportation, the Texas Historical Commission (THC), and the Texas Antiquities Committee (Committee) have agreed to develop this Memorandum of Understanding (MOU), which will supersede the TxDOT's MOU with the Committee which became effective on January 5, 1972.
- C. Senate Bill 352, enacted by the 72nd State Legislature, directs TxDOT to adopt memoranda of understanding with applicable environmental resource agencies.
- D. The rules for coordination of state-assisted transportation projects developed by the TxDOT and published in the June 11, 1991 Texas Register (16 TexReg 3197) underline the need for and importance of comprehensive environmental coordination for all transportation projects.
- E. It is the intent of this MOU to provide a formal mechanism by which the THC and the Committee may review TxDOT projects which have the potential to affect historic properties (cultural resources) within the jurisdiction of the THC and the Committee, and to develop a system by which information held by the TxDOT, the THC, and the Committee may be exchanged to their mutual benefit.
- F. This memorandum supersedes that memorandum of understanding executed by TxDOT, THC, and the Committee on January 31, 1992 and that memorandum of understanding is of no further force or effect.

II. DEFINITIONS

A. Antiquities Code of Texas (ACT): Designates the Texas Antiquities Committee as the legal custodian of all cultural resources, historic and prehistoric, within the public domain of the State of Texas, and the body which issues antiquities permits, in accordance with 13 TAC Chapter 41 and as provided in ACT Sections 191.054 and 191.091-098.

B. Antiquities Permit: A permit issued by the Texas Antiquities Committee in order to regulate site destruction, archeological testing, and archeological excavation.

C. Archeological Excavation (Data Recovery): Use of field techniques, including those of archeological testing, but with the goal of addressing specific research issues identified with the site's historic context. Excavation (data recovery) is conducted under an approved data recovery plan developed in consultation with the State Historic Preservation Officer and The Advisory Council on Historic Preservation, following the procedure set forth under 36 CFR 800, for federal undertakings; or in consultation with the Texas Antiquities Committee for non-federal undertakings, in accordance with 13 TAC Chapter 41.

D. Archeological Monitoring: Use of a professional archeologist present on-project when clearing and grubbing or other construction activities are being conducted. Should evidence of archeological remains be encountered, TxDOT will ensure that clearing and grubbing or other construction activities shall cease in the area of the archeological remains until these remains can be assessed and evaluated in accordance with appropriate state and federal laws and regulations.

E. Archeological Resource/Site: Locations where prehistoric or historic remains are found in a primary deposit, excluding extant standing structures dating from the historic time period. Note that archeological sites can be associated with a historic structure and historic structural ruins can be designated as archeological sites (TAC Rules Chapter 41 Subsection 5). However, an extant standing structure itself (as contrasted to a historic structural ruin) does not constitute an archeological site in the absence of other associated remains. Prehistoric ruins are considered to be archeological sites.

F. Archeological Survey: Archeological field methods used to locate archeological remains, including on-foot examination of the surface, shovel testing, and subsurface trenching by mechanical means where appropriate.

G. Archeological Testing: Use of field techniques including excavation of holes larger or deeper than those of a shovel test, and including mechanical trenching and removal of artifacts. Archeological field research limited to determination of eligibility for the National Register of Historic Places for federal undertakings, as defined in 36 CFR 800, or determination of significance for non-federal undertakings, as defined in 13 TAC Chapters 41-45. The review agency will determine what level of testing is appropriate under the MOU. The Committee will determine when test phase investigations warrant an antiquities permit.

H. Committee: Means the Texas Antiquities Committee.

I. Cultural Resources: A general term synonymous with "Historic Properties."

J. Eligibility: A site's eligibility for the National Register of Historic Places (NRHP) as set forth in 36 CFR 800.

K. Environmental Documents: Decision-making documents which incorporate the results of environmental studies, coordination and consultation efforts, and engineering elements. Types of documents include categorical exclusion assessments, environmental assessments, and environmental impact statements.

L. Historic Property: Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register of Historic Places (NRHP), as defined in 36 CFR 800.2.

- M. Historic Resource: A feature of the built environment which is potentially eligible for listing in the NRHP as defined in 36 CFR 60.
- N. Historic Resource Survey: Examination of the project for the presence of historic resources.
- O. Mechanical Testing: Excavation with backhoe, Gradall, or other heavy equipment in order to locate archeological remains.
- P. Project Development: The planning process of a highway project, which includes engineering design as well as environmental studies and public involvement procedures. Project development generally includes all studies of a project prior to actual construction.
- Q. Review Agency: The appropriate review agency for each particular circumstance. The Texas Historical Commission (THC) has jurisdiction over federal undertakings, as defined in 36 CFR 800, and the Texas Antiquities Committee (Committee) has jurisdiction over non-federal undertakings and the issuing of antiquities permits, as provided in ACT Sections 191.054 and 191.091-098.
- R. Right-of-Way: The land provided for a highway, usually including the roadway itself, shoulders, and areas between the roadway and adjacent properties.
- S. Shovel Testing: Excavation of test holes which shall measure at least 35 cm in diameter and shall be excavated to a basal horizon or bedrock, or to a depth of at least 1 m if a basal horizon or bedrock is not reached. This technique is used both in areas where surface visibility is low and in areas where the potential for archeological remains is high. Shovel testing is also used when surface indications of archeological remains are encountered in order to provide a preliminary determination of the depth of the cultural deposits.
- T. State Archeological Landmark: Archeological and historic properties as defined in Subchapter D of the Antiquities Code of Texas (ACT) and identified in accordance with 13 TAC Chapter 41 and 13 TAC Chapter 45.
- U. Subsurface Survey: Mechanical or hand-dug probing of a site or project area during the survey phase to record or examine subsurface deposits, for the collection of archeological or geomorphic data.

III. RESPONSIBILITIES

A. Texas Department of Transportation

1. The responsibilities of the TxDOT pertain primarily to its functions as a transportation agency, and include the following:
 - (a) planning and designing safe, efficient, cost-effective, and environmentally sound transportation facilities, and avoiding, minimizing, or compensating for environmental impacts as far as practicable when they are anticipated to occur;
 - (b) the timely and efficient construction of transportation facilities, executed in a manner consistent with approved plans or agreements which have been entered into by the department for the protection of the natural environment and cultural sites; and
 - (c) the ongoing maintenance of these facilities to provide safe, efficient, and environmentally sound transportation facilities for the travelling public, and dedication to the protection of natural and cultural resources within the jurisdiction of the TxDOT.
 - (d) TxDOT has made a commitment to the preservation and enhancement of the human environment.

2. Senate Bill 352, which became effective on September 1, 1991, directs the TxDOT to adopt a memorandum of understanding with each state agency that has responsibilities for the protection of the natural environment or for the preservation of historical or archeological resources.

B. Texas Historical Commission

The Texas Historical Commission, through the office of the State Historic Preservation Officer (SHPO), regulates the disposition and management of historic properties which are affected by federal undertakings, as described in the National Historic Preservation Act, Section 106, and in 36 CFR 800.

C. Texas Antiquities Committee

1. The Texas Antiquities Committee regulates the disposition and management of archeological landmarks which are affected by non-federal undertakings, as described in the Antiquities Code of Texas and 13 TAC Chapter 41.

2. The Texas Antiquities Committee issues permits for the taking, excavation, restoration, or study of state archeological landmarks as provided in ACT Sections 191.054 and 191.091-098.

IV. PROVISIONS

A. Procedures for Coordination Regarding Archeological Resources

1. Initial Coordination Phase

(a) TxDOT may combine the initial coordination phase with the archeological survey phase (see item IV.A.2) in order to expedite project coordination. In these cases, the review agency will be afforded an opportunity to comment on both the survey methodology and survey results.

(b) TxDOT will identify projects requiring coordination for archeological resources, as indicated by the level of project documentation. Such projects include:

i. any project which, although classified as a categorical exclusion (CE), is judged to have the potential to affect archeological resources;

ii. all projects requiring issuance of a Finding of No Significant Impact (FONSI), when such a project is judged to have the potential to affect archeological resources; and

iii. all projects requiring an Environmental Impact Statement (EIS).

(c) TxDOT will identify projects which are not believed to require individual coordination for archeological sites and will provide the THC and the Committee with a list of such projects on a monthly basis.

(d) The TxDOT will begin coordination by conducting a search of the site files at the Texas Archeological Research Laboratory (TARL) as well as site files and survey records held at the THC and the Committee. The THC and the Committee will render TxDOT all reasonable assistance in the search.

(e) TxDOT will request a review of the project by the review agency. TxDOT will submit for review:

- i. plans, project descriptions, and other documentation required by the review agency for review;
- ii. a statement detailing the result of the site files search, including information on any sites listed in the site files and occurring on or near the project, including a list of properties on or near the project which are listed in the National Register of Historic Places, or are designated as State Archeological Landmarks (SALs); and
- iii. a statement recommending which portions of the project are to be surveyed, the techniques to be used on each part of the project, and identifying the portions of the project which have a high likelihood of yielding archeological remains.

(f) The review agency will respond within 30 days of receipt of the TxDOT request for review of the project. The response will include:

- i. a statement of concurrence or non-concurrence with the results of the site files check and the survey recommendations contained in the TxDOT request for review, and
- ii. any other comments relevant to the archeological resources which could be affected by the project.

(g) TxDOT will include the results of the site files search, survey recommendations, and comments received from the review agency in any environmental assessment or Draft EIS written as part of the project, and will present the findings at the public hearing, if such hearing is held.

2. Archeological Survey Phase

(a) All projects, and portions of projects, recommended for survey by the TxDOT and for which concurrence has been obtained from the review agency during the initial phase of coordination will be the subjects of archeological survey using the methods agreed upon between the TxDOT and the review agency.

(b) An archeological survey will be conducted by a member of the TxDOT professional archeological staff or other archeologist approved by the review agency.

(c) When the archeological survey has been completed, the TxDOT will request a review of the results of the survey. With its request for review, the TxDOT will include:

- i. a letter report or form detailing the results of the survey, including a discussion of any deviations from the methods agreed upon during the initial phase of coordination;
- ii. the project location plotted on 7.5' Series USGS quadrangle maps;
- iii. copies of archeological site survey forms for any new archeological sites discovered during survey;
- iv. copies of archeological site survey forms for any previously recorded archeological sites; and
- v. recommendations regarding archeological testing or archeological monitoring.

vi. If deemed necessary, the review agency may request TxDOT to produce a formal report of findings made as a result of a survey phase investigation.

(d) The review agency will respond within 30 days of receipt of the TxDOT request for review of the survey results and recommendations. The response will include:

- i. a statement of concurrence or non-concurrence with the results of the site files check and the survey results contained in the TxDOT request for review, and
- ii. any other comments relevant to the archeological resources which could be affected by the project.

(e) TxDOT will include the results of the archeological survey and recommendations in the environmental assessment or Final EIS, if one is prepared.

3. Archeological Testing Phase

(a) All sites and portions of sites recommended for testing by the TxDOT, the THC, or the Committee will be the subjects of archeological testing, using the methods agreed upon by the TxDOT and the review agency.

(b) The review agency may send a representative to observe any or all of the testing procedures.

(c) At the completion of testing, the TxDOT will prepare a formal report of the results of testing.

i. For sites affected by federal undertakings, the report will include recommendations regarding eligibility for the NRHP, as described in 36 CFR 800.

ii. For sites affected by non-federal undertakings, the report will include recommendations regarding the significance of the site and whether designation as a State Archeological Landmark is warranted, in accordance with ACT, Sections 191.091-.092, and 13 TAC Chapters 41-45.

(d) TxDOT will send the testing report to the review agency with a request for review.

(e) The THC, in accordance with 36 CFR 800, will respond to the report within 30 days of receipt of the TxDOT request for review. The response will include:

i. a statement of concurrence or non-concurrence with the results of the archeological testing and recommendations contained in the TxDOT request for review;

ii. a determination of the site's eligibility for listing in the National Register of Historic Places; and

iii. any other comments relevant to the archeological site which has undergone archeological testing.

(f) The Committee, in accordance with 13 TAC Chapter 41 and ACT Section 191, will respond to the report within 60 days of receipt of the TxDOT request for review. The response will include:

i. a statement of concurrence or non-concurrence with the results of the archeological testing and recommendations contained in the TxDOT request for review;

ii. a determination of whether the site warrants designation as a State Archeological Landmark; and

iii. any other comments relevant to the archeological site which has undergone archeological testing.

(g) TxDOT will include the results of the archeological survey and recommendations in the environmental assessment or Final EIS, if one is prepared.

(h) The Committee may require an antiquities permit be issued for some test phase investigations if the scope of the investigations warrants it. All testing performed by non-TxDOT staff archeologists must be performed under an antiquities permit.

4. Archeological Excavation/Data Recovery

(a) All sites and portions of sites determined to be eligible for the NRHP (for federal undertakings) or significant (for non-federal undertakings) based on consultation with the review agency during the survey phase or testing phase will be the subjects of data recovery.

(b) TxDOT (or their contracted agent), in consultation with the review agency, will develop a suitable data recovery plan for each eligible or significant archeological site on a case-by-case basis, in accordance with 36 CFR 800 for federal undertakings and ACT Section 191 for non-federal undertakings. Final data recovery plans must be approved by the review agency prior to their implementation.

(c) Results of data recovery will be published as required by 36 CFR 800 and/or ACT Section 191.

5. Archeological Sites Found After Award of Contract

(a) When previously unknown archeological remains are encountered after award of contract, TxDOT will immediately suspend construction that would affect the site.

(b) A TxDOT archeologist will examine the remains and report the findings to the appropriate review agency. The Federal Highway Administration (FHWA) will enter consultations regarding the disposition of the site or sites for federal undertakings, as required by 36 CFR 800.

(c) TxDOT and the review agency will prepare a plan of action to determine eligibility or significance, and/or mitigate the effects on the site.

(d) TxDOT may continue construction in the affected area upon approval of the review agency.

B. Procedures for Coordination Regarding Historic Resources

1. TxDOT will identify projects requiring coordination with the review agency for historic resources. Coordination will be required for:

(a) any project which, although classified as a CE, is judged to have the potential to affect historical resources;

(b) any project requiring the issuance of a FONSI, when such project is judged to have the potential to affect historic resources;

(c) all projects requiring an EIS.

2. TxDOT will identify which projects require individual coordination for historic resources. The TxDOT will provide a list of those projects which do not require individual coordination to the THC and Committee on a monthly basis.
3. For projects requiring individual coordination, TxDOT will conduct a search of available records, references, and resources, including listings of Registered Texas Historic Landmarks (RTHLs), State Archeological Landmarks (SALs), and properties listed in the National Register of Historic Places (NRHP), as well as local historic property survey files on record at the THC. The THC and Committee will render all reasonable assistance to the TxDOT in the search.
4. TxDOT will conduct historic resources surveys to locate historic resources which are potentially eligible for inclusion in the National Register of Historic Places.
5. For each project requiring individual historic resources coordination with the review agency, TxDOT will provide the following:
 - (a) plans, project descriptions and other documentation as needed;
 - (b) a statement detailing the results of the records search;
 - (c) a summary of the results of the historic resources survey, describing all resources
 - i. listed in or potentially eligible for listing in the NRHP for federal undertakings, or
 - ii. which possess historical interest as defined by ACT Section 191.092 for non-federal undertakings.
6. The review agency will respond within 30 days of receipt of the TxDOT request for review of the project. The response will be in accordance with 36 CFR 800, ACT Chapter 191, and 13 TAC Chapter 41.
7. TxDOT will include information on historic resources in the environmental assessment or Draft EIS, and will present these findings at the public hearing, should one be held.
8. TxDOT will include information on historic resources in the environmental assessment or Final EIS, if one is prepared.
9. All historic resources either listed in or determined eligible for listing in the NRHP (for federal undertakings) or designated as SALs (for non-federal undertakings) which are affected by projects will be subject to mitigation of these effects.
10. TxDOT, in consultation with the review agency, will develop a suitable mitigation plan:
 - a. in accordance with 36 CFR 800 for historic resources listed in or determined eligible for listing in the NRHP for federal undertakings, or
 - b. in accordance with ACT Chapter 191 for historic resources designated as SALs for non-federal undertakings. Final mitigation plans must be approved by the review agency prior to implementation of mitigation efforts.

C. **Artifact Recovery and Curation**

1. **Artifact Recovery**

(a) All artifacts or analysis samples (such as soil samples) that are recovered from survey, testing, or data recovery investigations by TxDOT or their contracted agents must be cleaned, labeled, and processed in preparation for long-term curation.

(b) Recovery methods must conform to 36 CFR 800, Committee Rules, and/or Council of Texas Archeologists (CTA) guidelines to ensure proper care and curation.

2. **Artifact Curation**

(a) TxDOT may temporarily house artifacts and samples during their laboratory analysis research, but all artifacts must be transferred to a permanent curatorial facility within a reasonable time period, to be decided by the review agency.

(b) All artifacts and samples must be placed at the Texas Archeological Research Laboratory or some regional artifact curatorial repository which fulfills 36 CFR 800, Committee Rules, or CTA Curation Standards, as approved by the review agency.

(c) TxDOT is responsible for the curatorial preparation of all artifacts so that they are acceptable to the receiving curatorial repository and fulfill 36 CFR 79, Committee Rules, or CTA Curation Standards, as approved by the review agency.

D. **Resolution of Objections**

1. Should the reviewing agency timely object (within the stipulated review period) to any plans provided for review or any actions proposed by TxDOT regarding:

(a) any phase of coordination for archeological resources including initial coordination, survey, testing, excavation/data recovery, and reporting,

(b) any phase of coordination for historic resources including initial coordination, historic resources survey, and mitigation, or

(c) curation of site materials, documentation and samples

TxDOT and reviewing agency shall enter into consultation to resolve the objection.

2. If the objection cannot be resolved through the consultation process, either TxDOT or the reviewing agency may, at any time, terminate consultation and invoke the provisions of Section V. (Dispute Resolution) of this agreement.

V. DISPUTE RESOLUTION

A. In such instances when TxDOT and the review agency are unable to reach a mutually agreeable plan of action regarding survey, testing, determination of eligibility or significance, or mitigation, a good-faith effort will be made to develop a compromise plan.

B. If TxDOT and the review agency cannot arrive at a compromise plan, the dispute will be resolved in accordance with procedures established under State and Federal rules.

1. Federal undertakings will follow the procedures provided in 36 CFR 800, including consultation with the Advisory Council on Historic Preservation, if necessary.

2. Non-federal undertakings will follow the procedures provided in 13 TAC Chapters 41-45.

VI. REVIEW OF MOU

This memorandum shall be reviewed and updated no later than January 1, 1997, and every fifth year after that date, as provided for in SB 352 and Article 6673g, Section 3(d) of Vernon's Texas Civil Statutes.

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 December 7, 1992.

TRD-9216266

Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Effective date: December 28, 1992

Proposal publication date: July 14, 1992

For further information, please call: (512)
463-8630



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 at the Office of the Secretary of State in lobby of 221 East 11th Street, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

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

Texas Department of Agriculture

Monday, December 21, 1992, 1 p.m. The Texas Department of Agriculture will meet at the Cochran County Courthouse, Commissioners' Court, Room 105, Morton. According to the complete agenda, the department will hold a public hearing to receive public comment on proposed special exemptions for Cochran County concerning the application of all regulated herbicides.

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

Filed: December 7, 1992, 9:08 a.m.

TRD-9216252

Thursday, January 7, 1993, 9 a.m. (Rescheduled from Tuesday, July 7, 1992, 10 a.m.) The Office of Hearings Examiner of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of 4 TAC §§6.1-6.4 by Gus Whalon, Sr.

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

Filed: December 4, 1992, 2:35 p.m.

TRD-9215155

Texas Appraiser Licensing and Certification Board

Wednesday, December 16, 1992, 9 a.m. The Education Committee of the Texas Appraiser Licensing and Certification Board

will meet at TREC Headquarters, 1101 Camino La Costa, Conference Room 235, Second Floor, Austin. According to the complete agenda, the committee will call the meeting to order; discuss and make possible recommendations to the Texas Appraiser Licensing and Certification Board concerning contracting for examinations and other examination matters; possible amendments to the Rules 22 TAC §153.11 relating to examinations, §153.9 relating to applications, and §153.3 relating to fees, procedures and criteria for approving courses and educational providers; discuss other educational matters; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78752, (512) 465-3950.

Filed: December 7, 1992, 4:41 p.m.

TRD-9216343

Wednesday, December 16, 1992, 1 p.m. The Special Projects Committee of the Texas Appraiser Licensing and Certification Board will meet at TREC Headquarters, 1101 Camino La Costa, Conference Room 235, Second Floor, Austin. According to the complete agenda, the committee will call the meeting to order; discuss and make possible recommendations to the Texas Appraiser Licensing and Certification Board concerning policies and procedures regarding standards, violations, enforcement, complaint resolution; possible amendments to the Rules (22 TAC §§151, 153 and 155); or possible statute changes regarding complaints and enforcement; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78752, (512) 465-3950.

Filed: December 7, 1992, 4:42 p.m.

TRD-9216344

Thursday, December 17, 1992, 8 a.m. The Legislative Liaison Committee of the Texas

Appraiser Licensing and Certification Board will meet at TREC Headquarters, 1101 Camino La Costa, Conference Room 235, Second Floor, Austin. According to the complete agenda, the committee will call the meeting to order; discuss and make possible recommendations to the Texas Appraiser Licensing and Certification Board concerning communications with legislators and with the legislature; and possible amendments to the Texas Appraiser Licensing and Certification Act (Article 6573(a)(2), Vernon's Texas Civil Statutes) and other legislative matters; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78752, (512) 465-3950.

Filed: December 7, 1992, 4:42 p.m.

TRD-9216345

Thursday-Friday, December 17-18, 10 a.m. The Texas Appraiser Licensing and Certification Board will meet at the TREC Headquarters, Conference Room 235, Second Floor, 1101 Camino La Costa, Austin. According to the agenda summary, on Thursday, the board will call the meeting to order; discuss approval of minutes; hear Ethics Committee presentation; staff reports; budget committee report; and 1994-1995 LAR; personnel committee report; job description and evaluation instrument for commissioner; education committee report; contracting for exams; possible amendments to rules 22 TAC §§153.11, 153.9 and 153.3; special projects committee report, policies and procedures regarding standards, enforcement, complaint resolution; possible amendments to 22 TAC §§151, 153, 155; legislative liaison Committee report; recommendations for amendments to Article 6573(a)(s), Vernon's Texas Civil Statutes; discuss amendments to 22 TAC §153.17 concerning renewals for out-of-state military and TGSLC defaults; state

business travel; board procedures, policies and interpretations; visitor comments; meeting dates; and adjourn. On Friday, the board will call the meeting to order; act on items from previous day still requiring action; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78752, (512) 465-3950.

Filed: December 7, 1992, 4:43 p.m.

TRD-9216346

Texas Commission on the Arts

Wednesday, December 16, 1992, noon. The Cultural Diversity Advisory Committee of the Texas Commission on the Arts will meet at the E. O. Thompson Building, Third Floor Conference Room, 920 Colorado Street, Austin. According to the complete agenda, the committee will discuss approval of minutes; review of Fiscal Year 1993 panel appointments; review of equity rider and plan; review of "Participation and Service" (A report on patterns of financial and technical assistance made by the TCA to organizations providing arts services for or in minority communities fiscal year 1989-1992.); review of TCA program changes; and initial planning discussion for cultural diversity symposium.

Contact: Connie Ree Green, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: December 7, 1992, 2:28 p.m.

TRD-9216300

Texas Cancer Council

Monday, December 14, 1992, 9:30 a.m. The Strategic Planning Committee of the Texas Cancer Council will meet at the M. D. Anderson Cancer Center, Room C-9.002, Houston. According to the complete agenda, the committee will call the meeting to order; discuss Fiscal Year 1993 proposals; review action plan; discuss data collection activities; other business; 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 Debra Perkins at (512) 463-3190 five working days prior to the meeting so that appropriate arrangements can be made.

Contact: Emily F. Untermeyer, 211 East Seventh Street, Suite 710, Austin, Texas 78701, (512) 463-3190.

Filed: December 7, 1992, 9:25 a.m.

TRD-9216264

Texas Department of Commerce

Friday, December 4, 1992, 9 a.m. The State Job Training Coordinating Council Executive Committee of the Texas Department of Commerce met at the Omni Hotel, 700 San Jacinto, Austin. According to the emergency revised complete agenda, the committee called the meeting to order; heard public comments; made introductions; heard opening remarks; discussed update from committees on council activity; heard report from the Smart Jobs Task Force; policy briefing: status of transfer of education funds from the Texas Department of Commerce to the Texas Education Agency; discussed action item: SJTCC comments on proposed Job Training Partnership Act regulations; discussed future direction and role of the SJTCC; and adjourned. The emergency status was necessary due to new information from the United States Department of Labor (received after the Texas Register deadline) requires Executive Committee policy guidance in order for required full council action to occur at the January 22, 1993, meeting.

Contact: Alexa Ray, P.O. Box 12728, Austin, Texas 78711, (512) 320-9884.

Filed: December 3, 1992, 1:11 p.m.

TRD-9216142

Texas School for the Deaf

Friday, December 11, 1992, 8:30 a.m. The Governing Board Budget and Audit Committee of the Texas School for the Deaf will meet at 601 Airport, Building 602, Staff Development Room, Austin. According to the agenda summary, the committee will hold an audit report on residential services; and evaluation of internal auditor.

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

Filed: December 3, 1992, 3:06 p.m.

TRD-9216165

Friday, December 11, 1992, 8:30 a.m. The Governing Board Policy Committee of the Texas School for the Deaf will meet at 601 Airport, Building 602, Austin. According to the agenda summary, the committee will review and discuss policy amendments; and policy review.

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

Filed: December 3, 1992, 3:05 p.m.

TRD-9216164

Friday, December 11, 1992, 10 a.m. The Governing Board of the Texas School for the Deaf will meet at 601 Airport, Building 602, Large Conference Room, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of minutes of September 11, 1992; business for information purposes; business requiring board action; comments by board members; and adjourn.

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

Filed: December 3, 1992, 3:05 p.m.

TRD-9216163

Texas Office for Prevention of Developmental Disabilities

Wednesday, December 16, 1992, 1:30 p.m. The Head/Spinal Cord Injury Task Force/Bicycle Helmet Legislation Subcommittee of the Texas Office for Prevention of Developmental Disabilities will meet at the Texas Medical Association Building, 401 West 15th Street, 10th Floor, Austin. According to the agenda summary, the subcommittee will welcome visitors and members; make introductions; discuss bicycle helmet legislation; and discuss ATV legislation amendment.

Contact: Jerry Ann Robinson, 4900 North Lamar Boulevard, Austin, Texas 78756, (512) 483-5042.

Filed: December 7, 1992, 9:31 a.m.

TRD-9216269

Texas Planning Council for Developmental Disabilities

Monday, December 14, 1992, 1 p.m. The Executive Committee of the Texas Planning Council for Developmental Disabilities will meet at the Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Room 6302, Austin. According to the complete agenda, the committee will call the meeting to order; strategic planning discussion and approval; discuss approval of minutes; hear public comments; executive director's comments; FY 1994-1995 appropriations request update; discuss designated state agency for the council's consideration; 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 Denese Holman at (512) 483-4087.

Contact: Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4080.

Filed: December 4, 1992, 9:22 a.m.

TRD-9216185

Texas Education Agency

Thursday-Friday, December 10-11, 1992, 9 a.m. and 8 a.m. respectively. The Advisory Committee for Technology Standards (ACTS) of the Texas Education Agency (TEA) will hold an emergency meeting at the Department of Information Resources, Capitol One Plaza Building, 15th and Lavaca Streets, Austin. According to the agenda summary, on Thursday the committee will hold a materials review period; updates for members, housekeeping, etc.; report on current state technology issues; discuss concepts of the form and dissemination of ACTS efforts and documents; preparation and editing of hardware standards documents; preparation of training standards and educator technology competencies; mock run-through of TENET; and adjourn. On Friday, the committee will distribute information from Thursday's activities (read and study this information); discuss the technology allotment end-of-year report; complete work on hardware standards and training standards; continue work; and wrap-up and adjourn. The emergency status is necessary as the committee was delayed until now because of the problems arising from budget availability.

Contact: Lane Scoot, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9719.

Filed: December 7, 1992, 8:51 a.m.

TRD-9216251

Friday, December 11, 1992, 9 a.m. The Committee on Student Learning of the Texas Education Agency will meet at the Austin Marriott at the Capitol, 701 East 11th Street, Austin. According to the complete agenda, the committee will make introductions and comments; conduct work session with Rexford Brown, Senior Fellow, Education Commission of the States developing a matrix of trends and emerging initiatives, prepare strategies for committee action, and determine committee priorities; discuss vision statement and the status of the committee's report to the 73rd Texas Legislature; and discuss other topics.

Contact: Marvin Veselka, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9533.

Filed: December 3, 1992, 10:29 a.m.

TRD-9216139

Friday-Saturday, December 11-12, 1992, 10 a.m. and 8:30 a.m. respectively. The Continuing Advisory Committee for Special Education of the Texas Education Agency will meet at the Red Lion Inn, IH-35 at 290, Austin. According to the agenda summary, on Friday, the committee will discuss: good news; approval of minutes; perfection of agenda; hear public comment; discuss old and new business; unmet needs; hearing officer decisions; report card for school districts-How Does It Address Students with Disabilities?; options for consideration of recommended funding for special education; mediation; and on Saturday, the committee will hold a panel discussion-"What Needs to Happen for Inclusion to be a Reality?"; hearing officer procedures; update on leadership initiative; and plan for next meeting.

Contact: Shirley Sanford, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9414.

Filed: December 4, 1992, 2:25 p.m.

TRD-9216150

Employees Retirement System of Texas

Wednesday, December 16, 1992, 10 a.m. The Trustee Election Committee, Board of Trustees of the Employees Retirement System of Texas will meet at the ERS Building, 18th and Brazos Streets, Room 407, Austin. According to the complete agenda, the committee and board will give a report on election administrator selection; certification of candidates for board of trustee election; set future meeting date; and adjourn.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3336.

Filed: December 8, 1992, 8:56 a.m.

TRD-9216351

Wednesday, December 16, 1992, 11 a.m. The Audit Committee and Board of Trustees of the Employees Retirement System of Texas will meet at the ERS Building, 18th and Brazos Streets, Room 407, Austin. According to the complete agenda, the committee and board will give a briefing on internal auditing function; status of fiscal year 1993 ERS internal audit plan; status of fiscal year 1992 ERS internal audit recommendations; status of fiscal year 1991 state auditor recommendations; peer review performed by the Teacher Retirement System of Texas internal auditor; set future meeting date; and adjourn.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3336.

Filed: December 8, 1992, 8:56 a.m.

TRD-9216352

Texas Employment Commission

Tuesday, December 15, 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; actions, if any, resulting from executive session; consider proposed or pending legislation and possibly act with respect thereto; internal procedures of commission appeals; consider and act on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 50; and set date of next meeting.

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

Filed: December 7, 1992, 3:37 p.m.

TRD-9216315

Texas Ethics Commission

Friday, December 11, 1992, 9:30 a.m. The Texas Ethics Commission will meet at 1101 Camino La Costa, Room 235, Austin. According to the agenda summary, the commission will take roll call; comments and communications from executive director and public; discuss any unfinished business from the commission's December 10, 1992 meeting; discuss approval of minutes; briefing, discussion and possible action on judicial studies; report on advisory opinions and statutory changes; response to requests to waive fines against late filers; proposed rule, Chapter 10, Practice and Procedure §§10.1-10.43; and AOR's 96, 101, 137, 113, 120, 122, 79, 83, 86, 87, 92, 94, 97, 106, 115, 117, 118, 125, 132, 73A, 73B, 59, 60, 61, 27, 33, 72, 98, 126, and 78. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are required to contact Margie Castellanos at (512) 463-5800 or (800) 325-8506 at least two days before this meeting so that appropriate arrangements can be made. Please also contact Ms. Castellanos if you need assistance in having English translated into Spanish.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: December 4, 1992, 1:59 p.m.

TRD-9216145

◆ ◆ ◆
Office of the Governor

Thursday, December 10, 1992, 9 a.m. The Criminal Justice Division-Juvenile Justice and Delinquency Prevention Act of the Office of the Governor held and emergency meeting at the Houston-Galveston Area Council, Second Floor, Conference A, 3555 Timmons, Houston. According to the emergency agenda summary, the division called the meeting to order; made introductions; discussed overview of Juvenile Justice and Delinquency Prevention Act; eligible types of statewide and demonstration projects; grant application forms; instructions; financial/administrative requirements; submission requirements and deadline; and adjourned. The emergency meeting was necessary due to applicants needing the application information in order to prepare their application properly.

Contact: Jim Kester, P.O. Box 12428, Austin, Texas 78701, (512) 463-1919.

Filed: December 3, 1992, 10:01 a.m.

TRD-9216132

Friday, December 11, 1992, 9 a.m. The Automobile Theft Prevention Authority of the Office of the Governor will meet at the Clements Building, Room 202, 300 West 15th Street, Austin. According to the agenda summary, the authority will call the meeting to order; make introductions; discuss Legislation issues by Mart Hanna; discuss approval of grant application kit; discuss status of hiring marketing/education director and field operations director; discuss approval of Texas Department of Public Safety Statewide Sticker Program budget; hear report on border solutions subcommittee; presentation from Quality Planning Corporation; discuss potential agreement with crimestoppers; discuss approval of production of public service announcements by USAA; discuss approval of proposed auto theft prevention conference; hear report by the Texas Department of Insurance; and adjourn.

Contact: Linda Young, 221 East 11th Street, Austin, Texas 78701, (512) 463-1919.

Filed: December 3, 1992, 10:03 a.m.

TRD-9216133

◆ ◆ ◆
House of Representatives

Tuesday, December 15, 1992, 10 a.m. The Texas Veteran's Memorial Committee of the House of Representatives will meet in Room 101, John H. Reagan Building, 105

West 15th Street, Austin. According to the complete agenda, the committee will call the meeting to order; take roll call; hear report from preservation board on project site; and adjourn.

Contact: C. J. with Representative Collazo's Office, P.O. Box 2910, Austin, Texas 78769, (512) 463-0880.

Filed: December 4, 1992, 2:26 p.m.

TRD-9216152

◆ ◆ ◆
Texas Department of Human Services

Monday, December 14, 1992, 9:30 a.m. The Hospital Payment Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, Second Floor, West Tower, Classroom 1, Austin. According to the complete agenda, the committee will discuss approval of the minutes; hear reports on dispro share survey; disproportionate share reconstitution recommendations; open discussion; set next meeting; and adjourn.

Contact: Geri Willems, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4798.

Filed: December 4, 1992, 1:37 p.m.

TRD-9216215

◆ ◆ ◆
Texas Department of Insurance

Monday, December 14, 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 agenda summary, the board will discuss personnel; solvency; litigation; budget; staff reports; commissioner's orders; consider filings by International Insurance Company, Continental Casualty Company, Insurance Corporation of America North American Speciality Insurance Company, Central Mutual Insurance Company, Government Employees Insurance Company and extension of filing by United States Fire Insurance Company; consider excess of loss policies and municipal bond individual risk submissions by AMBAC Indemnity Corporation; consider authorization for publication of proposed 28 TAC §7.62 and proposed repeal of §7.62; consider authorization for publication of proposed 28 TAC §7.18; and consider workers' compensation negotiated deductible endorsements filed by Continental Insurance Company, Lumbermens' Underwriting Alliance.

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

Filed: December 4, 1992, 2:03 p.m.

TRD-9216147

Tuesday, December 15, 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 under Docket Number 1965 to consider the appeal from Commissioner's Order Number 92-1098 by DLG Financial Corporation concerning a Form A acquisition of Bankers Protective Life Insurance Company by DLG Financial Corporation.

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

Filed: December 3, 1992, 4:20 p.m.

TRD-9216175

Wednesday, December 16, 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 consider and possibly adopt a prehearing order for 1992 benchmark rate hearings under Article 5.101, Texas Insurance Code.

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

Filed: December 4, 1992, 2:03 p.m.

TRD-9216146

Wednesday, December 16, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Lorrie Rene Cobo, Allen, 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: December 7, 1992, 3:30 p.m.

TRD-9216310

Friday, December 18, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to whether disciplinary action should be taken against Kenneth Donovan, of Baytown, Texas, who holds 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: December 7, 1992, 3:30 p.m.

TRD-9216309

Friday, December 18, 1992, 9:30 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Orville Wayne Martin, of Castroville, Texas, for a Local Recording Agent's license and to consider whether disciplinary action should be taken against Orville Wayne Martin who holds a Group I, Legal Reserve Life Insurance Agent's license and a Variable Contract Agent's license.

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

Filed: December 7, 1992, 3:35 p.m.

TRD-9216314

Friday, December 18, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application for amendment of the Articles of Incorporation of Preferred Bankers Life Insurance Company, Dallas, Texas, increasing the authorized capital.

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

Filed: December 7, 1992, 3:31 p.m.

TRD-9216311

Monday, December 21, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby II, Fourth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider an appeal of Eric H. Scheffey, M.D., of the decision of the Texas Medical Liability Insurance Underwriting Association.

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

Filed: December 7, 1992, 3:39 p.m.

TRD-9216316

Monday, January 11, 1993, 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 R-1966 to consider possible adoption of proposed amendments to 28 TAC §5.401, which provides protection to applicants for private

passenger insurance who have not had such insurance prior to application. The proposed amendments were published in the October 23, 1992 issue of the *Texas Register* (17 TexReg 7514). The comment period expired on November 23, 1992.

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

Filed: December 7, 1992, 9:52 a.m.

TRD-9216276

Lamar University System

Thursday, December 10, 1992, 9:30 a.m. The Committee of the Lamar University System met at the John Gray Institute, 855 Florida, Map Room, Beaumont. According to the agenda summary, the following committees met: building and grounds committee, academic affairs committee, student relations/services committee, personnel committee, and finance and audit committee; met in executive session: held under provisions of Vernon's Texas Civil Statutes, Article 6252-17, §2, Paragraph (3)(e), legal; (f), real estate; and (g), personnel.

Contact: Dr. James A. (Dolph) Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: December 4, 1992, 4:06 p.m.

TRD-9216242

Thursday, December 10, 1992, 10:30 a.m. (Revised agenda). The Personnel Committee of Lamar University System met at the John Gray Institute, 855 Florida, Map Room, Beaumont. According to the revised agenda summary, the committee considered approval of revised organization structure and appointment of president at Lamar University Institute of Technology; and considered appointment of System Chief Financial Officer.

Contact: James A. (Dolph) Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: December 7, 1992, 9:51 a.m.

TRD-9216275

Thursday, December 10, 1992, 11:30 a.m. (Revised agenda). The Board of Regents of the Lamar University System met at the John Gray Institute, 855 Florida, Map Room, Beaumont. According to the complete revised agenda, the board met in executive session and possibly considered approval of budget adjustments in conjunction with salary administration (included on finance and audit committee meeting agenda, but inadvertently left off executive session).

Contact: James A. (Dolph) Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: December 7, 1992, 10:53 a.m.

TRD-9216280

Thursday, December 10, 1992, 1:30 p.m. The Board of Regents of Lamar University System met at the John Gray Institute, 855 Florida, Map Room, Beaumont. According to the agenda summary, the board considered recommendations of: building and grounds committee; academic affairs committee; student relations/services committee; personnel committee; and finance and audit committee.

Contact: James A. (Dolph) Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: December 7, 1992, 11 a.m.

TRD-9216281

Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association

Tuesday, December 15, 1992, 9 a.m. The Board of Directors of the Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association will meet at 333 Guadalupe Street, 12th Floor Conference Room, Austin. According to the agenda summary, the board will consider and possibly act on: approval of minutes; review of Guaranty Association activities; meet in executive session; matters discussed in executive session; review financial statements for periods ending October 31, 1992 and November 30, 1992; review individual receivership balance sheets; act on adoption of 1993 strategic plan/budgets; Class "A" and "B" assessments; discuss fund expenses for liquidation division termination and oversight; report on audit of association; review Executive Life Rehabilitation Plan, Guaranty Security Life, Inter-American, Mutual Benefit, and Mutual Security, and Underwriters Life; NOLHGA Disposition Committee fees and expenses assessment; insurance coverage for the association; commissioner's request regarding funds to rehabilitate an insurer; and set next meeting date.

Contact: C. S. LaShelle, 301 Congress Avenue, #2025, Austin, Texas 78701, (512) 495-6444.

Filed: December 7, 1992, 1:23 p.m.

TRD-9216287

Texas National Guard Armory Board

Tuesday, December 15, 1992, 11 a.m. The Texas National Guard Armory Board will hold an emergency meeting at 2200 West

35th Street, Building 64, Austin. According to the agenda summary, the board will discuss approval of minutes of previous meeting; administrative matters; construction/renovation/maintenance; property/leases; and establish date and location of next meeting. The emergency status is necessary as the Texas Public Finance Authority to sell bonds on behalf of this agency and board meetings must be in conjunction.

Contact: Sandra Hille, P.O. Box 5426, Austin, Texas 78763, (512) 451-6394.

Filed: December 8, 1992, 9:19 a.m.

TRD-9216355

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**Texas Board of Licensure
for Nursing Home Admin-
istrators**

Tuesday, December 8, 1992, 1 p.m. The Education Committee of the Texas Board of Licensure for Nursing Home Administrators held an emergency revised agenda at 4800 North Lamar Boulevard, Suite 210, Austin. According to the emergency revised complete agenda, the committee called the meeting to order; took roll call; discussed approval of agenda; discussed and possibly took action on approving the THCA proposal for their CQI Program; discussed and possibly took action on the proposed rule for increasing the CE hours to 40 every two years; discussed public hearing on NAB rule; and adjourned. The emergency status was necessary due to item inadvertently left off original posting.

Contact: Janet Lacy, 4800 North Lamar Boulevard, Suite 310, Austin, Texas 78756, (512) 458-1955.

Filed: December 7, 1992, 11:29 a.m.

TRD-9216282

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**Texas Board of Private In-
vestigators and Private Se-
curity Agencies**

Wednesday, December 16, 1992, 9 a.m. The Texas Board of Private Investigators and Private Security Agencies will meet at the Worthington Hotel, 200 Main Street, Fort Worth. According to the complete agenda, the board will discuss approval of minutes of September 23, 1992 meeting; report and board action on responsibilities of board members; presentation and possible board approval of private investigation-Level I course by Professional Development and Research Institute; review of staff recommendation and board action on new licenses, suspension orders; certificates for replacement managers; license terminations; revocations; denials; reprimands; requests

for waiver of board rule; other proposals for decision; requests for rehearing and related issues; discussion and possible board approval to seek Attorney General's Opinion as requested by Dan Lewis, D&L Security; report on advisory committee and Ad Hoc committees; report and board action on proposed "Anti-Stalking" Legislation; report on employee information update problem; and hear public comment. (Lunch break will be taken at an appropriate time).

Contact: Clema D. Sanders, 313 East Anderson Lane, #200, Austin, Texas 78752, (512) 463-5545.

Filed: December 7, 1992, 4 p.m.

TRD-9216319

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**Texas Public Finance Au-
thority**

Tuesday, December 15, 1992, 2 p.m. The Board of the Texas Public Finance Authority will meet at the Central Services Building, 1711 San Jacinto Boulevard, Room 402, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of the minutes of October 28, 1992, and November 20, 1992, board meetings; consider resolution authorizing the issuance of T.P.F.A. (Texas National Armory Board) Armory Improvement Revenue Bonds, Series 1992-A; consider a resolution authorizing the issuance of bonds to provide funds for the financing or refinancing of certain equipment purchases by various state agencies; discuss other business; consider setting a date for the next board meeting; and adjourn.

Contact: Teresa McCleary, 300 West 15th Street, Suite 411, Austin, Texas 78701, (512) 463-5544.

Filed: December 7, 1992, 4:18 p.m.

TRD-9216323

◆ ◆ ◆
**Public Utility Commission of
Texas**

Tuesday, December 15, 1992, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will consider the following dockets: 9960, 10302, 10823, 10825, 10826, 10856, 10915, 11027, 10019, 10200, 10034, 11271, 11302, 11303, 11220, 11487, 11544, 10733, 11362, and P-11125.

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

Filed: December 7, 1992, 3:26 p.m.

TRD-9216307

Tuesday, December 15, 1992, 9:05 a.m. The Administrative of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will discuss reports; discuss and act on budget and fiscal matters; possibly budget amendment for relocation of Human Resources Office; reimbursement to employees for fees imposed by House Bill 11, 72nd Texas Legislature; monthly financial statements; consider participation in TQM training; possibly contribute to the NRRRI; possibly comments on the FERC proposed RTG regulations; commission jurisdiction over cellular telephone service; discuss approval of questions for publication concerning IRP regional hearing; annual report; comments to Texas House of Representative Committee on State, Federal, and International Relations on NAFTA Agreement; proposed revisions to the telephone rate filing package; proposed resolution in support of an interagency council on abandoned rail corridors; adjourn to meet in executive session to consider litigation and personnel matters; reconvene on matters considered in executive session; set time and place for next meeting; and adjourn.

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

Filed: December 7, 1992, 3:26 p.m.

TRD-9216308

Wednesday, December 16, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11253, complaint of the Sunmeadow Community Improvement Association of Friendswood, Texas against Southwestern Bell Telephone Company.

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

Filed: December 4, 1992, 3:20 p.m.

TRD-9216231

Monday, December 21, 1992, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 11548, application of Cap Rock Electric Cooperative, Inc. for an experimental cotton gin rate.

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

Filed: December 7, 1992, 3:26 p.m.

TRD-9216306

Wednesday, January 6, 1993, 1 p.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 9640, complaint of Metropolitan Fiber Systems, Inc. against Southwestern Bell Telephone Company.

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

Filed: December 4, 1992, 3:19 p.m.

TRD-9216229

Monday, January 11, 1993, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11373, application of Southwestern Bell Telephone to revise tariff with regard to common line 800 service.

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

Filed: December 7, 1992, 3:24 p.m.

TRD-9216304

Thursday, March 11, 1993, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a second settlement conference in Docket Number 10832, Houston Lighting and Power Company standard avoided cost calculation for the purchase of firm energy and capacity from qualifying facilities, pursuant to Substantive Rule 23.66(h)(3).

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

Filed: December 4, 1992, 3:34 p.m.

TRD-9216170

Texas Racing Commission

Monday, December 14, 1992, 10 a.m. The Texas Racing Commission will meet at the Texas Rehabilitation Commission, Brown Heatly Building, Section 1420 and 1430, 4900 North Lamar Boulevard, Austin. According to the complete agenda, the commission will call the meeting to order; take roll call; vote to adopt on an emergency basis the following Horse and Greyhound Rules: 321.119; consider and vote on the following matters: correction to commission order granting a Class 1 racetrack license to Retama Park Association, motions for Rehearing in Number 91-R1-26, in reference:

the Applications for a horse racing track license in Dallas/Tarrant Counties, Texas; discuss old business and new business; and adjourn.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78711, (512) 794-8461.

Filed: December 4, 1992, 3:14 p.m.

TRD-9216226

Railroad Commission of Texas

Monday, December 14, 1992, 9:30 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, 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 on the attached agenda. 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: December 4, 1992, 10:58 a.m.

TRD-9216210

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: December 4, 1992, 10:56 a.m.

TRD-9216201

The commission will consider and act on the Surface Mining and Reclamation Division Director's report on division administration, budget, procedures, personnel matters. The commission will consider and act on the Surface Mining and Reclamation Division's abandoned uranium mine prioritization report. The commission will consider and act on the staff's report on the Texas Aggregate Quarry and Pit Program.

Contact: Melvin B. Hodgkiss, P.O. Box 12967, Austin, Texas 78711, (512) 463-6901.

Filed: December 4, 1992, 10:56 a.m.

TRD-9216202

The commission will consider and act on the administrative services division director's report on division administration, budget, procedures and personnel matter.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711, (512) 463-7257.

Filed: December 4, 1992, 10:56 a.m.

TRD-9216203

The commission will meet in consideration of 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: December 4, 1992, 10:57 a.m.

TRD-9216204

The commission will consider and act on the Investigation Division Director's report on division administration, investigations, budget, procedures, and personnel matters.

Contact: Marcelo R. Montemayor, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6828

Filed: December 4, 1992, 10:57 a.m.

TRD-9216205

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. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6710.

Filed: December 4, 1992, 10:57 a.m.

TRD-9216206

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 commission's office. The commission will discuss a proposed training agreement for the gas utility section of the legal division. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel, and pending litigation. Consideration of a contract for public information services.

Contact: Walter H. Washington, Jr. P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: December 4, 1992, 10:57 a.m.

TRD-9216207

The commission will consider and act on the Automatic Data Processing Division Di-

rector'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: December 4, 1992, 10:57 a.m.

TRD-9216208

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 Kelley, P.O. Box 12967, Austin, Texas 78711, (512) 463-7110.

Filed: December 4, 1992, 10:58 a.m.

TRD-9216209

(12th Floor Conference Room 12-126)The commission will hold its monthly statewide hearing on oil and gas to determine the lawful market demand for oil and gas and to consider and/or take action on matters listed on the agenda posted with the Secretary of State's Office.

Contact: Paula Middleton, P.O. Box 12967, Austin, Texas 78711, (512) 463-6729.

Filed: December 4, 1992, 10:55 a.m.

TRD-9216200

Thursday, December 17, 1992, 3 p.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room 12-126, Austin. According to the revised agenda summary, the commission will hold its monthly statewide hearing on oil and gas to determine the lawful market demand for oil and gas and to consider and/or take action on matters.

Contact: Paula Middleton, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6729.

Filed: December 7, 1992, 9:32 a.m.

TRD-9216271

Texas National Research Laboratory Commission

Thursday, December 17, 1992, 11 a.m. The Texas National Research Laboratory Commission will meet at the Dallas Love Field Airport Administration Offices, Mezzanine Level, Conference Room A, Dallas. According to the agenda summary, the commission will convene meeting; take roll call of members; hear chairman's report by Charles R. Perry; hear public comment; hear committee reports on finance and audit, research and education, personnel, procurement, and minority affairs, and site acquisition and development; meet in

executive session; reconvene; and adjourn.

Contact: Karen L. Chrestay, 1801 North Hampton, #400, DeSoto, Texas 75115, (214) 709-3800.

Filed: December 7, 1992, 3:50 p.m.

TRD-9216317

Sam Houston State University

Wednesday, December 9, 1992, 11:30 a.m. The Sam Houston Bicentennial Birthday Celebration Committee of the Sam Houston State University met at the Guest Quarters Hotel, 303 West 15th at Lavaca Street, Austin. According to the complete agenda, the committee will call the meeting to order; discuss approval of minutes from last meeting, July 20, 1992; review state calendar; potential sales of Sam Houston bust; fund raising support; executive director report; and set next meeting date.

Contact: Twila Kirkpatrick, P.O. Box 2419, Huntsville, Texas 77341, (409) 294-3625.

Filed: December 3, 1992, 2:48 p.m.

TRD-9216158

School Land Board

Tuesday, December 15, 1992, 10 a.m. The School Land Board will meet at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 831, Austin. According to the complete agenda, the board will discuss approval of previous board minutes; discuss Giddings (Austin Chalk-3), Field, Fayette County; Giddings (Austin Chalk-3), Burleson County; Clay North East (Austin Chalk 11350 Sand) Field, Burleson County; direct land sales, Hood and Johnson Counties; and Milam County; coastal public lands-consideration of commercial lease LC-87-082, Packery Channel, Nueces County; lease applications, Cypress Bayou, Orange County; Hynes Bay, Refugio County; Corpus Christi Bay, Nueces County; easement applications, Corpus Christi Bay, Nueces County; Oyster Bay (also known as Christmas Bay), Brazoria County; East Matagorda Bay, Matagorda County; Galveston Bay, Chambers County; Laguna Madre, Cameron County; Galveston Bay, Galveston County; Galveston Bay, Chambers County; West Galveston Bay, Galveston County; Copano Bay, Aransas County; structure permit terminations-Bastrop Bay, Brazoria County; Laguna Madre, Kleberg County; structure permit request, Laguna Madre, Kleberg County; structure permit renewal, Cox Lake, Brazoria County; meet in executive session-pending and proposed litigation.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: December 7, 1992, 4:22 p.m.

TRD-9216328

Sunset Advisory Commission

Thursday-Friday, December 10-11, 1992, 10 a.m. (Rescheduled from 9 a. m.). The Sunset Advisory Commission will meet at the House Chamber, State Capitol Building, Austin. According to the emergency revised complete agenda, on Thursday, the commission will call the meeting to order; discuss approval of the minutes; commission decisions on: General Services Commission, Employees Retirement System of Texas, and Teacher Retirement System of Texas. On Friday, the commission will continue discussing continuation of commission decisions on: General Services Commission, Employees Retirement System of Texas, and Teacher Retirement System of Texas; other business; and set next meeting date (proposed January 13 and 14). The emergency status is necessary due to time change.

Contact: Susan Kinney, 1400 Congress Avenue, Capitol Extension Suite E2.002, Austin, Texas 78701, (512) 463-1300.

Filed: December 4, 1992, 1:24 p.m.

TRD-9216143

Thursday-Friday, December 10-11, 1992, 10 a.m. The Sunset Advisory Commission will hold an emergency revised agenda at the Reagan Building, Room 103, Austin. According to the emergency revised complete agenda, on Thursday, the commission called the meeting to order; discussed approval of the minutes; commission decisions on: General Services Commission, Employees Retirement System of Texas, and Teacher Retirement System of Texas. On Friday, the commission will continue discussing continuation of commission decisions on: General Services Commission, Employees Retirement System of Texas, and Teacher Retirement System of Texas; other business; and next meeting date (proposed January 13th and 14th). The emergency status is necessary due to the unavailability of the House Chamber.

Contact: Susan Kinney, 1400 Congress Avenue, Capitol Extension Suite E2.002, Austin, Texas 78701, (512) 463-1300.

Filed: December 7, 1992, 1:59 p.m.

TRD-9216293

Teacher Retirement System of Texas

Friday, December 11, 1992, 9 a.m. The Board of Trustees of the Teacher Retirement System of Texas will meet at 1000 Red River Street, Fifth Floor Board Room, Austin. According to the agenda summary, the board will consider an appreciation resolution for J. J. "Jake" Pickle; consider appreciation awards for employees retiring in January 1993; presentation of plague from GFOA; discuss approval of minutes; review investments from previous quarter; review and consider discussion and recommendations of Investment Advisory Committee; hear report of Real Estate Committee; report on Texas Growth Fund; report of Audit Committee; report on activity within investment related bank accounts; consider resolution relating to improved post retirement benefits; report on Sunset Legislation decisions; report of Texas Public School Retired Employees Group Insurance Program; report of member benefits division; consider proposed rule changes; discuss litigation; hear report of the executive secretary; inquiries and comments by board members and consider suggested future agenda items; meet in executive session to discuss: evaluation of the performance of the executive secretary; evaluation of the performance of individual members of the TRS Board of Trustees; and review of individual financial disclosure statements of key TRS employees exercising duties of a fiduciary nature. The board may enter into closed session as provided by the Texas Open Meetings Act, §§2(e) and (g).

Contact: Mary Godzik, 1000 Red River Street, Austin, Texas 78701-2698, (512) 397-6400.

Filed: December 3, 1992, 3:50 p.m.

TRD-9216173

Texas Department of Transportation

Monday, December 21, 1992, 1:30 p.m. The Public Transportation Advisory Committee of the Texas Department of Transportation will meet at the Riverside Annex, 200 East Riverside Drive, #102, Austin. According to the agenda summary, the committee will give a final review of proposed rulemaking concerning Section 18 allocation rules; preliminary review of proposed rulemaking concerning transportation enhancement program; discuss Section 9 funding and legislative matters for public transportation; and election of a vice-chairman.

Contact: Richard Christie, 125 East 11th Street, Austin, Texas 78701, (512) 483-3650.

Filed: December 7, 1992, 9:27 a.m.

TRD-9216265

Texas State Treasury Department

Friday, December 11, 1992, 11 a.m. The Cash Management Committee of the Texas State Treasury Department will hold an emergency meeting at the John H. Reagan Building, Room 106, Austin. According to the complete agenda, the committee will approve a resolution authorizing an increase in the maximum aggregate outstanding principal amount of tax and revenue anticipation notes that may be issued and outstanding at any one time in Fiscal Year 1993. The emergency status is necessary in order to meet the State's need to manage the cash flow deficit and due to the inability to schedule the committee members at a later date, this meeting must be held on the above scheduled date.

Contact: Alicia M. Fechtel, 200 East 10th Street, Austin, Texas 78701, (512) 463-5971.

Filed: December 8, 1992, 8:35 a.m.

TRD-9216350

University of Texas Health Science Center at San Antonio

Wednesday, December 16, 1992, 3 p.m. The Institutional Animal Care and Use Committee of the University of Texas Health Science Center at San Antonio will meet in Room 422A, 7703 Floyd Curl Drive, San Antonio. According to the agenda summary, the committee will discuss approval of the minutes; review protocols; hear subcommittee reports; and discuss other business.

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7822, (512) 567-3717.

Filed: December 7, 1992, 1:22 p.m.

TRD-9216286

Texas Water Commission

Friday, December 4, 1992, 9 a.m. The Texas Water Commission met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the emergency revised agenda summary, the commission considered authorizing the executive director to amend the state superfund contract with the environmental protection agency for continuing to execute the temporary relocation plan

and the purchase of a property (for Arlington) which is believed to be overlaying an old waste pit. The emergency status was necessary in order to provide uninterrupted temporary relocation services to impact residents at the United Creosoting Superfund site.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78723, (512) 463-7905.

Filed: December 3, 1992, 2:25 p.m.

TRD-9216151

Wednesday, December 9, 1992, 9 a.m. The Texas Water Commission met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the emergency revised agenda summary, the commission considered approval to extend emergency regulations adopted by the commission on August 26, 1992, concerning municipal waste permit modification, 31 Texas Administrative Code (TAC) §§305.69-305.70. The emergency status was necessary due to emergency addendum was required in order to correct language in the caption.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78723, (512) 463-7905.

Filed: December 3, 1992, 2:16 p.m.

TRD-9216149

Wednesday, December 16, 1992, 8 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider the repeal of 31 TAC §§330.461-330.465 and the adoption of emergency rules 31 TAC Chapter 312, for the beneficial land application of Biosolides (sewage sludge) lifting the current moratorium on the beneficial use registration program.

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

Filed: December 7, 1992, 3:55 p.m.

TRD-9216318

Wednesday, December 16, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider the executive director's preliminary report and petition for order assessing administrative penalties and requiring certain action of Ian Evans, LP Number 000341.

Contact: Leslie Craven, P.O. Box 13000, Austin, Texas 78723, (512) 463-7875.

Filed: December 4, 1992, 1:59 p.m.

TRD-9216217

Wednesday, December 16, 1992, 9 a.m. The Texas Water Commission will meet at

the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider approving the following matters on the uncontested agenda: new water quality permits; amendments; renewal; district matters; rate matters; water rights; contracts for budgeted expenditures; Examiner's Memorandum; 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: December 7, 1992, 1:55 p.m.

TRD-9216288

Wednesday, December 16, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider approving the following matters on the uncontested agenda: rules; enforcement actions; district matters; Examiner's Proposal for decisions; 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: December 7, 1992, 1:55 p.m.

TRD-9216289

Wednesday, December 16, 1992, 9 a.m. (Revised agenda). The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the revised agenda summary, the commission will consider new water quality permits; amendments; renewal; district matters; rate matters; water rights; contracts for budgeted expenditures; examiner's memorandum; 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 78723, (512) 463-7905.

Filed: December 7, 1992, 4:02 p.m.

TRD-9216320

Wednesday, December 16, 1992, 9 a.m. (Revised agenda). The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the revised agenda summary, the commission will consider approving rules; enforcement actions; district matters; examiner's proposal for decisions; 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: December 7, 1992, 4:06 p.m.

TRD-9216321

Wednesday, January 13, 1993, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider the Tarrant County Water Control and Improvement District Number One's application for approval of preliminary plans to construct 234,324 feet of levee on the Trinity River in Freestone County. The project is located approximately 18 miles north-northeast of the City of Fairfield. This is a pilot project to test the feasibility of a possible alternative to constructing new reservoirs to meet increased water demands for the year 2030 planning period. Water will be diverted from the Trinity River, pre-treated through a wetlands system to remove sediment and nutrients, and then pumped into existing reservoirs for subsequent beneficial use in Docket Number 0290.

Contact: James Mirabal, P.O. Box 13087, Austin, Texas 78711, (512) 463-8185.

Filed: December 4, 1992, 1:59 p.m.

TRD-9216218

Wednesday, January 27, 1993, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will hold an agenda hearing on Richard L. and Kim L. Murphy's Application Number 5434 to maintain an existing dam and 8.0 acre-foot on-channel reservoir (Reservoir Number 3) with a surface area of 3.5 acres for in-place recreational and aesthetic purposes; construct and maintain a dam and 3.5 acre foot on-channel reservoir (Reservoir Number 2) with a surface area of .4 acre for in-place recreational and aes-

thetic purposes and for irrigation purposes on a proposed golf course; and construct and maintain an off-channel reservoir (Reservoir Number 1) at the well site. Reservoir Number 1 is off-channel, and Dam and Reservoir Numbers 2 and 3 are on-channel, on the unnamed tributary of South Fish Creek, tributary of Fish Creek, tributary of the Red River, Red River Basin. The land to be irrigated is approximately eight miles north of Muenster, Cooke County.

Contact: Jerry Boyd, P.O. Box 13087, Austin, Texas 78711, (512) 475-4604.

Filed: December 4, 1992, 9:41 a.m.

TRD-9216188

Wednesday, February 3, 1993, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will hold an agenda hearing on Plains Petroleum Operating Company's Application Number 5435 to divert and use, not to exceed 235 acre-feet of water per annum from the underflow of the Brazos River, Brazos River Basin. The water will be used for mining purposes (secondary oil recovery) approximately six miles south-southeast of Benjamin, Knox County.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 475-4586.

Filed: December 4, 1992, 9:41 a.m.

TRD-9216191

Wednesday, February 3, 1993, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will hold an agenda hearing on Capitol Aggregates' Application Number 4025A to amend Permit Number 3732. Permit Number 3732 authorizes the impoundment of not to exceed 31 acre-feet of water in an existing off-channel reservoir, Medina River, San Antonio River Basin, and the diversion from the off-channel reservoir of not to exceed 431 acre-feet of water per annum, at a maximum diversion rate of 2,000 gpm, to be used for mining purposes (sand and gravel washing) approximately 13 1/2 miles southwest of San Antonio, Bexar County. Applicant is requesting amendment to Permit Number 3732 to increase the authorized impoundment of water in aforesaid off-channel reservoir to 102 acre-feet; annual diversion of water to 1,200 acre-feet; diversion rate to 3,000 gpm; and consumptive usage from 5 acre-feet to 15 acre-feet.

Contact: Mark Evans, P.O. Box 13087, Austin, Texas 78711, (512) 475-4584.

Filed: December 4, 1992, 9:40 a.m.

TRD-9216187

Wednesday, February 10, 1993, 9 a.m.
The Texas Water Commission will meet at the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will hold an agenda hearing on Kingwood County Club, Inc.'s Application Number 5436 to divert 276 acre-feet of water per annum from an existing on-channel reservoir (Lake "D") on Bear Branch, tributary of West Fork San Jacinto River, tributary of the San Jacinto River, San Jacinto River Basin. The water would be impounded in three on-channel reservoirs (Lakes "A-1", "C", and "D") and one off-channel reservoir (Lake "D-1") for recreational purposes. Water would also be transferred from Lake "D" into Lake "D-1" through an equalizer pipe and subsequently diverted to irrigate 210 acres of land (golf course) approximately 22 miles northeast of Houston, Harris County.

Contact: Mark Evans, P.O. Box 13087, Austin, Texas 78711, (512) 475-4584.

Filed: December 4, 1992, 9:41 a.m.

TRD-9216189

Wednesday, February 10, 1993, 9 a.m.
The Texas Water Commission will meet at the Stephen F. Austin State Office Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will hold an agenda hearing on Kingwood Lakes Community Association, Inc.'s Application Number 5437 to maintain an existing dam and 161 acre-foot on-channel reservoir on Bear Branch, tributary of the West Fork San Jacinto River, tributary of the San Jacinto River, San Jacinto River Basin. The dam and reservoir will be used for in-place recreational purposes approximately 22 miles northeast of Houston, Harris County.

Contact: Mark Evans, P.O. Box 13087, Austin, Texas 78711, (512) 475-4584.

Filed: December 4, 1992, 9:41 a.m.

TRD-9216190

Texas Workers' Compensation Insurance Facility

Tuesday, December 15, 1992, 10 a.m.
The Governing Committee of the Texas Workers' Compensation Insurance Facility will meet the Guest Quarters Hotel, 303 West 15th Street, Austin. According to the agenda summary, the committee will discuss approval of November 24, 1992, minutes; consider and possibly act on petition to SBI to revise 28 TAC §5.6701, regarding procedures for selection of servicing companies, on 1993 operating budget, on proposed amendments to bid procedures for sale of surplus equipment, on all matters pertinent to engagement of auditor for 1992,

on fees for 1991 financial audit, on reimbursement or payment policy regarding fourth party vendor fees and servicing company fees for medical cost containment services; hear executive director's report; and meet in executive session(s) regarding personnel matters and pending legal matters. Following the closed executive session(s), the Governing Committee will reconvene in open and public session and take any action as may be desirable or necessary as a result of the closed deliberations, including actions affecting the facility's payment or nonpayment of certain benefits on behalf of retirees.

Contact: Russell R. Oliver, 8303 MoPac Expressway North, Suite 310, Austin, Texas 78759-8396, (512) 345-1222.

Filed: December 7, 1992, 4:08 p.m.

TRD-9216322

Regional Meetings

Meetings Filed December 3, 1992

The Harris County Appraisal District Board of Directors met at 2800 North Loop West, Eighth Floor, Houston, December 9, 1992, at 9:30 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292, (713) 957-5291. TRD-9216140.

The Heart of Texas Region Mental Health and Mental Retardation Center Board of Trustees met at 110 South 12th Street, Waco, December 10, 1992, at 11:45 a.m. Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (817) 752-3451. TRD-9216174.

The Hickory Underground Water Conservation District Number One Board and Advisors met at 2023 South Bridge Street, Brady, December 10, 1992, at 7 p.m. Information may be obtained from Loma Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9216176.

The Region VII Education Service Center Board of Directors met at the Johnny Cace's Restaurant, Highway 80 East, Longview, December 7, 1992, at 7 p.m. Information may be obtained from Don J. Peters, 818 East Main, Kilgore, Texas 75662, (903) 984-3071. TRD-9216138.

Meetings Filed December 4, 1992

The Alamo Area Council of Governments Area Judges met at 118 Broadway, Suite 420, San Antonio, December 8, 1992, at 3 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400,

San Antonio, Texas 78205, (512) 225-5201. TRD-9216144.

The Archer County Appraisal District Board of Directors met at the Appraisal District Office, 101 South Center, Archer City, December 9, 1992, at 5 p.m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9216214.

The Atascosa County Appraisal District Board of Directors met at Fourth and Avenue J, Poteet, December 10, 1992, at 1:30 p.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065-0139, (210) 742-3591. TRD-9216245.

The Austin-Travis County Mental Health and Mental Retardation Center Finance and Control Committee met at 1430 Collier Street, Board Room, Austin, December 8, 1992, at 1:30 p.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764, (512) 447-4141. TRD-9216213.

The Austin-Travis County Mental Health and Mental Retardation Center Executive Committee met at 1430 Collier Street, Board Room, Austin, December 10, 1992, at 7 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9216222.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors will meet at 1124-A Regal Row, Austin, December 12, 1992, at 5 p.m. Information may be obtained from Bill Couch, 1124-A Regal Row, Austin, Texas 78748, (512) 282-8441. TRD-9216246.

The Blanco County Central Appraisal District Board of Directors met at the Courthouse Annex in Blanco County, Avenue G and Seventh Street, Johnson City, December 8, 1992, at 5 p.m. Information may be obtained from Hollis Boatright, P.O. Box 338, Johnson City, Texas 78636, (210) 868-4013. TRD-9216160.

The Bosque Central Appraisal District Appraisal Review Board will meet at the Bosque Central Appraisal District Office, 104 West Morgan Street, Meridian, December 11, 1992, at 1:30 p.m. Information may be obtained from Billye L. McGehee, P.O. Box 393, Meridian, Texas 76665, (817) 435-2304. TRD-9216212.

The Carson County Appraisal District Board of Directors met at 102 Main Street, Panhandle, December 9, 1992, at 9 a.m. Information may be obtained from Donita Herber, P.O. Box 970, Panhandle, Texas 79068, (806) 537-3569. TRD-9216238.

The Central Appraisal District of Johnson County Board of Directors met at 109

North Main Street, Suite 201, Room 202, Cleburne, December 9, 1992, at 4:30 p.m. Information may be obtained from Priscilla A. Bunch, 109 North Main Street, Cleburne, Texas 76031, (817) 645-3986. TRD-9216221.

The Central Plains Center for MHMR and SA Board of Trustees will meet at 208 South Columbia, Plainview, December 15, 1992, at 5:30 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636. TRD-9216148.

The Coleman County Water Supply Corporation Board of Directors met at the Corporation Office, 214 Santa Anna Avenue, Coleman, December 9, 1992, at 1:30 p.m. Information may be obtained from Davey Thweatt, 214 Santa Anna Avenue, Coleman, Texas 76834, (915) 625-2133. TRD-9216211.

The Dallas Area Rapid Transit Budget and Finance Committee met at DART Headquarters, 1401 Pacific Avenue, Board Conference Room D, Dallas, December 8, 1992, at 11 a.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9216232.

The Dallas Area Rapid Transit Mobility Impaired Committee met at DART Headquarters, 1401 Pacific Avenue, Board Conference Room C, Dallas, December 8, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9216236.

The Dallas Area Rapid Transit Governmental Relations Committee met at DART Headquarters, 1401 Pacific Avenue, Board Conference Room B, Dallas, December 8, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9216235.

The Dallas Area Rapid Transit Bus Planning, Development and Operations met at DART Headquarters, 1401 Pacific Avenue, Board Conference Room C, Dallas, December 8, 1992, at 2:30 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9216234.

The Dallas Area Rapid Transit Board of Directors' met at DART Headquarters, 1401 Pacific Avenue, Board Room, First Floor, Dallas, December 8, 1992, at 4:30 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9216237.

The Dallas Central Appraisal District Board of Directors' met at 2949 North Stemmons Freeway, Dallas, December 9, 1992, at 7:30 a.m. Information may be ob-

tained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9216156.

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 North Stemmons Freeway, Dallas, December 21, 1992, at 10 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9216153.

The Dewitt County Appraisal District Appraisal Review Board met at the Dewitt County Appraisal Office, 103 Bailey Street, Cuero, December 10, 1992, at 9 a.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9216195.

The East Texas Council of Governments Executive Committee met at the Community Inn, Kilgore, December 7, 1992, at 6:30 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9216225.

The Education Service Center, Region XV Board of Directors met at the ESC Region XV, 612 South Irene Street, Conference Room One, San Angelo, December 10, 1992, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571. TRD-9216181.

The Education Service Center, Region 20 Board of Directors will meet at 1314 Hines Avenue, San Antonio, December 16, 1992, at 2 p.m. Information may be obtained from Dr. Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208, (210) 299-2400. TRD-9216194.

The El Oso Water Supply Corporation Board of Directors met at the Office, FM 99, Karnes City, December 8, 1992, at 7:30 p.m. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (210) 780-3539. TRD-9216154.

The Gonzales County Appraisal District Appraisal Review Board met at 928 St. Paul Street, Gonzales, December 10, 1992, at 9 a.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9216249.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul Street, Gonzales, December 10, 1992, at 6 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9216247.

The Grand Parkway Association met at 5757 Woodway, Suite 140 East Wing, Houston, December 8, 1992, at 10:15 a.m. Information may be obtained from Jerry L.

Coffman, 5757 Woodway, 140 East Wing, Houston, Texas 77057, (713) 782-9330. TRD-9216159.

The Hockley County Appraisal District Board of Directors met at 1103-C Houston Street, Levelland, December 8, 1992, at 6 p.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9216248.

The Kempner Water Supply Corporation Board of Directors met at the Kempner Water Supply Corporation Office, Highway 190, Kempner, December 10, 1992, at 7 p.m. Information may be obtained from Doug Lavender and/or Alton Myers, P.O. Box 103, Kempner, Texas 76539, (512) 932-3701. TRD-9216157.

The Kendall County Appraisal District Appraisal Review Board will meet at 121 South Main Street, Conference Room, Boerne, December 18, 1992, at 10 a.m. Information may be obtained from J. P. Davis, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9216192.

The Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, December 16, 1992, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9216183.

The Lower Colorado River Authority Retirement Benefits Committee will meet at 3701 Lake Austin Boulevard, Board Room, Austin, December 8, 1992, at 1 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9216233.

The Lower Rio Grande Valley Tech Prep/Associate Degree Consortium Steering Committee met at the Short Course Center, Texas State Technical College, 2424 Boxwood, Harlingen, December 9, 1992, at 3 p.m. Information may be obtained from Pat Bubb, 2424 Boxwood, Harlingen, Texas 78550-3697, (210) 425-0729. TRD-9216182.

The Manville Water Supply Corporation Board of Directors met at the Manville Water Supply Corporation Office, Spur 277, Coupland, December 10, 1992, at 7 p.m. Information may be obtained from Morris R. Boutwell, P.O. Box 248, Coupland, Texas 78615, (512) 272-4044. TRD-9216199.

The Nolan County Central Appraisal District Board of Directors met at the Nolan County Courthouse, Third Floor, Sweetwater, December 10, 1992, at 7 a.m. Information may be obtained from Steve Beck, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9216198.

The Region IV Education Service Center

Board of Directors' met at 7145 West Tidwell, Houston, December 8, 1992, at 6 p.m. Information may be obtained from W. L. McKinney, 7145 West Tidwell, Houston, Texas 77092, (713) 744-6534. TRD-9216239.

The South Texas Development Council STED Board of Trustees met at the Zapata County Library, Zapata, December 10, 1992, at 10 a.m. Information may be obtained from Robert Mendiola, P.O. Box 2187, Laredo, Texas 78044-2187, (210) 722-3995. TRD-9216219.

The South Texas Development Council Board of Directors met at the Zapata County Library, Zapata, December 10, 1992, at 11 a.m. Information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78044-2187, (210) 722-3995. TRD-9216197.

The Tarrant Appraisal District Tarrant Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, December 17, 1992, at 8:30 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118, (817) 284-8884. TRD-9216193.

The Texas Regional Planning Commissions Employee Benefit Plan Agency Board of Trustees met at the Omni Hotel, Executive Board Room, Austin, December 9, 1992, at 1 p.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9216196.

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**Meetings Filed December 7,
1992**

The Appraisal District of Jones County Board of Directors will meet at the District's Office, 1137 East Court Plaza, Anson, December 17, 1992, at 8:30 a.m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422. TRD-9216292.

The Bexar-Medina-Atascosa Counties Water Control and Improvement District Number One Board of Directors will meet at 226 Highway 132, Natalia, December 14, 1992, at 8 a.m. Information may be obtained from John W. Ward III, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132. TRD-9216255.

The Central Texas Council of Governments Transportation Planning Committee will meet in the CTCOG Conference Room, 302 East Central, Belton, December 15, 1992, at 9 a.m. Information may be obtained from Jerry Bunker, P. O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9216254.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, December 16, 1992, at 9 a.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76208, (817) 566-0904. TRD-9216296.

The Denton Central Appraisal District Board of Directors will meet at 3911 Morse Street, Denton, December 17, 1992, at 4 p.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76208, (817) 566-0904. TRD-9216297.

The Education Service Center, Region XVI Board of Directors will meet at the ESC, Region XVI Board Room, 1601 South Cleveland, Amarillo, December 18, 1992, at 10 a.m. Information may be obtained from Jim Holmes, P.O. Box 30600, Amarillo, Texas 79120, (806) 376-5521. TRD-9216262.

The Hale County Appraisal District Appraisal Review Board will meet at Furr's Cafeteria, 3605 Olton Road, Plainview, December 17, 1992, at 11:30 a.m. Information may be obtained from Linda Jaynes, P.O. Box 329, Plainview, Texas 79072, (806) 293-4226. TRD-9216347.

The Heart of Texas Region Mental Health and Mental Retardation Center Board of Trustees met at 110 South 12th Street, Waco, December 10, 1992, at 11 a.m. (Revised agenda). Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (817) 752-3451. TRD-9216285.

The Henderson County Appraisal District Board of Directors will meet at 1751 Enterprise, Athens, December 14, 1992, at 7 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas 75751, 1-903-675-9296. TRD-9216283.

The Jones-Stonewall County Education District #28 Board of Trustees met at the Appraisal District Office, 1137 East Court Plaza, Anson, December 17, 1992, at 9:45 a.m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422. TRD-9216291.

The Lamb County Appraisal District Appraisal Review Board will meet at 330 Phelps Avenue, Littlefield, January 14, 1993, at 8 a.m. Information may be obtained from Vaughn E. McKee, P.O. Box 552, Littlefield, Texas 79339, (806) 385-6474. TRD-9216298.

The Limestone County Appraisal District Board of Directors will meet in the Board Room, Ground Floor, Limestone County Courthouse, Groesbeck, December 15, 1992, at 1 p.m. Information may be obtained from Clydene Hyden, P. O. Drawer

831, Groesbeck, Texas 76642, (817) 729-3009. TRD-9216270.

The Lower Neches Valley Authority Board of Directors will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, December 15, 1992, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9216295.

The Martin County Appraisal District Board of Directors met at the Appraisal Office, 308 North St. Peter, Stanton, December 10, 1992, at 8:15 p.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823. TRD-9216284.

The North Texas Municipal Water District Board of Directors will meet at the Administrative Offices, 505 East Brown Street, Wylie, December 17, 1992, at 4 p.m. Information may be obtained from Carl W. Riehn, P.O. Box 2408, Wylie, Texas 75098, (214) 442-5405. TRD-9216268.

The Nueces-Jim Wells-Kleberg-Kenedy Soil and Water Conservation District Board of Directors will meet at 710 East Main Street, Robstown, December 15, 1992, at 2 p.m. Information may be obtained from Denise Lawhon, 710 East Main Street, Robstown, Texas 78380, (512) 668-8363. TRD-9216263.

The San Antonio River Authority Board of Directors will meet at the SARA General Office, Second Floor, Conference Room, 100 East Guenther, San Antonio, Bexar County, December 16, 1992, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD-9216273.

The South Plains Quality Work Force Unlimited South Plains Community Action Association, Inc. will meet at the South Plains Association of Governments, 1323 58th Street, Lubbock, December 11, 1992, at 10 a.m. Information may be obtained from Carol Barnette, P.O. Box 610, Levelland, Texas 79336, (806) 894-7293. TRD-9216267.

The Sulphur-Cypress Soil and Water Conservation District Number 419 held an emergency meeting at 1809 West Ferguson Road, Suite B, Mt. Pleasant, December 9, 1992, at 10 a.m. The emergency meeting was necessary due to paying the bills. Information may be obtained from Beverly Amerson, 1809 West Ferguson, Suite B, Mt. Pleasant, Texas 75455, (903) 572-5411. TRD-9216253.

The Wise County Appraisal District Board of Directors met at 206 South State Street, Board Room, Decatur, December 10, 1992, at 9 a.m. Information may be obtained from Bren Jones, 206 South State

Street, Decatur, Texas 76234, (817) 627-3081, Extension 04 (Bookkeeper). TRD-9216299.

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**Meetings Filed December 8,
1992**

The Central Plains Center for Mental Health and Mental Retardation and Substance Abuse Board of Trustees held an emergency meeting at 516 North Ash Street, Plainview, December 8, 1992, at 3 p.m. The board finds there is an urgent public necessity for an emergency meeting in that there exists an imminent threat to public health. Information may be obtained from Ed Self, 516 North Ash, Plainview, Texas 79072, (806) 293-8463. TRD-9216362.

The Central Texas Council of Governments Executive Committee-Annual Membership will meet at the Bell County Exposition Center, Belton, December 17, 1992, at 11 a.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9216360.

The Hunt County Appraisal District Board of Directors will meet at the HCAD Board Room, 4801 King Street, Greenville, December 11, 1992, at noon. Information may be obtained from Shirley Smith, 4801 King Street, Greenville, Texas 75401, (903) 454-3510. TRD-9216349.

The Lee County Appraisal District Appraisal Review Board will meet at 218 East Richmond Street, Giddings, December 17, 1992, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Rich-

mond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9216354.

The Region III Education Service Center Board of Directors will meet at 1905 Leary Lane, Victoria, December 14, 1992, at 4:30 p.m. Information may be obtained from Dr. Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731. TRD-9216359.

The West Central Texas Council of Governments Private Industry Council will meet at 1025 E.N. 10th Street, Abilene, December 15, 1992, at 10 a.m. Information may be obtained from Mary Ross, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9216361.

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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.

Comptroller of Public Accounts Local Sales Tax Changes Effective January 1, 1993

The Village of Lakeway (Travis County), city code 2227061, has changed its legal name to Lakeway. This name change will become effective January 1, 1993.

The City of Bishop has voted to join the Corpus Christi MTA. The 1/2% MTA sales tax will become effective

January 1, 1993, in the City of Bishop, Nueces county, city code 2178042, MTA code 3178998, combined rate 7 3/4%.

The 1.0% city sales tax will become effective January 1, 1993, in the city of El Cenizo, Webb county, city code 2240037, zip 78043, combined rate 7 3/4%.

An additional 1/2% sales tax for improving and promoting economic and industrial development will become effective January 1, 1993, in the following cities.

<u>City Name</u>	<u>City Code</u>	<u>County</u>	<u>New Rate</u>	<u>Combined Rate</u>
Decatur	2249010	Wise	1 1/2%	8 1/4%
Jasper	2121022	Jasper	1 1/2%	7 3/4%
No. Richland Hills	2220184	Tarrant	1 1/2%	7 3/4%
San Benito	2031021	Cameron	1 1/2%	7 3/4%

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

TRD-9216162 Martin Cherry
Chief, General Law Section
Comptroller of Public Accounts

Filed: December 4, 1992

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Notice of Request for Proposals for Utility Audit of Selected State Agencies

Notice of Request for Proposals. Pursuant to Texas Civil Statutes, Article 6252-11c (Use of Private Consultants by State Agencies), the Comptroller of Public Accounts announces its Request For Proposals (RFP) for a State Agency Utility Bill Audit. The purpose of the RFP is to obtain proposals for an independent audit of utility billings paid by various state agencies to electric, gas, water, wastewater, and telecommunications utility companies over a four year period. A listing of the state agencies which are the subject of this RFP is contained in the RFP. The Successful Proposer will be required to prepare the necessary claim documentation and provide any necessary assistance to the State in obtaining a refund of all amounts overpaid to these utility companies.

Contact. Parties interested in submitting a proposal should contact Sandy Randolph in the General Counsel's Office, Comptroller of Public Accounts, 111 East 17th Street, Room 113, Austin, Texas 78774, (512) 463-4670, for a complete copy of the RFP. The RFP will be available for pickup at the above address on Friday, December 11,

1992, between 1 p.m. and 5 p.m. (C.S.T.), and during normal business hours thereafter.

Closing Date. Proposals must be received in the General Counsel's Office no later than 4 p.m. (C.S.T.), on January 11, 1993. Proposals received after this date and time will not be considered.

Award Procedure. All proposals will be subject to evaluation by a committee based on the evaluation criteria set forth in the RFP. The committee will determine which proposal best meets these criteria and will make a recommendation to the Deputy Comptroller who will then 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 reserves the right to accept or reject any or all proposals submitted. The Comptroller is under no legal or other requirements to execute a contract on the basis of this notice or the distribution of the RFP. Neither this notice nor the RFP commits the Comptroller to pay for any costs incurred prior to the execution of a contract.

The anticipated schedule of events is as follows: RFP available December 11, 1992 (1 p.m. C.S.T.); Notice of Intent to Propose and Questions on the RFP due by December 18, 1992 (4 p.m. C.S.T.); Comptroller's Responses To Proposer Questions due December 22, 1992 (4 p.m. C.S.T.); Proposals due by January 11, 1993 (4 p.m. C.S.T.); Apparent Successful Proposer expected to be announced January 18, 1993.

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

Filed: December 7, 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 Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer ⁽³⁾/Agricultural/ Commercial ⁽⁴⁾ thru \$250,000</u>	<u>Commercial⁽⁴⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	12/07/92-12/13/92	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(1)	12/01/92-12/31/92	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	01/01/93-03/31/93	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11(3)	01/01/93-03/31/93	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d)(3)	01/01/93-03/31/93	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2)(2)	01/01/93-03/31/93	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11(3)	01/01/93-03/31/93	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	12/01/92-12/31/92	10.00%	10.00%

Issued in Austin, Texas, on November 30, 1992.

TRD-9216102 Al Endsley
 Consumer Credit Commissioner

Filed: December 3, 1992

◆ ◆ ◆
Texas Education Agency

Delay of Request for Proposal #701-93-004

The Texas Education Agency is delaying the issuance of a request for proposals to provide support services for the assessment of instructional outcomes published in the November 24, 1992, issue of the *Texas Register* (17 TexReg 8242) as RFP #701-93-004. When a request for proposals is issued at a later date, notice will be included in the *Texas Register*.

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

TRD-9216161 Lionel R. Meno
 Commissioner of Education
 Texas Education Agency

Filed: December 4, 1992

**Texas Department of Human Services
 Invitation to Bid**

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

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

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

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

Geographical Area: DHS will procure over-the-counter food stamp issuance service in six Texas Counties: Cameron; Dallas; Jefferson; Port Arthur; Nueces; Tarrant; and Webb.

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

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

Contact Person: To request an ITB package or additional information, please contact Margarette Kaylor at (512) 450-3467. SEALED BIDS for each county of interest must be received by Margarette Kaylor no later than 2 p.m., February 23, 1993, at Issuance Services Unit (W-320), Client Self-support Services Division, Texas Department of Human Services, 701 West 51st Street, P.O. Box 149030, Austin, Texas 78714-9030.

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

TRD-9216261 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: December 3, 1992

Public Notice of Closed Solicitation

Pursuant to Title 2, Chapters 22 and 32, of the Human Resources Code and 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5315), the Texas Department of Human Services (TDHS) is closing the solicitation for new Medicaid beds in Jim Hogg County, County Number 124, which appeared in the February 4, 1992, issue of the *Texas Register* (17 TexReg 962). The solicitation is being closed effective the date of this public notice.

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

TRD-9216180 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: December 3, 1992

Texas Department of Insurance Company Licensing

The following applications have been filed with the Texas Department of Insurance and are under consideration.

1. Application for Admission in Texas for Select Benefit Administrators, Inc., a foreign third party administrator. The home office is in Des Moines, Iowa.
2. Application for name change in Texas for Nordia Insurance Company, a foreign fire insurance company. The home office is in Topeka, Kansas. The proposed new name is Skandia U.S. Insurance Company.

3. Application for name change in Texas for Lincoln National Administrative Services Corporation, a foreign third party administrator. The home office is in Fort Wayne, Indiana. The proposed new name is Takecare Administrative Services Corporation.

4. Application for Admission in Texas for Western United Insurance Company, a foreign fire insurance company. The home office is in Laguna Hills, California.

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

TRD-9216243 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: December 4, 1992

The following applications have been filed with the Texas Department of Insurance and are under consideration.

1. Application for name change in Texas for Title Insurance Company of Minnesota, a foreign title insurance company. The home office is in Minneapolis, Minnesota. The proposed new name is Old Republic National Title Insurance Company under the assumed name of Title Insurance Company of Minnesota.

2. Application for name change in Texas for GAN Anglo-American Insurance Company, a foreign fire insurance company. The home office is in New York, New York. The proposed new name is GAN National Insurance Company.

3. Application for Admission in Texas for Registered Mail Insurance Association, a foreign joint underwriting association. The home office is in New York, New York.

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

TRD-9216244 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: December 4, 1992

Public Utility Commission of Texas Assessment Percentages for Relay Texas

In accordance with Substantive Rule §23.56(h)(2), the new assessment percentages for funding of the intrastate portion of Relay Texas are as follows.

The percentage assigned to the Local Exchange Carriers (LECs) is 94%.

The percentage assigned to other telecommunications utilities is 6.0%.

Commencing with the November 1992 Universal Service Fund (USF) billing statement which reflects September 1992 Relay Texas operations, these percentages will be used by the Texas Exchange Carrier Association (TECA) in the development of the Dual-Party Relay Service assessments issued to the LECs and other telecommunications utilities. The percentages will be reviewed and adjusted annually, pursuant to subsection (h)(2)(B) of the rule.

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

TRD-9216167 John Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: December 4, 1992

Notice of Public Forum on Topics Concerning Electric Cooperatives in Texas

The Public Utility Commission of Texas (PUC) will hold a public forum on Tuesday, February 23, 1993, concerning the regulation by the PUC of Electric Cooperatives. The Forum will begin at 9 a.m. in the Commissioners hearing room located in the PUC's Offices at 7800 Shoal Creek Boulevard, Austin. It is anticipated that the Forum will last from six to nine hours.

The purpose of the Forum will be to identify problems, if any, in the PUC's current regulatory policy toward Electric Cooperatives. It will identify those areas, if any, where the Commission's regulation is currently not working well, and the means of addressing these problems. Finally, the Commission will also discuss the concepts of deregulation of Electric Cooperatives by further rulemaking, legislative initiative, or a combination of the two. The topics which will be addressed are as follows.

Deregulation of Electric Cooperatives in Texas.

What is the appropriate role of the Public Utility Commission in the oversight of Electric Cooperative's managerial affairs and practices?

If Statutory changes occur to PURA which results in the elimination of Commission oversight of Electric Cooperatives, what checks and balances would remain between the Cooperative's management and customers.

Does the fact that the Cooperative's customers elect the Board of Directors provide the customers with sufficient protection in lieu of full regulatory oversight?

If Electric Cooperatives were granted additional rate flexibility how will the Commission balance conflicts between investor-owned utilities and the Electric Cooperatives?

Do large electric cooperatives and generating and transmission cooperatives need to be regulated differently than small electric distribution cooperatives?

If the electric cooperatives receive statutory exemption from Commission oversight, what reporting requirements, if any, should remain with the Commission?

Problems in the Existing Regulatory Framework.

How burdensome to Electric Cooperatives are the current regulatory policies of the PUC?

What has been the experience with the streamlined rate proceedings as allowed under Public Utility Commission Substantive Rule 23.31(c). Is this process working and, if not, what modifications to the rule are needed?

Are the benefits of applying the Commission's currently existing procedural practices to electric cooperatives outweighed by the costs? Should the Commission's rules be amended to reflect the inherent economies of scale between electric cooperatives and investor-owned utilities?

Are there some aspects of electric cooperative oversight that could be safely removed from the Commission, yet continue to allow the Commission to fulfill its role to protect the public interest? Should the Commission continue its practice of conducting management and compliance audits of electric cooperatives?

Is there a role in electric cooperative regulation for integrated resource planning (IRP). If so, should the approach

of IRP be different for the cooperatives than for the investor owned utilities?

The Commission invites all interested parties to participate in the Forum. The Commission also encourages interested parties to provide written comments on the aforementioned issues.

Parties that wish to comment on this subject should file four copies of their comments with the Commission's Secretary, John Renfrow, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, by 12 p.m. Friday, January 23, 1993. Any comments that are more than 10 pages in length must include an executive summary. Any questions or comments concerning the Forum on Electric Cooperatives may be directed to Jack N. Fuerst, Assistant General Counsel, (512) 458-0143. In addition, any party wishing to participate in the forum, should send a written notification of that desire to Mr. Fuerst.

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

TRD-9216169

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: December 4, 1992

◆ ◆ ◆ Notice of Public Forum on Topics Concerning Small Local Exchange Companies, Including Telephone Cooperatives, in Texas

The Public Utility Commission of Texas (PUC) will hold a public forum on Monday, February 22, 1993, concerning the regulation by the PUC of small local exchange companies, including telephone cooperatives. The forum will begin at 9 a.m. in the Commissioners hearing room located in the PUC Offices at 7800 Shoal Creek Boulevard, Austin.

The purpose of the forum is to identify problems, if any, in the PUC's current regulatory policy regarding small local exchange companies, including telephone cooperatives. It will identify those areas, if any, where the Commission's regulation is currently not working well, and the means of addressing those problems. Finally, the Commission will also discuss the concepts of regulatory relief of small local exchange companies, including telephone cooperatives, by further rulemaking, legislative initiative, or a combination of the two, and any legal constraints on the Commission taking action. The topics which will be addressed are as follows.

What is the appropriate definition of a small local exchange company for purposes of discussing alternative forms of regulation?

What is the appropriate role of the Commission in the oversight of the managerial affairs and practices of small local exchange companies, including telephone cooperatives?

If statutory changes occur to PURA which result in the elimination of Commission oversight of small local exchange companies, including telephone cooperatives, what checks and balances will remain between the companies' management and their customers? What appeal mechanisms, if any, should exist for their customers?

Would incentive regulation be appropriate for telephone cooperatives? What have other states done with regard to

flexible rate-regulation of small local exchange companies, including telephone cooperatives?

What regulatory alternatives exist for setting the allowed rate of return for small investor-owned local exchange companies?

How should the regulation between small local exchange companies and telephone cooperatives differ?

How burdensome to small local exchange companies, including telephone cooperatives, are the current regulatory policies of the PUC, including both rate regulation and administrative procedures such as filing requirements, cost studies, etc.?

If small local exchange companies, including telephone cooperatives receive statutory exemption from Commission oversight, what reporting requirements, if any, should remain with the Commission? What responsibilities should remain with the Commission in order to protect the public interest?

What effect would such statutory exemption have on participation in the pooling mechanisms and the Universal Service Fund?

Are there provisions of the Commission rules that can be changed to reduce the regulatory burden? Please identify the necessary changes or new rules that would be required for this purpose. What, if any, statutory restrictions limit the Commission's ability to lessen the regulatory burden on small local exchange companies, including telephone cooperatives?

Should the Commission continue its practice of conducting management and compliance audits of small local exchange companies, including telephone cooperatives?

Please provide any other relevant comments on the advantages or disadvantages of reduced regulation of small local exchange companies, including telephone cooperatives.

The Commission invites all interested parties to participate in the forum. The Commission also encourages interested parties to provide written comments on the aforementioned issues.

Parties that wish to comment on this subject should file 13 copies of their comments with the Secretary of the Commission, John Renfrow, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, by noon, January 23, 1993. Any comments that are more than 10 pages in length must include an executive summary. Any questions or comments concerning the forum may be directed to Suzi Ray, Assistant General Counsel, (512) 458-0349. In addition, any party wishing to participate in the forum, should send a written notification of that desire to Suzi Ray at the above address by January 22, 1993. Please refer to this matter as Project Number 11620.

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

TRD-9216227 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: December 4, 1992

Notice of Public Hearing

On December 16, 1992, the Public Utility Commission of Texas will conduct a public hearing in Project Number 11205 to discuss the commission's draft biennial report to

the Legislature on the scope and impact of competition in regulated telecommunications markets, as required by the Public Utility Regulatory Act, §18(k) and (p), Texas Civil Statutes, Article 1446c (Vernon Supplement 1992). The public hearing is scheduled to convene at 9 a.m. in the commissioners' hearing room, located on the second floor of the commission's offices at 7800 Shoal Creek Boulevard, Austin. To facilitate public comment, copies of the draft report may be obtained from the commission's telephone division on December 10, 1992.

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

TRD-9216168 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: December 4, 1992

Public Utility Commission of Texas Requests Comments on §23.11 Concerning General Reports

The Public Utility Commission of Texas is considering amending §23.11(f), (g), and (h) to revise and clarify the reporting requirements contained therein. The Commission solicits comments from all interested persons on the following interpretations.

Section 23.11(f)(1) has been interpreted as requiring all public utilities to provide a narrative detailing the names of each affiliated interest, as defined in §23.3, and the relationship of each affiliate to the utility. Because this subsection concerns affiliates, it does not require a list of shareholders unless the utility and shareholder are also involved in an affiliate relationship.

Should this subsection be amended or repealed? If amended, should it be amended to reflect the interpretation cited? If so, how? Should it be amended in some other way? Please specify.

Section 23.11(f)(2) has been interpreted as requiring the total yearly transaction amount by individual contract for goods and/or services for each affiliate. The individual transaction amounts should be broken out by each service and/or good as detailed in the contract between the utility and each affiliate. The same level of detail on a per affiliate basis is also required for utilities with no written contracts between themselves and their affiliate companies. Both cash and non-cash transactions should be reported under this subsection.

Should this subsection be amended or repealed? If amended, should it be amended to reflect the interpretation cited? If so, how? Should it be amended in some other way? Please specify.

Section 23.11(g) has been interpreted as requiring a list of all payments of compensation (other than salary or wages subject to the withholding of federal income tax) indicating the payee, amount of each transaction, and type of each transaction. (Example: The Board of Directors' fees should be listed by each individual payment for each director and not a yearly lump sum total per director.) The term "compensation" has been defined to mean anything of value. To the extent someone is given something of value for which they paid less than market rates, it should be reported.

Should this subsection be amended or repealed? If amended, should it be amended to reflect the interpretation

cited? If so, how? Should it be amended in some other way? Please specify?

In addition, please comment on the distinctions between payments for legal, administrative, and legislative matters in Texas and payments for representation before the Texas Legislature or any governmental agency or body. Should these distinctions be clarified and, if so, how?

Section 23.11(h) has been interpreted as requiring that the payee, the amount of each transaction over \$50, and the type of each transaction be reported. (Example: Utility A pays \$55 advertising to Vendor A on January 2, 1991, and another \$75 for advertising to Vendor A on March 15, 1991. The proper reporting should show separate transactions of \$55 and \$75 for Vendor A under the advertising expense category.)

Should this subsection be amended or repealed? If amended, should it be amended to reflect the interpretation cited? If so, how? Should it be amended in some other way? Please specify.

In addition, please comment on the distinctions between the listed categories. Do these distinctions need to be clarified and, if so, how?

Should the threshold amount of \$50 be changed? If so, to what amount? Why?

Please provide any additional comments or suggestions for revising or clarifying the provisions of §23.11(f), (g), and (h).

Should additional reports be required of public utilities? Why?

What, if any, reports that are currently required are duplicative or unnecessary? Why?

The Staff of the Commission will review the comments and utilize them in preparing a recommendation to the Commission for further action.

Comments (13 copies) should be submitted to John M. Renfrow, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757 within 30 days of the date of publication of this notice. Comments should contain a reference to Project Number 11543. Any comments that are more than 10 pages in length must include an executive summary. The names and mailing addresses of commenters will be used to compile a service list for this project. The service list will be used to notify commenters of future proceedings in this project. Commenters may also be asked in the future to exchange information with other persons on the service list.

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

TRD-9216230

John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: December 4, 1992

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Texas Water Commission
Meeting Notice

A meeting of the Management Committee of the Galveston Bay National Estuary Program is scheduled for: Wednesday, December 16, 1992, 9 a.m., Bayou Building, Forest Room, University of Houston-Clear Lake, Houston.

Following opening remarks and approval of minutes, the Committee will hear a program update from the Program Director. The Committee will approve the Advisory Committee Reports from their last meetings. Final Project Reports will be approved. The Committee will then discuss the Fiscal Year 1994 Annual Work Plan and possible funding cuts for the NEPs. After which, the Committee will discuss a resolution concerning Outstanding Natural Resources Waters Designation for Christmas Bay. The Committee will then consider any other business, a date for the next meeting, and will adjourn.

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

TRD-9216272

Frank S. Shipley
Director, Galveston Bay National Estuary
Program
Texas Water Commission

Filed: December 7, 1992

◆ ◆ ◆
Texas Workers' Compensation
Research Center
Maintenance Tax

In accordance with Texas Civil Statutes, Article 8308, §11.09, this agency certifies that the maintenance tax for support of the Texas Workers' Compensation Research Center be set at .01% of gross premiums collected during January 1, 1992 to December 31, 1992.

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

TRD-9216220

Annette Gula
Executive Director
Texas Workers' Compensation Research
Center

Filed: December 4, 1992

1992 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the September-December 1992 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on February 28, November 6, December 1, and December 29. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
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, 1993	Monday, December 28	Tuesday, December 29

1993 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1993 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 July 30, November 5, November 30, and December 28. A asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 Friday, January 1	Monday, December 28	Tuesday, December 29
2 Tuesday, January 5	Wednesday, December 30	Thursday, December 31
3 Friday, January 8	Monday, January 4	Tuesday, January 5
4 Tuesday, January 12	Wednesday, January 6	Thursday, January 7
5 Friday, January 15	Monday, January 11	Tuesday, January 12
6 Tuesday, January 19	Wednesday, January 13	Thursday, January 14
Friday, January 22	1991 ANNUAL INDEX	
7 Tuesday, January 26	Wednesday, January 20	Thursday, January 21
8 Friday, January 29	Monday, January 25	Tuesday, January 26
9 Tuesday, February 2	Wednesday, January 27	Thursday, January 28
10 Friday, February 5	Monday, February 1	Tuesday, February 2
11 Tuesday, February 9	Wednesday, February 3	Thursday, February 4,
12 Friday, February 12	Monday, February 8	Tuesday, February 9
13 Tuesday, February 16	Wednesday, February 10	Thursday, February 11
14 *Friday, February 19	Friday, February 12	Tuesday, February 16
15 Tuesday, February 23	Wednesday, February 17	Thursday, February 18
16 Friday, February 26	Monday, February 22	Tuesday, February 23
17 Tuesday, March 2	Wednesday, February 24	Thursday, February 25
18 Friday, March 5	Monday, March 1	Tuesday, March 2
19 Tuesday, March 9	Wednesday, March 3	Thursday, March 4
20 Friday, March 12	Monday, March 8	Tuesday, March 9
21 Tuesday, March 16	Wednesday, March 10	Thursday, March 11
22 Friday, March 19	Monday, March 15	Tuesday, March 16
23 Tuesday, March 23	Wednesday, March 17	Thursday, March 18
24 Friday, March 26	Monday, March 22	Tuesday, March 23
25 Tuesday, March 30	Wednesday, March 24	Thursday, March 25
26 Friday, April 2	Monday, March 29	Tuesday, March 30
27 Tuesday, April 6	Wednesday, March 31	Thursday, April 1
28 Friday, April 9	Monday, April 5	Tuesday, April 6
29 Tuesday, April 13	Wednesday, April 7	Thursday, April 8
Friday, April 16	FIRST QUARTERLY INDEX	
30 Tuesday, April 20	Wednesday, April 14	Thursday, April 15

31 Friday, April 23	Monday, April 19	Tuesday, April 20
32 Tuesday, April 27	Wednesday, April 21	Thursday, April 22
33 Friday, April 30	Monday, April 26	Tuesday, April 27
34 Tuesday, May 4	Wednesday, April 28	Thursday, April 29
35 Friday, May 7	Monday, May 3	Tuesday, May 4
36 Tuesday, May 11	Wednesday, May 5	Thursday, May 6
37 Friday, May 14	Monday, May 10	Tuesday, May 11
38 Tuesday, May 18	Wednesday, May 12	Thursday, May 13
39 Friday, May 21	Monday, May 17	Tuesday, May 18
40 Tuesday, May 25	Wednesday, May 19	Thursday, May 20
41 Friday, May 28	Monday, May 24	Tuesday, May 25
42 Tuesday, June 1	Wednesday, May 26	Thursday, May 27
43 *Friday, June 4	Friday, May 28	Tuesday, June 1
44 Tuesday, June 8	Wednesday, June 2	Thursday, June 3
45 Friday, June 11	Monday, June 7	Tuesday, June 8
46 Tuesday, June 15	Wednesday, June 9	Thursday, June 10
47 Friday, June 18	Monday, June 14	Tuesday, June 15
48 Tuesday, June 22	Wednesday, June 16	Thursday, June 17
49 Friday, June 25	Monday, June 21	Tuesday, June 22
50 Tuesday, June 29	Wednesday, June 23	Thursday, June 24
51 Friday, July 2	Monday, June 28	Tuesday, June 29
52 Tuesday, July 6	Wednesday, June 30	Thursday, July 1
53 Friday, July 9	Monday, July 5	Tuesday, July 6
Tuesday, July 13	SECOND QUARTERLY INDEX	
54 Friday, July 16	Monday, July 12	Tuesday, July 13
55 Tuesday, July 20	Wednesday, July 14	Thursday, July 15
56 Friday, July 23	Monday, July 19	Tuesday, July 20
57 Tuesday, July 27	Wednesday, July 21	Thursday, July 22
Friday, July 30	NO ISSUE PUBLISHED	
58 Tuesday, August 3	Wednesday, July 28	Thursday, July 29
59 Friday, August 6	Monday, August 2	Tuesday, August 3
60 Tuesday, August 10	Wednesday, August 4	Thursday, August 5
61 Friday, August 13	Monday, August 9	Tuesday, August 10
62 Tuesday, August 17	Wednesday, August 11	Thursday, August 12
63 Friday, August 20	Monday, August 16	Tuesday, August 17
64 Tuesday, August 24	Wednesday, August 18	Thursday, August 19
65 Friday, August 27	Monday, August 23	Tuesday, August 24
66 Tuesday, August 31	Wednesday, August 25	Thursday, August 26
67 Friday, September 3	Monday, August 30	Tuesday, August 31
68 Tuesday, September 7	Wednesday, September 1	Thursday, September 2
69 *Friday, September 10	Friday, September 3	Tuesday, September 7

70 Tuesday, September 14	Wednesday, September 8	Thursday, September 9
71 Friday, September 17	Monday, September 13	Tuesday, September 14
72 Tuesday, September 21	Wednesday, September 15	Thursday, September 16
73 Friday, September 24	Monday, September 20	Tuesday, September 21
74 Tuesday, September 28	Wednesday, September 22	Thursday, September 23
75 Friday, October 1	Monday, September 27	Tuesday, September 28
76 Tuesday, October 5	Wednesday, September 29	Thursday, September 30
77 Friday, October 8	Monday, October 4	Tuesday, October 5
Tuesday, October 12	THIRD QUARTERLY INDEX	
78 Friday, October 15	Monday, October 11	Tuesday, October 12
79 Tuesday, October 19	Wednesday, October 13	Thursday, October 14
80 Friday, October 22	Monday, October 18	Tuesday, October 19
81 Tuesday, October 26	Wednesday, October 20	Thursday, October 21
82 Friday, October 29	Monday, October 25	Tuesday, October 26
83 Tuesday, November 2	Wednesday, October 27	Thursday, October 28
Friday, November 5	NO ISSUE PUBLISHED	
84 Tuesday, November 9	Wednesday, November 3	Thursday, November 4
85 Friday, November 12	Monday, November 8	Tuesday, November 9
86 Tuesday, November 16	Wednesday, November 10	Thursday, November 11
87 Friday, November 19	Monday, November 15	Tuesday, November 16
88 Tuesday, November 23	Wednesday, November 17	Thursday, November 18
89 Friday, November 26	Monday, November 22	Tuesday, November 23
Tuesday, November 30	NO ISSUE PUBLISHED	
90 Friday, December 3	Monday, November 29	Tuesday, November 30
91 Tuesday, December 7	Wednesday, December 1	Thursday, December 2
92 Friday, December 10	Monday, December 6	Tuesday, December 7
93 Tuesday, December 14	Wednesday, December 8	Thursday, December 9
94 Friday, December 17	Monday, December 13	Tuesday, December 14
95 Tuesday, December 21	Wednesday, December 15	Thursday, December 16
96 Friday, December 24	Monday, December 20	Tuesday, December 21
Tuesday, December 28	NO ISSUE PUBLISHED	

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