

Texas Register

Volume 16, Number 30, April 23, 1991

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Information Available: The eight 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

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Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

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: "14 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 14 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 Administrative Code*, sections number, 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 Publications

a section of the
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Subscriptions-one year (96 regular issues), \$90; six months (48 regular issues and two index issues), \$70. Single copies of most issues are available at \$4 per copy.

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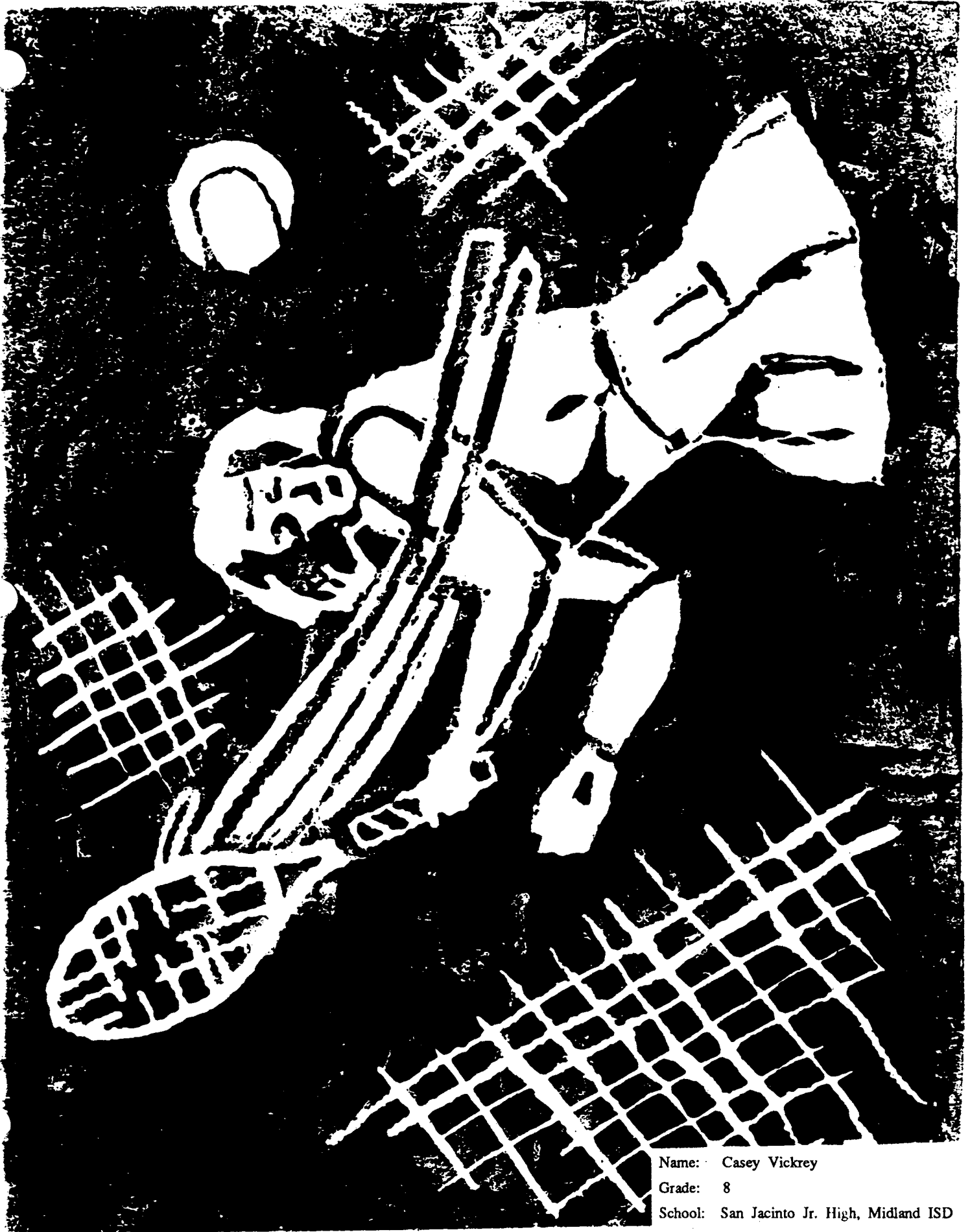
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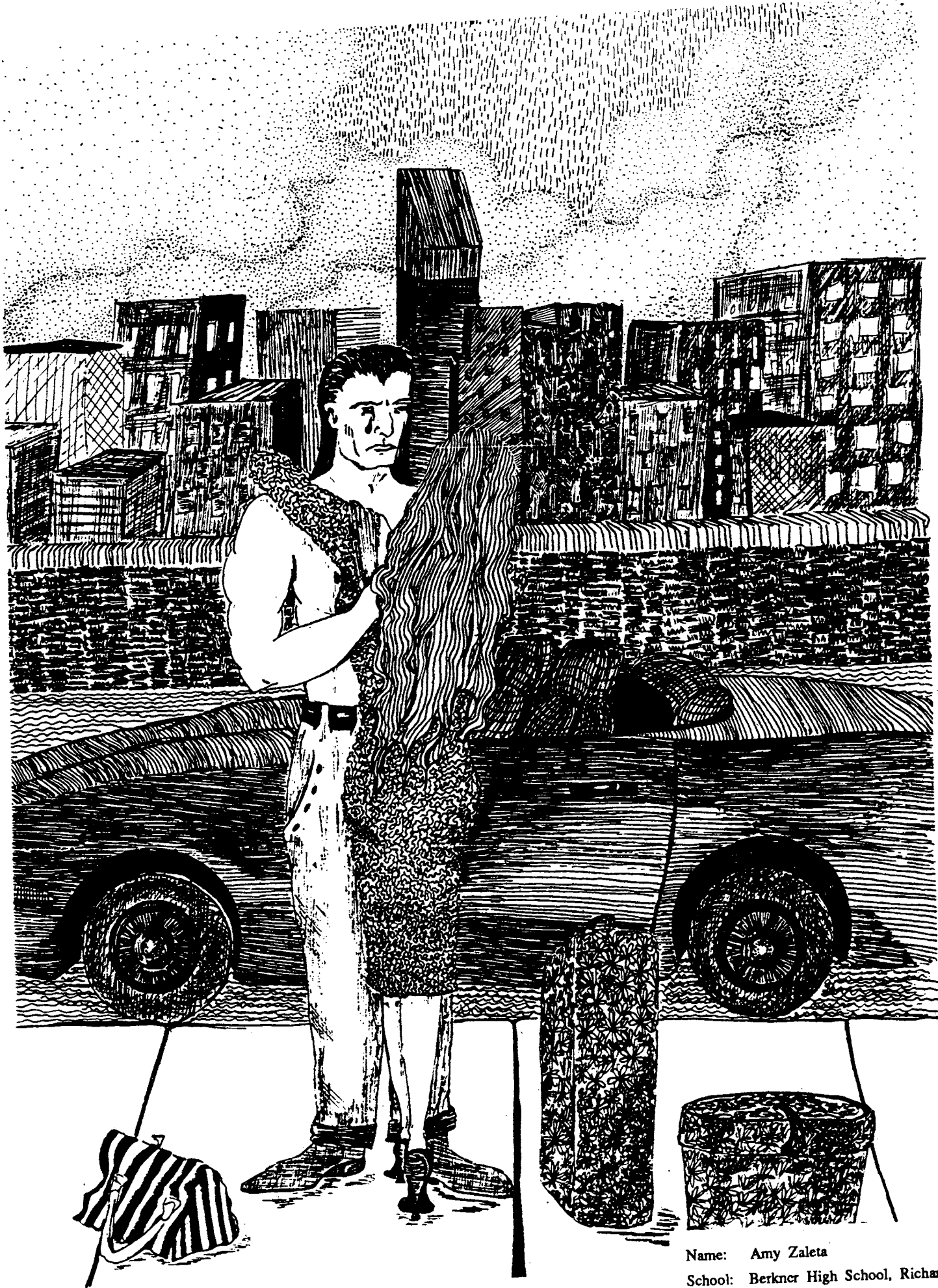
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◆ ◆ ◆

The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in Chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1814.

Appointments Made March 20, 1991

To be a member of the **Texas Woman's University Board of Regents** for a term to expire February 1, 1997: Darlene Tullos Medrano, 3509 Pebble Beach Drive, Harlingen, Texas 78550. Ms. Medrano will be replacing Richard Stanton White, Jr. of Houston whose term expired.

Appointments Made April 8, 1991

To be Judge of the **190th Judicial District Court, Harris County**, until the next general election and until her successor shall be duly elected and qualified: Eileen Frances O'Neill, 3414 Robinhood, Houston, Texas 77005. Ms. O'Neill will be replacing Judge Wyatt H. Heard of Houston who retired.

To be a member of the **Agricultural Resources Protection Authority** for a term to expire February 1, 1993: Jane N. Saginaw, 4409 Rawlins, Dallas, Texas 75219. Ms. Saginaw will be replacing Inez Suderman of McAllen whose term expired.

To be a member of the **Texas Board of Licensure for Nursing Home Administrators** for a term to expire January 31, 1997: Johnnie Lou Avery, P.O. Box 2271, Big Spring, Texas 79720. Ms. Avery will be replacing Ray Pearl Bloebaum of Austin whose term expired.

To be a member of the **Educational Excellence Committee** for a term to expire February 1, 1997: Maxine J. Nance, P.O. Box 521, Atlanta, Texas 75551. Ms. Nance will be replacing David B. Keith of Houston whose term expired.

To be a member of the **Trinity River Authority Board of Directors** for a term to expire March 15, 1997: Jake Caprielian, 103 Gordon Drive, Crockett, Texas 75835. Mr. Caprielian will be replacing Robert T. Mattox of Crockett whose term expired.

To be a member of the **Nueces River Authority Board of Directors** for a term to expire February 1, 1997: Mary B. Autry, Route 2, Box 6851, Pipe Creek, Texas 78063. Ms. Autry will be replacing James L. Donnell of Fowlerton whose term expired.

To be a member of the **Texas Structural Pest Control Board** for a term to expire February 1, 1997: Ray Patrick Thompson, 2012 Cleveland, Pasadena, Texas 77502. Mr. Thompson will be replacing Charles K. Glasse of Friendswood whose term expired.

Appointments Made April 9, 1991

To be a member of the **Texas Agricultural Finance Authority Board of Directors** for a term to expire January 1, 1993: F. Gary Valdez, 7100 Waterline, Austin, Texas 78731. Mr. Valdez will be replacing Steven C. Verett of Ralls whose term expired.

To be Judge of the **Court of Criminal Appeals** until the next general election and until his successor shall be duly elected and qualified: Fortunato P. Benavides, Route 1, Box 9603, Robstown, Texas 78380. Justice Benavides will be replacing Judge Marvin O. Teague who is deceased.

Appointments Made April 10, 1991

To be Justice of the **Court of Appeals, Fifth Supreme Judicial District** until the next general election and until his successor shall be duly elected and qualified: Ron Chapman, 400 Santa Fe Trail, #21, Irving, Texas 75063. Judge Chapman will be replacing Justice Pat McClung of Dallas who resigned.

To be a member of the **Texas Commission of Licensing and Regulation** for a term to expire February 1, 1997: Arlen D. Bynum, 4512 Southern, Dallas, Texas 75205. Mr. Bynum will be replacing Acie O. Phillips, Jr. of Missouri City whose term expired.

To be a member of the **Texas Motor Vehicle Commission** for a term to expire January 31, 1997: T. J. Connolly, 2811 Woodbury Lane, #202, San Antonio, Texas 78217. Mr. Connolly will be replacing Jerry Eversole of Humble who resigned.

To be a member of the **Texas Commission on Jail Standards** for a term to expire January 31, 1995: Judge Josephine Welder Miller, 701 West Fourth Street, Sinton, Texas 78387. Judge Miller will be filling the unexpired term of Roy English of Fort Worth who is no longer eligible.

To be a member of the **State Securities Board** for a term to expire January 20, 1997: Peter Clifton Lewis, 6322 North Jim Miller Road, Dallas, Texas 75228. Mr. Lewis will be replacing Alan D. Feld of Dallas whose term expired.

Appointments Made April 15, 1991

To be a member of the **Texas Guaranteed Student Loan Corporation Board of Directors** for a term to expire January 31, 1997: Paul H. Ellis, 3701 Rivercrest Drive,

Austin, Texas 78746. Mr. Ellis will be replacing Comer Alden of San Antonio whose term expired.

To be a member of the **Stephen F. Austin State University Board of Regents** for a term to expire January 31, 1997: Laurel Ann (Sissy) Phillips Austin, Route 7, Box 328A, Jacksonville, Texas 75766. Ms. Austin will be replacing Don Haynes of Burnet whose term expired.

To be a member of the **Stephen F. Austin State University Board of Regents** for a term to expire January 31, 1997: Retta B. Kelley, 2018 Warwick Circle East, Longview, Texas 75601. Ms. Kelley will be replacing Richard C. Hile of Jasper whose term expired.

To be a member of the **Stephen F. Austin State University Board of Regents** for a term to expire January 31, 1997: Dionne Bagsby, 1336 Whittenburg, Fort Worth, Texas 76134. Ms. Bagsby will be replacing Wayne Salvant of Arlington whose term expired.

To be a member of the **Texas Board on Aging** for a term to expire February 1, 1997: Dan Roberts, 2201 Park Place, Fort Worth, Texas 76110. Mr. Roberts will be replacing Jerry Rubnick of Houston whose term expired.

Appointments Made April 16, 1991

To be Judge of the **Criminal District Court of Dallas County** until the next general election and until her successor shall be duly elected and qualified: Jan Elizabeth Hemphill, 6415 Prestoncrest, Dallas, Texas 75230. Ms. Hemphill will be replacing Judge Ron Chapman who was elevated to the position of Justice of the Fifth Court of Appeals.

To be members of the **Governor's Task Force on Revenue** pursuant to Executive Order AWR 91-3 dated March 6, 1991, for terms at the pleasure of the governor.

Jess Hay, 2001 Bryan Tower, Suite 3600, Dallas, Texas 75201, (214) 746-7100.

Henry Cisneros, Cisneros Management Company, 205 North Preston, San Antonio, Texas 78205-5200, (512) 227-5200.

Dr. Kneeland Youngblood, 16239 Amberwood Road, Dallas, Texas 75248, (214) 380-0603.

Mary O'Boyle English, P.O. Box 103, Ranch Road 1, Stone, Texas 78671, (512) 644-5500.

J. Don Williams, Trammell Crow Company, 2001 Ross Avenue, Suite 3500, Dallas, Texas 75201-2997, (214) 979-5120.

Issued in Austin, Texas, on April 16, 1991.

TRD-9104497

Ann W. Richards
Governor of Texas



Emergency Sections

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

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

TITLE 16. ECONOMIC REGULATION Part VIII. Texas Racing Commission

Chapter 307. Practice and Procedure

Subchapter C. Proceedings by Stewards and Racing Judges Exclusion and Ejection

• 16 TAC §307.271

The Texas Racing Commission adopts on an emergency basis an amendment to §307.271, concerning ejection and exclusion. The amendment clarifies the statutory authority of the commission and its agents to exclude or eject an individual from an association's grounds. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure pari-mutuel racing currently being conducted is safe and enjoyable for the patrons, race animals and licensees.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §13.01, which authorize the commission to adopt rules providing for exclusion and ejection; and under Texas Civil Statutes, Article 179e, §14.03, which authorize the commission to adopt rules prohibiting the illegal influencing of a race, including barring an individual from an association's grounds.

§307.271. Ejection and Exclusion. The stewards, racing judges, commission, or [and] executive secretary may order an individual ejected or excluded from an association's grounds in accordance with the Act if the stewards, racing judges, commission, or executive secretary determine that:

(1) the individual may be excluded or ejected under the Act; §13.01 or §14.03; and

(2) (No change.)

Issued in Austin, Texas, on April 10, 1991.

TRD-9104443

Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: April 16, 1991

Expiration date: August 14, 1991

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

Chapter 309. Operation of Racetracks

Subchapter A. General Provi- sions Operations

• 16 TAC §309.63

The Texas Racing Commission adopts on an emergency basis new §309.63, concerning approval of management and concessionaires. The section requires the submission of background information and financial statements by racetrack managers and concessionaires. The section adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The section is adopted on an emergency basis to ensure the commission is performing its statutory duties effectively and to facilitate the opening of a new pari-mutuel racetrack in Weatherford.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.04, which authorize the commission to adopt rules relating to books, records, and financial statements for managers and concessionaires.

§309.63. Approval of Management and Concessionaires.

(a) An association that intends to hire or contract with a person to provide general management or concession services at a racetrack shall submit the person's name, address, telephone number, and any proposed contract to the commission for its approval. For each person submitted under this subsection, the executive secretary shall designate the individuals who must provide complete background information pursuant to Texas Civil Statutes, Article 179e-3.

(b) A person who provides general management or concession services at a racetrack shall maintain records of its operations, including all accounting records required under generally accepted accounting principles, and shall make the records available for inspection by a representative of the commission on request by the executive secretary. Not later than June 1 of each year, the person shall submit financial statements for the preceding year to the commission.

Issued in Austin, Texas, on April 10, 1991.

TRD-9104442

Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: April 16, 1991

Expiration date: August 14, 1991

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

Chapter 311. Conduct and Duties of Individual Licensees

Subchapter A. General Provi- sions

• 16 TAC §311.15

The Texas Racing Commission adopts on an emergency basis an amendment to §311.15, concerning financial responsibility. The amendment clarifies the procedure for filing a complaint with the executive secretary regarding racing-related debts. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure the resources of the commission for investigating and prosecuting complaints are used efficiently and effectively.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

§311.15. Financial Responsibility.

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

(d) A person to whom a debt for a service or supply described in subsection (a) of this section is owed may file a certified copy of a judgment of a court of competent jurisdiction that verifies the validity of the debt [written complaint] with the executive secretary. On receipt of a judgment under this subsection, the executive secretary may initiate formal disciplinary action against the license involved. The executive secretary has sole discretion to determine whether formal disciplinary action is initiated against the licensee. [The complaint must describe the services or supplies for which the debt is owed, concisely state all facts relating to the authorization of and delivery of the services or supplies, and state the complainant's Texas sales tax identification number. The complaint must be sworn and signed by the complainant.]

[(e) The executive secretary shall investigate the complaint and allow the licensee who is the subject of the complaint an opportunity to respond. The executive secretary has sole discretion to determine whether formal disciplinary action is initiated against the licensee.]

(e)[(f) If the executive secretary initiates formal disciplinary action against a

licensee under this section, the executive secretary may require the complainant to provide a certified copy of a judgment of a court of competent jurisdiction that verifies the validity of the debt.] At a hearing to deny, suspend, or revoke a licensee's license for a violation of this section, the person to whom the debt is owed [complainant] is not entitled to reimbursement of travel expenses or any witness fees for attendance at the hearing.

Issued in Austin, Texas, on April 10, 1991.

TRD-9104440

Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: April 16, 1991

Expiration date: August 14, 1991

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

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Proposed Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

Quality of Service

• 16 TAC §23.61

The Public Utility Commission of Texas proposes an amendment to §23.61, concerning the selection of a primary interexchange carrier. The proposed amendment defines primary interexchange carrier, establishes requirements for customer lists and written authorizations to be provided by interexchange carriers to local exchange carriers, allows the local exchange carrier to prescribe the format in which such lists and authorizations must be provided, provides procedures to address unauthorized switching of primary interexchange carriers, and specifies reporting requirements for local exchange carriers regarding complaints received about such unauthorized switching.

Martin Wilson, deputy general counsel, 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. Wilson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a reduction in the incidence of unauthorized switching of primary interexchange carriers. 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. Wilson also has determined that for each year of the first five years the section is in effect there will be 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 Mary Ross McDonald, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days after publication. Comments should refer to Project Number 10103.

The amendment is proposed under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

§23.61. Telephone Utilities

(a)-(l) (No change.)

(m) Selection of primary interexchange carrier.

(1) When used in this subsection, the term "primary interexchange carrier" means the interexchange carrier whose services for InterLATA calling are accessed by dialing "1+".

(2) A local exchange carrier must process an interexchange carrier list of end users who have made individual arrangements to designate that interexchange carrier as their primary interexchange carrier, provided that the list is accompanied by a written authorization form, or facsimile thereof, from each end user whose telephone number appears on the list. The authorization form must at minimum require the end user to certify that:

(A) the end user designates the interexchange carrier to act as the end user's agent for designation of a primary interexchange carrier;

(B) the end user understands that only one interexchange carrier may be designated as the end user's primary interexchange carrier for any one telephone number; and

(C) the end user understands that the end user may be charged by the local exchange carrier for processing this selection of a primary interexchange carrier.

(3) The local exchange carrier may prescribe the formats in which the list and authorization forms required in paragraph (2) of the subsection are provided.

(4) If an end user complains to a local exchange carrier that the end user's primary interexchange carrier has been changed without authorization, the local exchange carrier shall within five days request the original written authorization from the interexchange carrier requesting the change. If the interexchange carrier requesting the change does not provide the local exchange carrier with the end user's original written authoriza-

tion for the change within 10 days thereafter, the local exchange carrier shall restore the end user's previous primary interexchange carrier without charge to the end user. The local exchange carrier shall assess any applicable charges or fees, including any charge for the initial change that prompted the complaint, to the interexchange carrier requesting the change that is the subject of the complaint.

(5) Each local exchange carrier shall report quarterly to the commission on end user complaints it receives regarding unauthorized change of a primary interexchange carrier. The report shall include:

(A) for each interexchange carrier, the number of complaints received during the quarter from end users claiming that they had been switched to that primary interexchange carrier without authorization;

(B) for each interexchange carrier, the number of complaints received that were resolved by returning the end user from that carrier to the end user's previous primary interexchange carrier; and

(C) for each interexchange carrier, the number of telephone numbers that were returned from that carrier to the previous primary interexchange carrier as a result of end user complaints.

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 April 10, 1991.

TRD-9104242

Mary Ross McDonald
Secretary of the
Commission
Public Utility Commission
of Texas

Earliest possible date of adoption: May 24, 1991

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



Part VIII. Texas Racing Commission

Chapter 307. Practice and Procedure

Subchapter C. Proceedings by Stewards and Racing Judges

Exclusion and Ejection

• 16 TAC §307.271

(Editor's Note: The Texas Racing Commission proposes for permanent adoption the amended section it adopts on an emergency basis in this issue. The text of the amended section is in the Emergency Rules section of this issue.)

The Texas Racing Commission proposes an amendment to §307.271, concerning ejection and exclusion. The amendment clarifies the statutory authority of the commission and its agents to exclude or eject an individual from an association's grounds.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing is safe and enjoyable for the patrons, race animals, and licensees. There will be no effect on small businesses as a result of enforcing the section. 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 May 31, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §13.01, which authorize the commission to adopt rules providing for exclusion and ejection; and under Texas Civil Statutes, Article 179e, §14.03, which authorize the commission to adopt rules prohibiting the illegal influencing of a race, including barring an individual from an association's grounds.

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 April 10, 1991.

TRD-910444 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: May 24, 1991

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



Chapter 309. Operation of Racetracks

Subchapter A. General Provisions

Operations

• 16 TAC §309.63

(Editor's Note: The Texas Racing Commission proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is in the Emergency Rules section of this issue.)

The Texas Racing Commission proposes new §309.63, concerning approval of management and concessionaires. The section requires the submission of background information and financial statements by racetrack managers and concessionaires.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racetracks are operated with the utmost integrity and the commission performs its statutory duties effectively. Because the cost of maintaining records and submitting financial statements will vary, depending on the type of racetrack and the organization and structure of managers and concessionaires, it is not possible to determine the fiscal implications for 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 before May 31, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 179e, §3.04, which authorize the commission to adopt rules relating to books, records, and financial statements for managers and concessionaires.

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 April 10, 1991.

TRD-910444 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: May 24, 1991

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



Chapter 311. Conduct and Duties of Individual Licensees

Subchapter A. General Provisions

• 16 TAC §311.15

(Editor's Note: The Texas Racing Commission proposes for permanent adoption the amended section it adopts on an emergency basis in this issue. The text of the amended section is in the Emergency Rules section of this issue.)

The Texas Racing Commission proposes an amendment to §311.15, concerning financial responsibility. The amendment clarifies the procedure for filing a complaint with the executive secretary regarding racing-related debts.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that commission resources for investigating and prosecuting complaints are used efficiently and effectively. There will be no effect on small businesses as a result of enforcing the section. 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 before May 31, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

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

Issued in Austin, Texas, on April 10, 1991.

TRD-9104439 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: May 24, 1991

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



TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 7. Corporate and Financial Regulation

Subchapter A. Examination and Corporate Custodian and Tax

• 28 TAC §7.91

The State Board of Insurance proposes new §7.91, concerning requirement of electronic transfer of certain payments by regulated entities to the State Board of Insurance. The new section is necessary to implement the Texas Government Code, §404.095. Section 405.095(b) provides that, if, during the preceding state fiscal year, a person paid a state agency a total of \$2 million or more in a category of payments and the agency reasonably anticipates that during the current state fiscal year the person will pay the agency \$2 million or more in a category of payments, the state agency shall require the person to transfer payment amounts of \$25,000 or more due to the agency in that category, on or before the date the payment is due, by one or more of the means of electronic funds transfer approved by the treasurer of the State of Texas. Section 404.095(c) also provides that a state agency by rule may require a person other than a person subject to subsection (b) to transfer payment amounts of \$10,000 or more due in a category of payments to the agency on or before the date the payment is due by electronic funds transfer if the person paid the agency a total of \$500,000 or more in that category of payments. The new section would require electronic fund transfer in accordance with the Texas Government Code, §404.095.

Kenneth J. Ramoin, director of accounting, 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 implementing or administering the section, and there will be no effect on local employment or local economy.

Mr. Ramoin also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to increase the number of same-day deposits of amounts due the state, thereby increasing the amount of interest earned on such deposits. The anticipated economic cost to small businesses and to other persons who are required to comply with the section as proposed will be the cost of incurring electronic wire transfer bank charges and the loss of float benefits due to same-day transaction posting. On the basis of cost per dollar of payment due, there will be no difference in cost of compliance between small businesses and larger businesses.

Comments on the proposal may be submitted to Kenneth J. Ramoin, Director of Accounting, Mail Code 009-2, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new section is proposed under the Insurance Code, Article 1.04, and the Texas Gov-

ernment Code, Article 404.095. The Insurance Code, Article 1.04, authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. The Texas Government Code, Article 404.095(c), authorizes a state agency by rule to require persons to transfer payment amounts to the agency by electronic fund transfer.

§7.91. *Electronic Transfers of Certain Payments by Regulated Entities to the State Board of Insurance.*

(a) Purpose. The purpose of this section is the implementation of the Texas Government Code, §404.095.

(b) Categories of payments. For the purposes of this section, each of the categories listed in paragraphs (1)-(5) of this subsection is a separate category of payments to the State Board of Insurance. The categories of payments are as follows:

- (1) fees;
- (2) fines;
- (3) civil penalties;

(4) taxes, with each type of tax specified by the treasurer of the State of Texas, in accordance with the Texas Government Code, §404.095(d), being considered a separate category; and

(5) other payments to the State Board of Insurance, excluding extraordinary payments such as gifts, grants, donations, interest and dividend income, and one-time surcharges.

(c) Applicability. This section shall apply to any person that:

(1) in the preceding state fiscal year, paid the State Board of Insurance a total of \$500,000 or more in a category of payments as classified by the State Board of Insurance in subsection (b) of this section and by Texas State Treasury Department rules as promulgated in 34 TAC §§15.1-15.16; and

(2) are reasonably expected to do the same in the current fiscal year.

(d) Requirement of electronic funds transfer. Except that payment by electronic funds transfer of a protested tax payment is not required, all persons subject to this section are required to transfer by electronic funds transfer to the State Board of Insurance, on or before the date payment is due, each payment amount of \$10,000 or more due in any category of payments listed in subsection (b)(1)-(5) of 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 April 17, 1991.

TRD-9104540

Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: May 24, 1991

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

Chapter 19. Agents' Licensing

Subchapter M. Licensing and Regulation of Managing General Agents

• 28 TAC §§19.1201-19.1206

The State Board of Insurance proposes new §§19.1201-19.1206, concerning licensing and regulation of managing general agents. The new sections are necessary to effectively regulate the activities of managing general agents in compliance with the mandates of the Managing General Agents' Licensing Act (the Insurance Code, Article 21.07-3). New §19.1201 sets forth general provisions concerning these new sections and concerning regulation of managing general agents under these new sections. New §19.1202 defines the terms "Act," "affiliate," "board," "carrier," "commissioner," "company," "insurer," "loss reserves," "MGA," and "managing general agent." The definitions are generally consistent with definitions in the Managing General Agents' Licensing Act (the Act) and include a clarification of the definition of managing general agent (MGA) in the Act. This clarification is necessary to assure that it is clear that a non-resident agent cannot act as an MGA. The definition of affiliate is consistent with the definition in the Insurance Code, Article 21.49-1; and loss reserves is defined with reference to the Insurance Code, Article 21.39. New §19.1203 adopts and incorporates by reference certain forms to be utilized in fulfilling regulatory filing requirements. The board has filed copies of these forms with the Secretary of State's Office, Texas Register Division. Persons desiring copies of the forms can obtain copies from the Agents' Licensing Division, Mail Code 014-3, State Board of Insurance, 333 Guadalupe Street, Austin, Texas 78701-1998. New §19.1204 sets forth mandatory provisions to be included in each contract between an MGA and an insurer. New §19.1205 sets forth requirements for utilization of escrow accounts for the placement of fiduciary monies and other monies. This proposed section sets forth methods of accounting for these funds to the State Board of Insurance and to the insurer that the MGA represents. New §19.1206 provides that the State Board of Insurance shall be a certificate holder for any errors and omissions policy used to satisfy the Insurance Code, Article 21.07-3, §4c(a)(1), and shall receive a copy of any cancellation or renewal notice.

Jack Evins, deputy insurance commissioner for licensing, has determined that, for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections, and there will be no effect on local employment or local economy.

Mr. Evins also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be more effective regulation of the activities of managing general agents, greater protection against and monitoring for insurer insolvency, due to

record keeping imposed on both insurers and managing general agents, more accountability to both the consumer and the public, and the prohibition of inappropriate delegations of authority which are disadvantageous to the health of the industry and the interests of the consumer. There will be an effect on to small businesses and to other persons who are required to comply with the sections as proposed. For the first year of the first five years the sections are in effect the following costs can be anticipated by the entities impacted by these sections. These costs are an estimate and the exact costs may vary depending upon the manner in which the managing general agents and/or insurers currently conduct their business. The one-time costs to insurers for bringing the contract into compliance is \$200, and for the procedural changes necessary to come into compliance is \$1,000, and the cost for bringing underwriting guidelines into compliance is \$100. The one-time cost for managing general agents is \$500 to bring contracts into compliance and \$1,000 to make procedural changes to get into compliance. In addition to these one-time costs, the following costs are estimated as the costs for each year of the first five years the sections are in effect for insurers: expenses associated with monitoring, reports, etc. are \$1,000; the costs associated with reserve verification, examinations regarding reinsurance, contingencies, etc. for those insurers who grant claims settlement authority but who do not currently have a senior claims analyst, will be approximately \$60,000; costs would be \$6,000 to \$40,000 for audits (based on an estimated cost of \$3,000 to \$10,000 per audit); and the costs for records retention and processing as a result of the audits would be approximately \$1,000. The costs for managing general agents for each year of the first five years the sections are in effect are: \$1,000 for monitoring, reports, etc.; \$20,000 per year where claims settlement authority is granted, for reserve verifications, examinations regarding reinsurance, contingencies, etc.; and the annual cost for audits could vary between \$2,000 and \$8,000 (based upon a cost of \$1,000 per year per audit). On the basis of cost per hour of labor, there will be no difference in cost of compliance between small businesses and larger businesses.

Comments on the proposal may be submitted to Jack Evins, Deputy Insurance Commissioner for Licensing, Mail Code 014-1, State Board of Insurance, 333 Guadalupe Street, Austin, Texas 78701-1998. Comments will also be received by the State Board of Insurance at a public hearing beginning at 9:30 a.m. on Tuesday, May 28, 1991. The hearing will be in Room 100 of the William P. Hobby, Jr., State Office Building at 333 Guadalupe Street in Austin.

The new sections are proposed under the Insurance Code, Article 21.07-3, §3A, §3C, §4A, §11, §11A, §21; Article 1.14-2, §15A; and Article 21.70; and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 21.07-3, §3A, provides that the State Board of Insurance may promulgate rules providing requirements for contracts between managing general agents and insurers; §3C provides requirements for records, escrow accounts, account reports, offsets, and the fiduciary nature of funds held by an MGA for an insurer; §4A provides requirements for persons other than an MGA to share in an

MGA's profits; §11 contains requirements for notice of the appointment of an MGA by an insurer; §11A provides for notification of withdrawal of authority and balances due from an agent; and §21 provides that the State Board of Insurance may establish and amend reasonable rules and regulations for administration of the Managing General Agents' Licensing Act. The Insurance Code, Article 1.14-2, §15A provides for notice and reporting to the board by surplus lines agents and Article 21.70 provides for notice of revocation of authority of agents and overdue balances from agents by property and casualty insurers. Texas Civil Statutes, Article 6252-13a, §4 and §5, require and authorize each state administrative agency to adopt rules of practice setting forth the nature and requirements of available procedures, and prescribe the procedure for adoption of rules by state administrative agencies.

§19.1201. General Provisions.

(a) Statutory basis and purpose. This subchapter implements the Managing General Agents' Licensing Act (the Insurance Code, Article 21.07-3). The Managing General Agents' Licensing Act (Act) was first enacted in 1967 as Chapter 757 at page 2048 of the Acts of the 60th Legislature and first became effective on August 28, 1967.

(b) Severability. Where any terms or sections of this subchapter are determined by a court of competent jurisdiction to be inconsistent with the Managing General Agents' Licensing Act, as identified by this subchapter, the Act will apply and the remaining terms and provisions of this subchapter shall continue in effect.

(c) Effect of rules. The sections set out in this subchapter are prescribed to govern the performance of appropriate statutory and regulatory functions and are not to be construed as limitations upon the exercise of statutory authority by the State Board of Insurance (board) or the commissioner of insurance (commissioner).

(d) Violation. A violation of any lawful rule, regulation, or order of the commissioner or board made pursuant to this subchapter constitutes a violation of the Managing General Agents' Licensing Act.

§19.1202. Definitions Concerning Licensing and Regulation of Managing General Agents. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Act—The Managing General Agents' Licensing Act (the Insurance Code, Article 21.07-3).

Affiliate—An affiliate of, or person affiliated with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

Board—The State Board of Insurance.

Carrier—A company, as defined in this section.

Commissioner—The commissioner of insurance.

Company—Any insurance company, corporation, inter-insurance exchange, mutual, reciprocal, association, county mutual insurance company, Lloyds, or other insurance carrier licensed to transact business in the State of Texas, excepting, however, those which write only life, health, and accident insurance and variable life insurance and variable annuity contracts.

Insurer—A company, as defined in this section.

Loss reserves—Has the meaning given to that phrase in the Insurance Code, Article 21.39.

MGA—A managing general agent, as defined in this section.

Managing general agent—Any person, firm, or corporation who has supervisory responsibility for the local agency and field operations of an insurance company or carrier within this state, or any part thereof, or who is authorized by a company or carrier to accept or process in its behalf insurance policies produced and sold by other agents. The term does not include an agent licensed under the Insurance Code, Article 1.14-2, 21.11, or 21.14, unless that agent accepts 50% or more of that agent's total annual business or does more than \$500,000 of total annual business, whichever amount is less, as measured by premium volume from insurance policies produced and sold by other agents. An agent licensed under the Insurance Code, Article 21.11, who does business in conformance with the Insurance Code, Article 21.11, is not considered to derive any income from policies produced by other agents, as that term is used in the Managing General Agents' Licensing Act, §2(a); however, the agent is considered to derive its income from policies sold by such other agents. A managing general agent may perform any of the following acts for a company or carrier: receive and pass upon daily reports and monthly accounts; receive and be responsible for agency balances; handle the adjustment of losses; or, appoint or direct local recording agents, state agents, or special agents within this state, or any part thereof.

§19.1203. Adoption by Reference of Forms Relating to Licensing and Regulation of Managing General Agents. The State Board of Insurance adopts and incorporates herein by reference forms for use in administrative licensing and regulation of managing general agents. These forms are published by the State Board of Insurance and may be obtained from the Agents' Licensing Division, Mail Code 014-3, State Board of Insurance, 333 Guadalupe Street, Austin, Texas 78701-1998. The forms adopted by reference are specifically identified in paragraphs (1)-(3) of this section:

(1) Appointment Application for Licensing of Managing General Agents;

(2) Notice to State Board of Insurance by Managing General Agents or Surplus Lines Agents; and

(3) Notice to State Board of Insurance by Insurance Companies Licensed under Authority of the Insurance Code, Chapters 5, 6, 7, 8, 15, 16, 17, 18, or 19.

§19.1204. Contract Provisions.

(a) This subsection imposes the requirements set out in paragraphs (1) and (2) of this subsection upon contracts between a managing general agent (MGA) and insurers in effect prior to the effective date of this subchapter.

(1) Oral contract. Every oral contract between an MGA and an insurer in effect prior to the effective date of this subchapter must be reduced to writing and must comply with the Act and with the provisions of this subchapter within 90 days following the effective date of this subchapter, regardless of the intended renewal date of the contract.

(2) Written contract. For any written contract between an MGA and an insurer entered into prior to September 1, 1989, the following actions must be taken.

(A) If the written contract does not address any area which the Managing General Agents' Licensing Act (the Act) or this subchapter requires the contract to address, the MGA and the insurer must enter into a separate written contract or adopt amendments to the existing contract which address such area and which are in compliance with the Act and this subchapter. The written contract must be entered into or amendments adopted within 90 days from the effective date of this subchapter.

(B) If the written contract addresses an area which is covered by the Act and this subchapter, and if the contract does not comply with the Act or this subchapter, the written contract must be filed by the MGA with the Agents' Licensing Division of the State Board of Insurance, for information.

(C) If any written contract entered into prior to September 1, 1989, is amended or changed subsequent to the effective date of the Act, any amendment or change must be in writing and must comply with the Act and this subchapter.

(b) The provisions required by paragraphs (1)-(24) of this subsection are mandatory and must be included in each contract between a managing general agent and an insurer. These provisions are mandated not in order to limit the negotiation process between an MGA and an insurer, but in order to assure that minimum standards are utilized in each contract. Each

MGA contract may contain provisions in addition to those listed in this section.

(1) The contract must state that all amendments and changes to the contract must be in writing and specify the effective date.

(2) The contract shall specify the party that is responsible for carrying out each particular function. If both parties share responsibility for a particular function, the contract shall specify the extent of each party's responsibility.

(3) The contract shall include a provision for termination of the contract; may define events of default; may specify cures for events of default; and may define the rights and obligations of parties during a period of default. The contract must state that the insurer may suspend the authority of the MGA during the pendency of any dispute regarding any event of default.

(4) The contract must specify the frequency with which the MGA must remit funds due to the insurer. In no event may the period of time for the MGA to remit funds to the insurer exceed 90 days from the end of the month in which the coverage is effective.

(5) The contract must state that, on not less than a monthly basis, the MGA shall submit an account report to the insurer. The report shall detail all transactions as set out in the Insurance Code, Article 21.07-3, §3C(a), and shall include both insurance and reinsurance transactions. The MGA may satisfy this requirement by confirming the insurer's rendering of such account. The account must be received by or confirmed to the insurer not later than 60 days from the close of the month for which business is reported. The insurer must maintain the account on file for at least three years and must make the account available to the commissioner for review.

(6) The contract must specify whether or not the MGA may appoint or terminate the appointment of agents.

(7) The contract must state that an MGA cannot bind reinsurance or retrocessions on behalf of the insurer, cannot commit the insurer to participation in insurance or reinsurance syndicates, and cannot collect a payment from a reinsurer or commit the insurer to a claim settlement with a reinsurer without the prior written approval of the insurer. The contract must state that, if prior approval is given, the MGA must promptly forward a report to the insurer.

(8) The contract must state that the MGA cannot assign the contract directly or indirectly in whole or in part without prior written approval of the insurer.

(9) Where electronic claims files are in existence, the contract must address the timely transmission of the data.

(10) The contract must include, if such authority is granted, appropriate au-

thority and limitations under which the MGA is to operate, including the maximum annual premium volume, the basis of the rates to be charged, the lines of insurance which may be written, maximum limits of liability, applicable exclusions, territorial limitations, policy cancellation provisions, the maximum policy period, and control of policy issuance. In accordance with the authority and limitations, appropriate underwriting guidelines will be developed by the insurer and MGA and incorporated into the contract by reference.

(11) The contract shall prohibit the MGA from ceding reinsurance on behalf of the insurer to a company that would not qualify for reinsurance credit under the Insurance Code, Article 3.10 or Article 5.75-1, and the rules of the State Board of Insurance promulgated thereunder. The contract must specify the conditions under which the MGA may place reinsurance and the contract must comply with all provisions of the Insurance Code, including Article 21.07-3, §3B, and the rules of the State Board of Insurance adopted thereunder.

(12) The contract must provide that the MGA shall not be required to return, as commission or return commission, monies greater than the total commission paid or otherwise payable to the MGA.

(13) The contract must provide that, if a provision or separate written contract allows for payment of profit sharing before all claims are closed, including payment of all losses and loss adjustment expenses, then no payment shall be made before:

(A) one year from the expiration, anniversary, or closing date on which premiums are based for property, inland marine, or auto physical damage; or

(B) three years from such date for automobile liability; or

(C) five years from such date for liability other than automobile; or

(D) two years from such date for any other non-liability lines.

(14) The contract must provide that, if the MGA has claim settlement authority including the setting of loss reserves, the insurer must review and verify every open reserve prior to calculation and payment of such profit sharing under paragraph (13) of this section.

(15) The contract must provide that, if the MGA has claim settlement authority including the setting of loss reserves, the insurer may elect to:

(A) make no payment of the profit sharing under paragraph (13) of this subsection until all claims are closed; or

(B) pay a portion of the profit sharing on the dates shown in paragraph (13) of this subsection and the remaining portion(s) on future anniversaries of such dates until all claims are closed.

(16) The contract must specify that the records to be maintained separately for each insurer as specified in the Insurance Code, Article 21.07-3, §3C(b), include underwriting files and that the separate records of business for each insurer must be maintained for at least five years or until the completion of a financial examination by the insurance department of the state in which the insurer is domiciled, whichever is longer.

(17) The contract must state whether or not the MGA has claims settlement authority and, if so, must state the dollar amount, which in no event shall exceed 1.0% of the insurer's policyholder surplus as of December 31 of the last completed calendar year, or \$20,000, whichever is greater.

(18) If a contract permits the managing general agent to settle claims on behalf of the insurer, the contract shall state that the managing general agent must send a copy of a form reporting to the insurer, within 30 days of determination, that:

(A) the claim involves a coverage dispute;

(B) the claim involves a demand in excess of policy limits; or includes allegations of bad faith, violations of the Deceptive Trade Practices Act, or violations of the Insurance Code, Article 21.21.

(19) The contract must specify that the insurer shall cause to be conducted a semi-annual examination of each MGA with which the insurer has done business during the previous six months. If the insurer's aggregate premium volume increases by 30% in any 30-day period, the insurer shall cause to be conducted an examination within 90 days of any Texas MGA that writes more than 20% of the insurer's volume and that has experienced an increase of 20% in premium volume during the same 30-day period.

(20) The contract must specify that the examinations required in paragraph (19) of this subsection must adequately provide the commissioner with the information required under subparagraphs (A)-(E) of this paragraph; must be made available to the commissioner for review; must remain on file with the insurer for at least three years; and must, at a minimum, contain the following information required by subparagraphs (A)-(E) of this paragraph:

(A) claims procedures:

(B) timeliness of claims payments, i.e., lag time between date claim is reported and date claim is paid;

(C) timeliness of premium reporting and collection;

(D) compliance with underwriting guidelines as developed in accordance with paragraph (10) of this subsection; and

(E) reconciliation of policy inventory.

(21) The contract must state that the MGA must notify the insurer in writing within 30 days if there is a change in:

(A) ownership of 10% or more of the outstanding stock of the MGA;

(B) any principal officer of the MGA; or

(C) any director of the MGA.

(22) The contract shall not allow an MGA to offset balances due under any contract with any offset due under any other contract.

(23) The contract must state that the MGA holds all funds of the insurer in a fiduciary capacity.

(24) The contract must state that the insurer retains final authority over disputes concerning claims settlement and setting of loss reserves.

(c) The provisions required by paragraphs (1) and (2) of this subsection are permissive and may be included in a contract between a managing general agent and an insurer. These two permissive contract terms are included in order to clarify that these terms are acceptable as written in this subsection. This subsection is not intended to preclude the inclusion of other provisions in the contract in addition to those listed in this section.

(1) The contract may authorize the MGA to accept premiums net of commissions due to agents and to retain from the premiums, as received, commissions due the MGA as specified in the contract.

(2) An MGA may pay reinsurance premiums if the MGA is not an affiliate, as defined in this subchapter, of the insurer or of the reinsurer.

§§19.1205. Escrow Accounts.

(a) Separate and identifiable escrow accounts are allowed if such accounts meet all requirements of the Insurance Code, Article 21.07-3, and this subchapter.

(b) The managing general agent shall maintain all escrow accounts in a bank

that is a member of the Federal Reserve System and whose accounts are insured by the Federal Deposit Insurance Corporation. Such accounts may consist of any one or all of the following vehicles listed in paragraphs (1)-(7) of this subsection.

(1) checking accounts;

(2) pass book savings accounts;

(3) money market accounts;

(4) certificates of deposit;

(5) United States Treasury bills, notes, or bonds;

(6) real estate repurchase agreements for which the underlying collateral is United States government securities;

(7) non-assessable money market mutual funds which are primarily invested in United States government securities.

(c) Other than as specified in subsection (b) of this section, the MGA shall not place fiduciary monies from or in any escrow account into accounts or investments:

(1) that consist of common or preferred stock or so-called junk bonds, to include at a minimum, but not be limited to, all those securities rated Category Number 3 and below by the Securities Valuation Office of the National Association of Insurance Commissioners; or

(2) that are primarily invested in common or preferred stock or so-called junk bonds as described in paragraph (1) of this subsection.

(d) All monies received by an MGA on behalf of an insurer, including without limitation, all premiums, policy fees, salvage and subrogation recoveries, and reinsurance recoveries, shall be deposited in the escrow account required by the Insurance Code, Article 21.07-3, §3C(c).

(e) All withdrawals from the escrow account required by the Insurance Code, Article 21.07-3, §3C(c), must be evidenced by detailed accounting which clearly reflects each withdrawal. Funds may be withdrawn from the escrow account only for the following purposes listed in paragraphs (1)-(8) of this subsection:

(1) accounts due to insurers;

(2) commissions to agents and managing general agents and expenses, such as fees for inspections, premium audits, and motor vehicle reports, specified within the terms of the MGA contract;

(3) return premiums;

(4) loss and loss adjustment expenses;

(5) money deposited in error;

(6) withdrawals of interest on accounts;

(7) withdrawals from escrow accounts for the purposes of making investments authorized under this subchapter;

(8) payment of reinsurance premiums authorized by §19.1204 of this title (relating to Contract Provisions); provided, however, that the MGA must report the payment of such premiums to the insurer on a quarterly basis.

(f) Ownership of the interest on the escrow account required by the Insurance Code, Article 21.07-3, §3C(c), belongs to the MGA unless otherwise specified in the contract.

§19.1206. Errors and Omissions Policies. For any errors and omissions policy used to satisfy the financial responsibility requirement under the Insurance Code, Article 21.07-3, §4C(a)(1), the State Board of Insurance shall be a certificate holder and shall receive a copy of any cancellation or renewal notice.

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 April 10, 1991.

TRD-9104205 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: May 24, 1991

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

Part II. Texas Workers' Compensation

Chapter 133. Medical Benefits- General Medical Provisions

Subchapter A. General Rules for Required Reports

• 28 TAC §133.3

The Texas Workers' Compensation Commission proposes new §133.3, concerning responsibilities of treating doctor. The section is necessary to clarify what the doctor who is primarily responsible for an injured workers' health care must do.

Section 133.3 identifies who is a treating doctor, and describes the doctor's responsibilities to approve or recommend efficient health care for injured employees; make medical reports; certify maximum medical improvement and assign an impairment rating; agree or disagree with the certification and evaluation of other certifying doctors; and be responsible for medically necessary spinal surgery recommendations.

R. Glenn Looney, manager of planning and analysis, 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. There is no anticipated

impact on employment, locally or statewide as a result of implementing the section.

Mr. Looney also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the implementation of the Workers' Compensation Act adopted by recent legislation. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposed section may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 8303, §4.66, which authorize the commission to establish rules requiring certain reports and records of health care providers and makes the treating doctor responsible for maintaining efficient utilization of health care; and §2.09(a), which authorize the commission to adopt rules necessary for implementation and enforcement of the Texas Workers' Compensation Act.

§133.3. Responsibilities of Treating Doctor.

(a) The treating doctor is the doctor who is primarily responsible for coordinating the employee's health care for an injury.

(b) Except in the case of an emergency, the treating doctor shall approve or recommended all health care rendered to the injured employee. This includes, but is not limited to, referrals to consultants made by the treating doctor. The referral shall be medically reasonable and necessary.

(c) The treating doctor shall be responsible for maintaining efficient utilization of health care.

(d) The treating doctor shall complete and submit required medical reports as specified in §§133.100-133.103 of this title (relating to Required Medical Reports; Initial Medical Report; Subsequent Medical Report; Specific Medical Reports).

(e) The treating doctor shall:

(1) certify when maximum medical improvement (MMI) has been reached, and assign an impairment rating as described in §130.2 of this title (relating to Certification of Maximum Medical Improvement by Treating Doctor); and

(2) complete the report required under §130.1 of this title (relating to Reports of Medical Evaluation: Maximum Medical Improvement and Permanent Impairment).

(f) However, if a doctor other than the treating doctor is certifying MMI, the treating doctor shall indicate agreement or disagreement with the certification and evaluation of certifying doctor as specified in §130.3 of this title (relating to Certification of Maximum Medical Improvement by Doctor Other Than Treating Doctor).

(g) The treating doctor shall be responsible for recommending spinal surgery, if medically necessary.

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 April 15, 1991.

TRD-9104377 Susan M. Kelley
General Counsel
Texas Workers' Compensation Commission

Earliest possible date of adoption: May 24, 1991

For further information, please call: (512) 440-3973

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

Subchapter A. Medical Policies

• 28 TAC §134.1

The Texas Workers' Compensation Commission proposes new §134.1, concerning the various medical fee guidelines that are adopted by the commission, for the purposes of establishing maximum reimbursement rates for services for treatment of injured workers covered by workers' compensation insurance. The proposed section indicates how these guidelines are to be used by parties, most likely insurance carriers, adjusters, and health care providers, in order to properly calculate the amounts that should be paid to health care providers.

New §134.1 indicates that the ground rules and medical services standards established by fee guidelines shall be used to calculate proper amounts of payments due to health care providers. The section states that health care providers shall bill the insurance carrier for medically necessary services and treatments rendered to relieve the effects of a compensable injury, or promote recovery, by using codes from fee guidelines. The section tells health care providers which one of three existing fee guidelines: the Medical Fee Guideline, as referenced and incorporated in §134.200 of this title (relating to Medical Fee Guideline); the Hospital Fee Guideline, referenced and incorporated in §134.400 of this title (relating to Hospital and Ambulatory Surgical Center Fee Guideline); or the Pharmaceutical Fee Guideline, as set forth in §134.501 of this title (relating to Pharmaceutical Fee Guideline). The section tells residential treatment centers, nursing homes, and home health agencies that there is no applicable current guideline in use for them, and states that they will be reimbursed for services at fair and reasonable rates as described in the Texas Workers' Compensation Act, §8.21(b), until such time as the commission adopts specific fee guidelines for these providers.

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed section is in effect, there will be no costs to state and local gov-

ernments as a result of enforcing or administering the section as proposed. There is no anticipated impact on employment, locally or statewide, as a result of implementing the proposed section.

Mr. Looney also has determined that for each year of the first five years that the proposed section is in effect, the public benefit anticipated is implementation of cost containment measures set out in the Texas Workers' Compensation Act, Article 8308, §8.21, and instruction to parties about how to use the various fee guidelines. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposed section may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 8308, §8.21(a) and (b), which authorize the commission to adopt guidelines, by rule, relating to payment of fees charged for specific medical treatments or services; and §2.09(a), which authorizes the commission to adopt rules necessary for the implementation and enforcement of the Texas Workers' Compensation Act, Article 8308, §1.01 et seq.

§134.1. Use of the Fee Guidelines.

(a) The ground rules and the medical service standards and limitations as established by the fee guidelines shall be used to properly calculate the payments due to the health care providers.

(b) Health care providers shall bill the insurance carrier for all compensable injuries using the codes from the fee guidelines established by the commission. The health care provider shall bill the insurance carrier for the health care treatments and services performed, and medically necessary to relieve the effects of the compensable injury and promote recovery.

(c) Doctors of medicine, osteopathy, dentistry, chiropractic, podiatry, optometry, psychology, and physical therapists, occupational therapists, imaging or radiology centers, minor emergency centers, free-standing pathology centers, durable medical equipment suppliers, and orthotic and prosthetic suppliers shall bill the insurance carrier using the medical fee guideline described in §134.200 of this title (relating to Medical Fee Guideline).

(d) Pharmacists, in settings other than a hospital, shall bill according to the pharmaceutical fee guideline described in §134.501 of this title (relating to Pharmaceutical Fee Guideline).

(e) Hospitals, licensed by Texas Department of Health or Texas Department of Mental Health and Mental Retardation, and ambulatory surgical centers, licensed by Texas Department of Health, shall bill ac-

ording to the hospital and ambulatory surgical center fee guideline described in §134.400 of this title (relating to Hospital and Ambulatory Surgical Center Fee Guideline).

(f) Reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates as described in the Texas Workers' Compensation Act, §8.21(b), until such period that specific fee guidelines are established by the commission.

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 April 15, 1991.

TRD-9104378

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: May 24, 1991

For further information, please call: (512) 440-3973

• 28 TAC §134.2

The Texas Workers' Compensation Commission proposes new §134.2, concerning an insurance carriers responsibility to respond for requests by the commission for certain medical records of an injured worker. The section is necessary to clarify the duties of the carrier when such a request is made.

New §134.2 states that an insurance carrier shall submit medical reports or other documents to the commission within five days after a request. The section describes that administrative penalties that may be applied to a carrier who fails to timely submit the requested information without good cause.

R. Glenn Looney, manager of planning and analysis, 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. Looney also has determined that for each year of the first five years the section is in effect the public benefit anticipated is implementation of the Texas Workers' Compensation laws, and establishment of a time frame for filing producing information requested by 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.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 8303-2.09(a), which authorize the commission to adopt rules to implement and enforce the Texas Workers' Compensation Act, Article 8303-1.01 et seq.

§134.2. Insurance Carrier Responsibility to Submit Medical Reports. An insurance carrier shall submit all medical reports and other documentation in its possession to the commission within five days of request from the commission. A carrier that fails to submit requested information or submitting requested information late without good cause may be assessed an administrative penalty under the Texas Workers' Compensation Act, §§8.04, 10.07(b)(22), and 10.21.

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 April 15, 1991.

TRD-9104379

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: May 24, 1991

For further information, please call: (512) 440-3973

• 28 TAC §134.4

The Texas Workers' Compensation Commission proposes new §134.4, concerning definition of "consulting doctor", as used in the commission's rules in this title. The section is necessary to clarify who will be considered as a consulting doctor as that term is used in the Texas Workers' Compensation laws.

New §134.4 states that a consulting doctor is a licensed doctor who examines an injured employee, or reviews his or her medical record, at the request of that employee's treating doctor (who is the primary doctor in charge of the employee's health care treatment). The section states that the purpose of such a referral examination, as performed by the defined "consulting doctor", should be to aid in the injured employee's diagnosis or treatment; the examination may include specific injury-related assessments or treatments are requested by the treating doctor. The section instructs a consulting doctor not to make referral without the approval of the treating doctor, except as provided in §133.3(b) of this title (relating to Responsibilities of the Treating Doctor).

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed section is in effect, there will be no costs to state and local governments as a result of enforcing or administering the section as proposed. There is no anticipated impact on employment, locally or statewide, as a result of implementing the proposed section.

Mr. Looney also has determined that for each year of the first five years that the proposed section is in effect, the public benefit anticipated is implementation of the Texas Workers' Compensation laws, and establishment of a time frame for filing producing information requested by 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.

Comments on the proposed section may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 8303-2.09(a), which authorize the commission to adopt rules to implement and enforce the Texas Workers' Compensation Act, Article 8303-1.01 et seq.

§134.4. Definition of Consulting Doctor. A consulting doctor, for purposes of this title, is a licensed doctor who examines an injured employee, or the employee's medical record because of a referral from the treating doctor as described in the Workers' Compensation Act, §4.64(1). The purpose of the examination is to aid in diagnosis and/or treatment, and at the request of the treating doctor, may include specialized treatment or diagnostic assessment pertaining to the compensable injury or illness. Except as provided in §133.3(b) of this title (relating to Responsibilities of Treating Doctor) the consulting doctor shall not make referrals without the approval of the treating doctor.

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 April 15, 1991.

TRD-9104380 Susan M. Kelley
General Counsel
Texas Workers'
Compensation

Earliest possible date of adoption: May 24, 1991

For further information, please call: (512) 440-3973

• 28 TAC §134.5

The Texas Workers' Compensation Commission proposes new §134.5, concerning attendance at a medical examination (under a medical examination order) by an injured employee's treating doctor.

The new §134.5 is necessary to clarify employee's right to have a physician present at a medical examination that is ordered by the commission. The section indicates that the doctor who attends must be the treating doctor, who will be paid by the insurance carrier, at the rate of \$100 per hour (not to exceed four hours) as calculated under subsection(a)(1)-(3) of the proposed section. A charge for time that exceeds four hours must have the carrier's approval in advance. The section instructs the doctor to HCFA-1500 Form. The treating doctor, with the carrier's prior approval, may send another doctor to the examination.

R. Glenn Looney, manager of planning and analysis, 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. There is no anticipated impact on employment, locally or statewide as a result of implementing the section.

Mr. Looney also has determined that for each year of the first five years the section is in effect the public benefit anticipated is the implementation of the Texas Workers' Compensation Act, Article 8308, §1.01 et seq, and establishment of reimbursement schedule and fee guideline for the treating doctor who attends an examination of an injured employee as ordered by 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 proposed section.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, Southfield Building, 4000 South Interstate 35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 8308, §2.09(a), which authorize the commission to adopt rules necessary to implement and enforce the Texas Workers' Compensation Act; Article 8308, §8.01(a), which authorize the commission to adopt rules relating to medical policies and fee guidelines governing the provision and payment of medical services for compensable injuries; Article 8308, §4.16(d), which authorize the commission to fix the fee to be paid to the doctor selected by the employee to attend the ordered medical examination; and Article 8308, §8.21(a), which authorize the commission to establish guidelines relating to the fees charged or paid for medical services rendered to injured employees.

§134.5. Treating Doctor Attendance At Medical Examination Under a Medical Examination Order.

(a) The injured employee's treating doctor may be present at a required medical examination as described in §126.6 of this title (relating to Order for Required Medical Examinations). The treating doctor shall be reimbursed by the insurance carrier for time and travel as specified in the following guidelines:

(1) a rate of \$100 an hour limited to four hours of reimbursement of time or, if in excess of four hours, with prior approval from the insurance carrier;

(2) the calculation of time shall be from "portal to portal," commencing with the beginning of travel, to the examination and ending with the completion of travel; and

(3) the charge shall be calculated in quarter hour increments with any amount over 10 minutes to be considered an additional quarter hour.

(b) A charge for attendance that exceeds these guidelines, shall have prior approval from the insurance carrier or the commission.

(c) After accompanying the injured employee to the examination, the treating doctor shall submit request for reimbursement on a standard HCFA-1500 Form.

(d) The injured employee's treating doctor shall be the only doctor permitted to attend and charge for the attendance at the examination, unless the treating doctor receives prior approval from the insurance carrier to send a different doctor to observe the examination.

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

Issued in Austin, Texas, on April 17, 1991.

TRD-9104546 Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: May 24, 1991

For further information, please call: (512) 440-3973

Chapter 150. Qualifications for Representatives

• 28 TAC §150.3

The Texas Workers' Compensation Commission proposes new §150.3, concerning the procedure for authorization of certain persons who will represent parties in workers' compensation matters pending before the Texas Workers' Compensation Commission.

New §150.3 applies to representatives as defined in the Texas Workers' Compensation Act, Article 8303-1.03(40). The section provides that an insurance adjuster who desires to represent an insurance carrier (as an adjuster) must hold a license to do so from the State Board of Insurance, and must provide the commission with written authorization from the carrier to act as its representative. The authorization is not required if the adjuster is an employee of the carrier. If a person seeks representative status as an attorney, that person must comply with §150.2(a) of this title (relating to Qualification and Authorization of Attorney to Practice Before the Commission). Finally, the new section provides that a person who is not an adjuster or attorney, who wishes to act as a representative for a party, must file either a power of attorney, or a written authorization from a claimant, which will serve to allow that person access to otherwise confidential records. Such a representative may not directly or indirectly seek a fee from a claimant.

The section provides that a representative that does not comply with a provision of the Act or a commission rule may be subject to administrative penalties, including suspension of the right to practice before the commission.

R. Glenn Looney, manager of planning and analysis, 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 as proposed. There will be no effect on employment, local or statewide, as a result of the proposed section.

Mr. Looney also has determined that, for each year of the first five years the section is in effect, the public benefit anticipated is clarification of the process by which a representative may inform the commission of that fact, as well as the implementation of the Texas Workers' Compensation Act, specifically Article 8303-2.09(e). There will be no effect on small businesses. There is no anticipated additional economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 8308-2.09(a), which authorize the Commission to adopt rules necessary to implement and enforce the Texas Workers' Compensation Act, Article 8303-1.01 et seq.; and Article 8303-2.09(e), which authorizes the commission to establish qualifications for representatives and to adopt rules establishing procedures for authorization of those representatives.

§150.3. Representatives: Written Authorization Required.

(a) A representative, as that term is defined in the Workers Compensation Act (the Act), §1.03(40), is authorized under the Act, §2.09(e), to provide services in workers' compensation matters if:

(1) the person is an insurance adjuster holding a State Board of Insurance license to adjust workers' compensation claims, if the adjuster provides, to the commission, a written authorization from an insurance carrier to adjust claims. Written authorization is not required from an adjuster who is an employee of the insurance carrier;

(2) the person is an attorney and complies with the requirements of §150.2(a) of this title (relating to Qualification and Authorization of Attorney to Practice Before the commission); or

(3) the person who is not either an adjuster or attorney files with the commission a written power of attorney, or written authorization from the claimant, allowing that person access to confidential records. No fee or remuneration shall be received either directly or indirectly from a claimant.

(b) A representative that fails to comply with the Act, or violates a rule of the commission, may be subject to sanctions, including suspension, as provided by the Act, §2.09(f) and §10.07(d).

This agency hereby certifies that the proposal has been reviewed by Legal counsel and

found to be within the agency's authority to adopt.

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TRD-9104381

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

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For further information, please call: (512) 440-3973

Chapter 164. Workers' Health Safety-Extra Hazardous Employer Program

• 28 TAC §164.1, §164.3

The Texas Workers' Compensation Commission proposes new §164.1 and §164.3, concerning the program the Health and Safety Division of the commission will operate to identify, and counsel, extra-hazardous employers, as that program is described in the Texas Workers' Compensation Act (the Act), Article 8308, §7.04.

The sections are necessary to inform the public about the criteria that will be used by the commission to identify employers whose injury frequencies substantially exceed those that may reasonably be expected in that employer's industry, and to describe time limits and standards for the safety consultation that an extra-hazardous employer must obtain.

Section 164.1 lists the factors that the Division of Health and Safety at the commission will use to identify an employer whose injury frequency is substantially higher than the frequency of injuries of his industry in Texas. According to the section, the division will use the Poisson probability distribution, which uses information about the employer's workforce, the industry's workforce, and the number of certain injuries that occur with the employer and the industry. The section states that the "workforce" data used for comparison of an employer with a similar industry will be the SIC (standard industrial classification) code, as obtained from the Texas Employment Commission. Because there are two-digit, three-digit, and four-digit SIC codes that may apply to any business, the section notes that the longest code will be used for comparison that will result in a minimum of 20 companies used to calculate in industry injury frequency.

The section states that the division will identify extra-hazardous employers quarterly, using at least four quarters of the most recent injury information. The section sets out a description of identifications that will be performed by the division, and each identification will include a larger pool of injuries as a basis for comparing a particular employer's injury frequency with that of the similar industry. Data prior to January 1, 1991, can be used.

The section proposes that the first identification will count fatalities, occupational diseases, and injuries that result in eight or more days lost time from work, and compare an employer's injuries in these categories to injury rates on the same industry; to be de-

clared extra-hazardous in the first identification, a company with no fatal injuries must have a record such that another company in the industry will have greater than 999,999,999 chances out of a billion of having a better record. For a company with at least one fatal injury, the extra-hazardous identification will result if another company in the industry would have 99 chances out of 100 of having a better injury record.

The section proposes that the second identification will count fatalities, occupational diseases, and injuries that result in more than one day of lost time from work, and compare an employer's injuries in these categories to injury rates of the same industry. The third identification will use injury frequencies for the categories used in the second identification, along with medical only injuries that do not result in time lost from work, but do cause impairment. The fourth and any subsequent identifications will add medical only injuries, whether or not impairment results. To be identified as an extra-hazardous employer for an analysis after the first identification, an employer without any fatal injuries must have an injury record such that another employer in the same industry would have a chance of 999,999 in a million of having a better injury record. For an employer with at least one fatal injury, another employer in the same industry would have 99 chances in 100 of having a better record of injuries.

The section also lists three forms that will be used by the division to run the calculations and projects that use the information described in the entire section, and the Poisson probability distribution. It is expected that an employer identified as extra-hazardous will be provided with copies of these calculations.

New §164.3 requires an employer to complete a safety-consultation not later than 30 days after being identified as extra-hazardous. The employer must get prior approval from the division of health and safety to use a consultant referred by the division, by the employer's insurance carrier, or another professional source. The section requires the safety consultant to evaluate and report on the hazardous conditions at each of the employer's jobsites. The section states that if the consultant finds that the employer has an existing accident prevention plan that identifies, and addresses, the same hazardous conditions he or she finds, the consultant's report shall document facts to document that the "extra-hazardous" designation is not warranted, and may request the commission's Health and Safety Division to verify this by inspection within 30 days. The section requires the safety consultant to file his or her report with the Health and Safety Division of the commission within 24 hours after completion of the consultation. There is a provision in the section that allows an employer to request a waiver of the time limits for getting a safety consultation, if one cannot be completed in the time allowed. The additional time cannot exceed 30 days after an initial consultation or 60 days after the employer was first identified as extra-hazardous. The section states that an employer's insurance carrier may charge for consulting services performed under the extra-hazardous program.

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed sections are in ef-

fect there will be no fiscal implications for state or local government as a result of enforcing or administering §164.3. The fiscal effect on state government as a result of enforcing or administering §164.1, for the first five-year period the section is in effect, is estimated as follows: fiscal year (fy) 1991: \$26,000; fy 1992: \$44,200; fy 1993: \$7,600; fy 1994: \$7,600; and fy 1995: \$7,600. There is no anticipated impact on employment, locally or statewide, as a result of implementing the sections.

Mr. Looney 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 implementation of the Act adopted by recent legislation, specifically the extra-hazardous employers safety program. 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 Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas. 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under the Act, Texas Civil Statutes, Article 8308-2.09(a), which authorizes the commission to adopt rules necessary to implement and enforce the Act, and Article 8308-7.04(a), which authorizes the Division of Health and Safety of the commission to develop a program to identify "extra-hazardous" employers, as that term is defined therein.

§164.1. Criteria for Identifying Extra-Hazardous Employers.

(a) An employer, who is subject to this chapter under the Texas Workers' Compensation Act, §7.01, shall be identified as an extra-hazardous employer using the Poisson probability distribution. The information required to compute the distribution is as follows:

- (1) the employer's workforce;
- (2) the industry workforce;
- (3) the employer's injuries as identified in subsection (e) of this section; and
- (4) the industry's injuries as identified in subsection (e) of this section.

(b) The most recent available employer and industry workforce data at the four-digit standard industrial classification (SIC) code level will be obtained from the Texas Employment Commission.

(c) If an employer is a member of a four-digit SIC code industry of less than 20 companies, all companies within the industry group (three-digit SIC code) will be included to increase the population of companies to 20 or above. The major group (two-digit SIC code) will be used, if necessary, to achieve the minimum 20-company population. If necessary, major groups will

be combined using the most closely related industries, as determined by the division, to achieve the minimum 20-company population.

(d) Extra-hazardous employers will be identified at least quarterly. Injury data, beginning January 1, 1991, will be included until 12 months of data are available. Thereafter, only the most recent 12 months of data will be included. The commission may elect to use 1990 injury data to provide 12 months of injury data until January 1992.

(e) The following injuries will be sequenced into the Poisson probability distribution calculation for use by the division of health and safety to identify extra-hazardous employer:

- (1) injuries resulting in fatalities;
- (2) occupational diseases (excluding fatalities);
- (3) injuries (excluding occupational diseases and fatalities) resulting in eight or more days lost time;
- (4) injuries (excluding occupational diseases and fatalities) resulting in more than one, but less than eight days lost time;
- (5) medical only, no lost time injuries with impairment (excluding occupational diseases); and

(6) propose a study by the division of health and safety to determine the cost to the commission and the employers of capturing medical only's no lost time incidents. This study will commence July 1, 1991, and be completed by December 31, 1991. The results of the study would be placed on the commission agenda for a review and evaluation no later than March 31, 1992. The cost of obtaining the information and administering this phase of the procedure will be included in determining if it is feasible for identifying extra-hazardous employers.

(f) The phased sequence of injury categories, in subsection (e) of this section, used for identifying extra-hazardous employers will be the following.

(1) The first identification of extra-hazardous employers will include injuries from subsection (e)(1)-(3) of this section.

(2) The second identification of extra-hazardous employers will include injuries from subsection (e)(1)-(4) of this section. Subsection (e)(4) data, when added, will include injuries accumulated from January 1, 1991.

(3) the third identification of extra-hazardous employers will include injuries from subsection (e)(1)-(5) of this section. Subsection (e)(5) data, when added, will include injuries accumulated from January 1, 1991.

(g) The thresholds used in the Poisson distribution calculations will be phased in based on the following schedule.

(1) The first identification calculation will use a threshold of .000000001 for a company with injuries, none of which were fatalities, and a threshold of .01 will be used for a company with one or more fatalities.

(2) The second and subsequent identification calculations will use a threshold of .000001 for a company with injuries, none of which were fatalities, and a threshold of .01 will be used for a company with one or more fatalities;

(h) To be declared extra-hazardous, the record of the company being considered must be such that:

(1) in the initial calculation for a company with zero fatal injuries, another company of the same size in the same industry would have a probability of greater than 999,999,999 in 1,000,000,000 (.000000001 threshold) of having a better injury record. For a company with at least one fatality, another company of the same size in the same industry would have a probability of greater than 99 in 100 (.01 threshold) of having a better injury record; and

(2) in the second and subsequent calculations for a company with zero fatal injuries, another company of the same size in the same industry would have a probability of 999,999 in 1,000,000 (.000001 threshold) of having a better injury record. For a company with at least one fatality, another company of the same size in the same industry would have a probability of greater than 99 in 100 (.01 threshold) of having a better injury record.

(i) The commission will review the injury sequence in subsection (f) of this section and the thresholds in subsection (g) of this section quarterly for effectiveness and may adjust the injury categories and thresholds for the subsequent calculations.

(j) The division will publish the following:

(1) TWCC-112, extra-hazardous employer projection worksheet, that may be used by an employer to compute a company's expected injuries, "L;";

(2) TWCC-113, TWCC standard industrial classification (SIC) code information for computing extra-hazardous employer projections, a look-up table that provides industry-wide employment and injury data by four-digit SIC code, for use with the TWCC-112 worksheet;

(3) TWCC-114, look-up table for extra-hazardous employer projections, that will allow an employer to determine if the employer has attained the critical level of injuries for identification as an extra-hazardous employer. A separate TWCC-114 will be published for each Poisson distribution threshold.

§164.3. Safety Consultation.

(a) Not later than 30 days following notice of identification as an extra-hazardous employer the employer shall complete a safety consultation from a division pre-approved professional source. The source may be provided by:

- (1) the division;
- (2) the employer's insurance carrier; or
- (3) another professional source.

(b) Upon request, the division shall provide a list of approved professional sources.

(c) The safety consultant shall conduct a hazard survey at each appropriate job site and prepare a hazard survey report. The report shall be in writing in the format prescribed by the commission and shall include a description of any hazardous conditions or practices identified.

(d) The hazard survey report(s) and any attachments shall be filed by the consultant with the division within 24 hours of completing the consultation.

(e) If the initial consultation and report cannot be completed in the time allowed under this rule, the employer may apply to the commission for a waiver of the time requirements. Except for good cause, the time allowed may not exceed 30 days following the date of the initial consultation or 60 days following the date of notification.

(f) The consultants identified in subsection (a) of this section may charge the employer for consultations provided under the extra-hazardous employer program.

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 April 15, 1991.

TRD-9104382

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: May 24, 1991

For further information, please call: (512) 440-3973

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Chapter 180. Compliance and Practices-Administrative Violations and Penalties

• **28 TAC §§180.1-180.3**

The Texas Workers' Compensation Commission proposes new §§180.1-180.3, concerning implementation by the commission of procedures to carry out compliance actions that are set forth in the Texas Workers' Compensation Act (the Act), Article 8308, §9.01 et

seq and §10.02 et seq. The sections are needed to inform the public of procedures that will be used to monitor compliance with the Act.

New §180.1 lists definitions of certain phrases that are used in the Act and rules; those definitions are "charged person", "participant", and "patterns of conduct" (which is synonymous, in the proposed section, with the terms "business practice" and "matter of practice").

New §180.2 makes clear that it shall be an administrative violation for any person to willfully or intentionally violate a provision of the Act or rule of the commission, and that such violations will be subject to penalties and sanctions described in the rules or the Act.

New §180.3 describes how the commission's division of compliance and practices will audit insurance carriers for compliance with the Act. The section makes clear that carrier's agents and those who are under contract to the carrier to perform services can be audited. The review is held at the office of the company who is audited. Compliance division will work with the division of medical review for audit of medical issues. The section describes the reasonable notice that the compliance division must give a company before it audits performance. The section requires the carrier to designate a contact at each claims handling location, to work with the commission in order to provide three elements of information to its reviewer: access to records; response to inquires; and information about the carrier's claims handling and records procedures. The section further provides that written results of the review will be given to the carrier within ten days after the review is finished. The carrier may file a response that includes how it proposes to correct any deficiencies. Copies of both the report and the response shall be provided by the compliance division to the State Board of Insurance. The section notes that the division will bill the carrier for the review, unless that carrier is a governmental entity. The carrier must mail or deliver payment for expenses by a check, within 40 days after the review has been completed.

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or as a result of enforcing or administering the sections. There is no anticipated impact on employment, locally or statewide as result of implementing the sections.

Mr. Looney also has determined that, for each year of the first five years the sections are in effect, the public benefit anticipated is the implementation of the Texas Workers' Compensation Act adopted by recent legislation and clarification of the audit to be used by the division of compliance and practices to monitor compliance by insurance carriers with the Act. There is no anticipated economic costs to persons who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The sections are proposed under the Texas Workers' Compensation Act, Texas Civil Statutes, Article 8308-2.09(a), which authorize the commission to adopt rules necessary to implement and enforce the Act, and Article 8308-7.04(a), which authorizes the division of health and safety of the commission to develop a program to identify "extra-hazardous" employers, as that term is defined therein.

§180.1. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other terms such as willful, intentional, and knowingly shall have the meanings defined by the Texas Penal Code.

Charged person—The person who is charged with an administrative violation or wrongful act. As used in these rules, charged person includes people initially charged and those found guilty of administrative violations.

Participant—A person receiving benefits or providing services on workers' compensation matters subject to commission monitoring under the Workers' Compensation Act.

Patterns of conduct—The acts or omissions of a participant in the workers' compensation system which are repeated. This term is synonymous with the terms "business practice" and "matter of practice".

§180.2. Administrative Violations and Penalties.

(a) It shall be an administrative violation for any person to willfully or intentionally violate any rule of the commission or provision of the Workers' Compensation Act.

(b) Administrative violations are subject to penalties and sanctions as provided by rules of the commission or as provided in the Workers' Compensation Act.

§180.3. Performance Review of Insurance Carriers.

(a) The division of compliance and practices (the division) shall review and audit the records of insurance carriers, as that term is defined by the Texas Workers' Compensation Act (the Act), §1.03(28), the carrier's agents, and those with whom the carrier has contracted to provide, review, or monitor services under the Act, for compliance with the Act and rules of the commission.

(b) The division shall conduct such performance review at the offices of the insurance carrier, the carrier's agents, or those with whom the carrier has contracted to provide, review, or monitor services under the Act.

(c) The division shall coordinate its reviews with the division of medical review for medical payment compliance issues.

(d) The division shall provide reasonable notice in advance of any performance review. That notice shall:

- (1) be in writing;
- (2) be sent at least 10 calendar days before the review is to be performed;
- (3) specify the information that must be made available;
- (4) list the names and phone numbers of commission staff involved in the review; and
- (5) specify the date, time, location, and conditions of the review.

(e) The insurance carrier shall designate a contact person at each claim handling location to coordinate the review. That contact person shall:

- (1) provide reasonable access to requested personnel and information;
- (2) respond to reasonable needs of reviewers on-site or to telephone inquiries by reviewers; and
- (3) be familiar with the insurance carrier's claim handling procedures and record keeping systems.

(f) The insurance carrier, upon request, shall make available for review claim files as specified by the division.

(g) Written findings of the review will be provided to the insurance carrier at the time of the review or within 10 days after the review is completed.

(h) The insurance carrier may prepare and file with the division of compliance and practices a management response to the performance review findings. The response may include proposed corrective actions.

(i) The division shall provide the State Board of Insurance with a copy of all performance review findings and the insurance carrier's response, if any.

(j) Except to a governmental entity, the commission shall submit a bill to the insurance carrier for the actual expenses associated with the review within 10 days after the review is completed.

(k) The insurance carrier shall submit payment by check, made payable to the order of the commission, for the expenses within 40 days after the review is completed. Payment may be delivered in person or by mail to the commission in Austin.

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 April 17, 1991.

TRD-9104545

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: May 24, 1991

For further information, please call: (512) 440-3973

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 114. Control of Air Pollution from Motor Vehicles

• 31 TAC §114.11

(Editor's Note: The Texas Air Control Board proposes for permanent adoption the amended section it adopts on an emergency basis in this issue. The text of the amended section is in the Emergency Rules section of this issue.)

The Texas Air Control Board (TACB) proposes an amendment to §114.11, concerning alternative fuel requirements for transit authorities, to accomplish two changes. The first amendment allows the percentage conversion requirements to be met by conversion of any fleet vehicle, rather than exclusively revenue vehicles. An additional amendment establishes a time limit on exemptions granted for the alternative fuel conversion requirements to two years.

This section was adopted to implement Senate Bill (SB) 769, 71st Legislature. As originally adopted, the rule requires that fleets of transit authority revenue vehicles be converted to alternative fuel capability according to a specified schedule. The amendment is being proposed in order to alleviate initial compliance problems resulting from a lack of alternative fuel conversion technology for transit diesel buses. The staff, in initially developing this section, believed that the interpretation of SB 769 as being particularly applicable to revenue vehicles, especially the higher emitting vehicles such as diesel buses, was more in keeping with the spirit of the statute. Additional legal review of the bill, however, suggests that since the restriction to revenue vehicles is not stated, such a restriction is not required. Furthermore, staff of the General Land Office, as original sponsors of the legislation, have stated their support for a relaxation of this section to allow full fleet averaging to accomplish the required conversion percentage.

The two-year limit on exemption will ensure that exemption are reviewed periodically. Rapidly changing alternative fuel technology and availability make the validity of unrestricted exemption questionable.

Bennie Engelke, director of administrative service, has determined that for the first five-year period the section is in effect, no additional costs will be incurred by the agency as a result of administering the section.

Lane Hartock, director of the Planning and Development Program, has determined that for each of the first five year the section is in effect, the public benefit anticipated to result from implementing the section will be to alleviate the financial and technological burden of

meeting alternative fuel requirement in transit authority fleets. There will be no fiscal implication for businesses required to implement the proposed measures.

A public hearing on this proposal is scheduled for 10 a.m. May 22, 1991, in the auditorium of the Texas Air Control Board in Austin. Public comment, both oral and written, on the proposed changes is invited at the hearing. Written comments should be sent to the Regulation Development Section, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. Copies of the proposal are available from Lynn Wright at the TACB central office and at all TACB regional offices.

The amendment is proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code, Annotated (Vernon 1990), which provide TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§114.11. Alternative Fuel Requirements for Transit Authorities.

(a) Metropolitan rapid transit authorities created under Texas Civil Statutes, Article 1118x, regional transportation authorities created under Texas Civil Statutes, Article 1118y, and city transportation departments created under Texas Civil Statutes, Article 1118z, shall ensure that fleet [revenue] vehicles, including purchased vehicle services, are capable of being operated on alternative fuels which are defined as follows:

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

(b) (No change.)

(c) Capability for operating on alternative fuels shall be accomplished in accordance with the following schedule:

(1) 30% or more of fleet [revenue] vehicles by September 1, 1994;

(2) 50% or more of fleet [revenue] vehicles by September 1, 1996.

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

(f) Metropolitan rapid transit authorities, regional transportation authorities, or city transportation departments may apply to the executive director of the Texas Air Control Board for an exemption from or reduction of the alternative fuels conversion requirement by documenting in writing one or more of the following conditions:

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

(g) An exemption from or reduction of the alternative fuels conversion requirements issued under subsection (f) of this section will expire two years after the date of issuance. Applicants may apply for a renewal of the exemption or reduction by providing updated documentation in accordance with subsection (f)(1) or (2) of this section.

(h)[(g)] Metropolitan rapid transit authorities, regional transportation authorities, and city transportation departments

shall maintain records on all fleet [revenue] vehicles, including, but not limited to: miles travelled, fuel consumed, maintenance and repair, and such other records as may be necessary for determining air quality benefits from alternative fuels.

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 April 10, 1991.

TRD-9104203 Lane Hartscock
Director, Planning and
Development Program
Texas Air Control Board

Proposed date of adoption: July 31, 1991

For further information, please call: (512) 451-5711

Part IX. Texas Water Commission

Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter E. Interim Standards for Owners and Operators of Hazardous Waste Storage Processing, or Disposal Facilities

• 31 TAC §335.112

The Texas Water Commission proposes amendments to §§335.112(a)(13), and 335.431(c) concerning industrial solid and municipal hazardous waste management and standards. These amendments are proposed to implement the federally mandated change from the Extraction Procedure (EP) method to the Toxicity Characteristic Leaching Procedure (TCLP) method for determining characteristically hazardous waste and to expand the list of constituents for which the leachate will be analyzed. These rule changes consist of non-substantive amendments in order to complete the process of making all rule changes necessary for the TWC to obtain authorization to implement and enforce the TCLP regulations promulgated by the EPA on September 25, 1990.

The federal TCLP rule adopted at 55 Fed.Reg.11796 et seq. (March 29, 1990) was promulgated pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. (1976) ("RCRA"), as amended by the Hazardous and Solid Waste Amendments of 1984 ("HSWA"). Under §3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements imposed by HSWA take effect in authorized states (of which Texas is one) at the same time they take effect in nonauthorized states. While states must still adopt HSWA-related provisions to retain final authorization, the HSWA requirements are implemented by EPA in authorized states in the interim. Pursuant to 40 Code of Federal Regulations ("C.F.R.") §271.21(e)(2), Texas must modify its program to reflect federal program changes and must subsequently submit those program modifications to EPA for approval.

Upon EPA approval of the state program modifications, Texas will be authorized to implement the TCLP requirements in lieu of EPA. On February 20, 1991, the Texas Water Commission adopted amendments to 31 TAC Chapter 335, Subchapters A, E, and F which accomplished most of the rule changes necessary to obtain EPA authorization to implement the TCLP requirements. The amendments hereby proposed will complete all the rule changes necessary for obtaining final TCLP authorization from the EPA.

Ms. Karen Phillips, Director of Budget and Planning, has determined that for the first five-year period the section as amended are in effect there will be direct fiscal implications as a result of enforcing or administering the sections. The direct effect on state government will be an increase in cost of \$471,000 in fiscal year 1991 and \$1.8 million in fiscal years 1992 through 1995. These provisions adopt new Environmental Protection Agency rules as required to maintain federal authorization of the state's hazardous waste regulatory program. The cost of compliance with these provisions exists as a result of the adoption of federal rules regardless of their incorporation into state regulations. There are some potential cost savings to regulated entities by the incorporation of the federal requirements due to establishing consistency between current federal and state programs and eliminating duplicative but inconsistent rules. The direct effect on local government for the first five-year period these sections are in effect will be an increase in cost of \$54,000 in each of the fiscal years 1990 and 1991 and \$27,000 in each of the fiscal years 1992 through 1994. There are no anticipated reductions in cost or increases in revenue to local governments. According to estimates of the Environmental Protection Agency found in 55 Fed.Reg. 11856 (March 29, 1990), the direct effect on small businesses will be an increase in cost of compliance of \$2,000,000 statewide per year. The cost of compliance for small businesses will generally be significantly less than the cost of compliance for the largest businesses affected by these amendments. Because of the much greater volumes of waste generated by the largest facilities, their cost of compliance could be up to eight times greater per employee than that for small businesses. The total cost of compliance for all concerns affected by these rules is estimated to be \$4 million in fiscal year 1990, \$20 million in 1991 and \$40 million in each fiscal year 1992 through 1994.

Ms. Phillips has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing and administering the section will be improvements in: the regulation of hazardous wastes; consistency between federal and state regulatory requirements for hazardous wastes; protection of the water resources of the state; and enforcement of the Texas Water Code and regulations of the Texas Water Commission. There are no known costs to individuals who are required to comply with the section as proposed that are not included in the costs identified above.

Comments on the proposed amendment may be submitted to Steve Dickman, Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted 30 days after publication of this amendment in the Texas Register.

The amendment is proposed under §5.103 of the Texas Water Code, Tex. Water Code Ann. Chapter 5 (Vernon 1990) which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, and pursuant to §§361.017 and 361.024 of the Texas Solid Waste Disposal Act, Tex. Health and Safety Code Ann. Chapter 361 (Vernon Supp. 1990), which provides the Texas Water Commission with the authority to promulgate rules necessary to accomplishing the purposes of the Act which includes controlling all aspects of the management of industrial solid and municipal hazardous wastes. These amendments are in response to EPA's adoption of the HSWA-mandated TCLP rules set forth in 55 Fed.Reg. 11796 et seq. (March 29, 1990).

§335.112. Standards.

(a) (No change.)

(1)-(12) (No change.)

(13) Subpart N-Landfills, except 40 Code of Federal Regulations §265.302, §265.314, and §265.315; **provided, however, that 265.301(d)(1) is adopted by reference as in effect on September 25 1990;**

(14)-(16) (No change.)

(b) (No change.)

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

Issued in Austin, Texas on April 12, 1991.

TRD-9104327 Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: May 24, 1991

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

Subchapter O. Land Disposal Restrictions

• 31 TAC §335.431

The amendment is proposed under the Texas Water Code, §5.103, Texas Water Code Annotated, Chapter 5 (Vernon 1990), which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, and under the Texas Solid Waste Disposal Act, §361.017 and §361.024, Texas Health and Safety Code, Chapter 361 (Vernon Supplement 1990), which provides the Texas Water Commission with the authority to promulgate rules necessary to accomplishing the purposes of the Act which includes controlling all aspects of the management of industrial solid and municipal hazardous wastes. These amendments are in response to EPA's adoption of the HSWA-mandated TCLP rules set forth in the March 29, 1990, issue of the *Federal Register* (55 FedReg 11796 et seq).

§335.431. Purpose, Scope, and Applicability.

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

(c) Except to the extent that they are clearly inconsistent with the Solid Waste Disposal Act, Texas Health and Safety Code, Chapter 361 (Vernon Supplemental 1990) [Texas Civil Statutes, Article 4477-7], or the rules of the commission (including any provisions set forth in this subchapter), the regulations contained in 40 Code of Federal Regulations, Part 268, Subpart A, C-E, and Appendix II [Appendices I and II], which are in effect as of June 4, 1987, and Appendix I, which is in effect as of September 25, 1990, are adopted by reference.

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 April 12, 1991.

TRD-9104326 Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: May 24, 1991

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

TITLE 34. PUBLIC FINANCE

Part VII. State Property Tax Board

Chapter 161. Valuation Procedures

Subchapter B. Policy for Conduct of the Property Value Study

• 34 TAC §161.109

The State Property Tax Board proposes an amendment to §161.109, concerning methods for calculating the taxable value of property for the agency's property value study under the Education Code, §11.86

Section 161.109 addresses the methods used in determining the taxable value of property in a category or in a school district once samples have been gathered and analyzed. The proposed amendments require the agency staff to calculate statistical confidence intervals for estimated values. If a locally reported value is within the confidence interval for the agency estimate, the agency will presume the locally reported value to be correct. In addition, the amendments permit calculation of category values using stratified weighted means ratios, and required that ratios used in the calculations be rounded to two decimal places.

Sand L. Stiefer, general counsel, has determined that there will be no fiscal implications as a result of enforcing or administering the section.

Mr. Stiefer 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 reduction of the risk that a school district will be harmed by sampling errors in the conduct of the board's study. 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 Sands L. Stiefer, General Counsel, State Property Tax Board, 4301 Westbank Drive, Building B, Suite 100, Austin, Texas 78746-6565.

The amendment is proposed under the Tax Code, §5.02, which provides the State Property Tax Board with the authority to adopt policies that define the responsibilities of the agency staff.

§161.109. Determination of School District Value.

(a) The taxable value of a category of property in a school district shall be determined by dividing the total locally appraised value of property in the category by the weighted mean ratio for the sample of property selected from that category. If a sample or other information indicates that groups of properties within the sample are appraised at different levels, the value may be determined by:

- (1) stratifying the sample;
- (2) calculating a stratified weighted mean for the sample; and
- (3) dividing the total locally appraised value of property in that category by the stratified weighted mean ratio. However, the taxable value of property in a category may be determined by other methods if it is determined that sufficient competent evidence requires their use.

(b) The taxable value of property in a school district shall be determined by:

- (1) adding together the assigned value of property in each category of property in the school district;
- (2) calculating the confidence interval for the resulting sum;
- (3) determining whether the CAD value for the total property in the school district is within the confidence interval; and
- (4) Subtracting from the sum of assigned values, if the CAD value, if the value is within the confidence interval, [adding together the taxable value of property in each category of property in the school district and subtracting from the total] the items listed in the Education Code, §11.86(a)(1)-(8) [However the taxable value of property in a school district may be determined by other methods if it is determined that sufficient competent evidence requires their use].

(c) In calculations under this section, any weighted mean ratio shall be rounded to two decimal places.

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 April 11, 1991.

TRD-9104314 Leon A. Willhite
Executive Director
State Property Tax Board

Earliest possible date of adoption: May 24, 1991

For further information, please call: (512) 329-7802

Chapter 165. Practice and Procedure

• 34 TAC §165.61

The State Property Tax Board proposes an amendment to §165.61, concerning general procedures for protest hearings before the agency.

The amendments reverse the burden of proof in hearings concerning the agency's property value study. The board or its designee is directed to rule on each point in favor of the party presenting the greater weight of credible evidence. The section currently places the burden of proof on the petitioner in all respects.

Sands L. Stiefer, general counsel, 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. Stiefer 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 reduced risk that school districts will be adversely affected by errors in agency findings. There will be no effect on small businesses as a result of enforcing the section. 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 Sands L. Stiefer, General Counsel, State Property Tax Board, 4301 Westbank Drive, Building B, Suite 100, Austin, Texas 78746-6565.

The amendment is proposed under the Tax Code, §11.86, which provides the State Property Tax Board with the authority to adopt by rule procedures for the conduct of protests of the property value study.

§165.61. General Provisions Concerning Protest Hearings. The following rules of practice shall be observed in all protests, hearings, and other similar proceedings before the State Property Tax Board or its designee.

- (1) Hearing panel or officer. The proceedings will be conducted by the board or its designee. The designee of the board shall have the authority to receive

and consider all evidence, to make findings of fact, and to recommended decisions to the board. If a designee for any reason is unable to continue in a proceeding, another designee will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceeding in the case.

(2) Timely filing. All petitions and documents relating to any proceeding before the board shall be filed with the executive director. They shall be deemed filed only when actually received. However, if any document or petition is sent to the executive director by first-class United States mail in an envelope or wrapper properly addressed and stamped, and the envelope or wrapper exhibits a legible postmark affixed by the United States Postal Service evidencing the mailing of the petition or document on or before the last day for filing, such mailing will be deemed timely filed. In computing any period of time prescribed or allowed by these rules, the period shall begin on the day after the act or event in question and it shall conclude on the last day of that designated period, unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

(3) Evidence by official notice. The board or its designee may take official notice of matter which trial judges can judicially notice and of facts within his personal knowledge or within the specialized knowledge of the board. Such official notice must be stated in the record, and the participants must have an opportunity to contest the material.

(4) Burden of proof. In an appeal under the Education Code, §11.86, the burden of proof shall be on the agency to prove the accuracy of its findings. In all other [In all] cases, unless otherwise provided by law, the burden of proof shall be upon the petitioner to show by a preponderance of evidence in what respect the action or proposed action of the board is incorrect.

(5) Transcription of oral hearings. All protests heard by the board or its designee shall be recorded. A copy of the recordings will be furnished upon written request and payment of a reasonable fee. If one or more persons desire the hearings transcribed by a court reporter, they must make the necessary arrangements and bear the cost.

(6) Informal preliminary conference. If, prior to the scheduled hearing arising from a timely filed petition for redetermination, the board or the petitioner requests a preliminary conference, it may be granted at a mutually agreeable time and place. This will be an informal conference, the purpose of which will be to try to clarify or resolve the issues involved.

(7) Motions for dismissal. The board or its designee may entertain motions for dismissal without a hearing for any of the following reasons:

- (A) failure to prosecute;
- (B) unnecessary duplication of proceedings or res judicata;
- (C) withdrawal;
- (D) moot questions or obsolete petitions; or
- (E) failure to file statement of grounds.

(8) Postponement or continuance. A motion for postponement or continuance shall be in writing or shall be filed with the board or its designee who may grant or deny upon either oral or written motion on a showing of good cause.

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 April 11, 1991.

TRD-9104315 Leon A. Willhite
Executive Director
State Property Tax Board

Earliest possible date of adoption: May 24, 1991

For further information, please call: (512) 329-7802

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 19. Long-Term Care Nursing Facility

Requirements for Licensure and Medicaid Certification

Subchapter G. Resident Assessment

• 40 TAC §19.604

The Texas Department of Human Services (DHS) proposes an amendment to §19.604, concerning preadmission screening and annual resident review (PASARR). The purpose for the amendment is to change existing rule language to ensure that all appropriate individuals are identified by the PASARR process and that all case managerial reports are properly filed.

Burton F. Raiford, chief financial officer, 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. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that all persons with mental illness are identified by the PASARR process to ensure that they receive appropriate treatment. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of this proposal may be directed to Marc Gold at (512) 450-3174 in DHS's Institutional Care Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-094, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

§19.604. Preadmission Screening and Annual Resident Review (PASARR).

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

(1)-(22) (No change.)

(23) Psychotherapeutic medication—Pharmaceutical indicators for Level II PASARR Assessment are:

(A) Antipsychotic:
Acetophenazine (Tindal), Chlorpromazine (Thorazine), Clozapine (Clozaril), Fluphenazine Decanoate (Prolixin Decanoate), Fluphenazine enanthate (Prolixin Enanthate), Fluphenazine hydrochloride (Prolixin, Permittil), Mesoridazine (Serentil), Perphenazine (Trilafon), Prochlorperazine (Compazine), Promazine (Sparine, Prozine), Thioridazine (Mellaril, Mellaril-s), Trifluoperazine (Stelazine), Trifluopromazine (Vesprin), Chlorprothixene (Taractan), [Droperidol (Inapsine)], Haloperidol (Haldol), Haloperidol Decanoate (Haldol Decanoate), Loxapine (Loxitane), Molindone (Moban), Pimozide (Orap), Thiothixene (Navane), and other antipsychotics.

(B) (No change.)

(C) Antidepressants. Medications when used for treatment of depression as identified on the DHS's client assessment, review, and evaluation (CARE) form or recipient's medical record: Isocarboxaid (Marplan), Phenelzine (Nardil), Tranycypromine (Parnate), Amitriptyline (Elavil, Endep), Amoxapine (Asendin), Desipramine (Pertofrane), (Nopramin), Doxepin (Adapin, Sinequan), Trazodone (Desyrel), Fluoxetine (Prozac), Imipramine (Tofranil, Tofranil-PM, Janimine), Maprotiline (Ludiomil), Nortrip-

tyline (Aventyl, Pamelor), Protriptyline (Vivactil), [and] Trimipramine (Surmontil), Bupropion (Wellbutrin), and Perphenazine/Amitriptyline (Etrafon, Trilavil).

(24)-(29) (No change.)

(b) Preadmission screenings.

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

(4) Level I identification screening. Individuals are identified as having mental illness, mental retardation, or a related condition (MI/MR/RC) through use of DHS's CARE form, Item 34.

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

(D) An individual may be immediately admitted to or continue residing in a nursing facility if:

(i)-(v) (No change.)

(vi) an individual is determined by TDH during the Level II assessment process not to have MI/MR/RC.

(5) Level II assessment. TDH staff must contact the attending physician to verify the information marked on DHS's CARE form, Item 34. The physician contact sheet will be used by the assessors to allow the resident's treating physician to have input into the assessment. The physician will be contacted by phone and specifically asked to comment on any psychoactive medications currently prescribed and whether these medications are being prescribed for a psychiatric condition.

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

(D) If during the assessment process TDH ascertains that an individual does not have MI/MR/RC, then the Level II assessment may be discontinued and the individual may be admitted to the nursing facility.]

(D)[(E)] All assessment data are reviewed by TDH staff for completeness and accuracy and sent to TDMHMR for PASARR determination as specified in subsection (c) of this section.

(E)[(F)] If Item 34 indicates "No" on the CARE form, but Items 16-20 indicate a diagnosis of MI, MR, or RC, it is the responsibility of the nursing facility to contact the PASARR unit of TDH and request screening by an assessment team.

(F)[(G)] The nursing facility is required to notify TDH if it receives a DHS CARE form with Item 34 blank.

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

(e) Specialized services and alternate placement.

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

(5) The case manager will report monthly to the primary or attending physician and to the nursing facility regarding the delivery of specialized services.

(6)-(12) (No change.)

(f)-(g) (No change.)

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

Issued in Austin, Texas, on April 11, 1991.

TRD-9104272

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

Proposed date of adoption: July 1, 1991

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

Subchapter S. Reimbursement Methodology for Nursing Facilities

• 40 TAC §19.1805

The Texas Department of Human Services (DHS) proposes an amendment to §19.1805, concerning the list of unallowable costs. The purpose of the amendment is to establish specialized services costs related to fulfillment of preadmission screening and annual resident Review (PASARR) requirements as unallowable costs for nursing facility Medicaid cost reporting purposes.

Burton F. Raiford, chief financial officer, 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. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a better understanding of the unallowable costs for the Medicaid reimbursement methodology for nursing facilities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of this proposal may be directed to Kathy Hall at (512) 450-3702 in DHS's Provider Reimbursement Department. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-097, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*. A copy of the proposal is also being sent to each DHS field office where it will be available for public review.

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

§19.1805. List of Unallowable Costs. The following list of unallowable costs is not comprehensive, but rather serves as a general guide and clarifies certain key expense areas. The absence of a particular cost does not necessarily mean that it is an allowable cost. Except where specific exceptions are noted, the allowability of all costs is subject to the general principles specified in §19.1803(a) and (b) of this title (relating to Allowable and Unallowable Costs):

(1)-(33) (No change.)

(34) any expenses related to specialized services and treatment required by preadmission screening and annual resident review (PASARR) for residents.

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 April 16, 1991.

TRD-9104466

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

Proposed date of adoption: July 1, 1991

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

Chapter 24. Reimbursement Methodology for Medical Assistance Programs

Subchapter C. Inflation Indices

• 40 TAC §24.301

The Texas Department of Human Services (DHS) proposes an amendment to §24.301, concerning determination of inflation indices, in its Reimbursement Methodology for Medical Assistance Programs chapter. The purpose of the amendment is to change the title from "Consumer Price Index for All Urban Consumers (CPI-U) for Medical Services," to "Consumer Price Index for All Urban Consumers (CPI-U) for Medical Care" in the general reimbursement rules for the vendor drug and ICF-MR state school programs.

Burton F. Raiford, chief financial officer, 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. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that staff and the public will know which section of the CPI-U is currently utilized by the department. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Questions about the content of this proposal may be directed to Kathy Hall at (512)

450-3702 in DHS's Provider Reimbursement Department. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support 088, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

§24.301. Determination of Inflation Indices.

(a) (No change.)

(b) General cost inflation index.

(1) (No change.)

(2) To project general program costs from the reporting period to the prospective rate period, the vendor drug program uses the lowest feasible forecast of the general cost inflation index (IPD-PCE) or the Consumer Price Index for All Urban Consumers (CPI-U) for medical care [services] which is consistent with nationally recognized sources available to DHS at the time rates are prepared for public dissemination and comment.

(c) Item-specific and program-specific inflation indices. When DHS can obtain item-specific or program-specific inflation indices for cost-report line items such as payroll taxes, professional and non-professional wages, facility depreciation, and lease appreciation, the department uses these specific indices in place of the general cost inflation index specified in subsection (b) of this section. The specific indices that the department uses include the following.

(1)-(9) (No change.)

(10) The state school ICF-MR program uses the medical care [services] CPI-U as the inflation index for the program's comprehensive medical cost center. To project costs from the reporting period to the prospective rate period, DHS uses the lower of the two medical care [Services] CPI-U forecasts reported by Data Resources Incorporated and Wharton Econometric Forecasting Associates.

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 April 11, 1991.

TRD-9104273

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

Proposed date of adoption: June 15, 1991

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

Chapter 48. Community Care for the Aged and Disabled

Support Documents

• 40 TAC §48.9808

The Texas Department of Human Services (DHS) proposes an amendment to §48.9808, concerning support documents, in its Community Care for the Aged and Disabled chapter. The purpose of the amendment is to establish the reimbursement methodology for costs incurred during the initial assessment and care planning of applicants seeking enrollment in the waiver program for persons with related conditions.

Burton F. Raiford, chief financial officer, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state government 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 is an estimated additional cost of \$32,000 in fiscal year (FY) 91-92; \$33,447 in FY 92-93; \$35,052.50 in FY 93-94; \$36,665 in FY 94-95; and \$38,353 in FY 95-96. There is no anticipated effect on local government as a result of enforcing or administering the section.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that providers of related conditions services will have a clear understanding of the requirements for reimbursement of costs incurred during the initial assessment process. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Questions about the content of this proposal may be directed to Jerry Ball at (512) 450-3684 in DHS's Provider Reimbursement Department. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-087, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

§48.9808. Reimbursement Methodology for the Social Security Act, §1915(c), Medicaid Home and Community Based Waiver Services for Persons With Related Conditions.

(a) General. The Texas Department of Human Services (DHS) will reimburse qualified providers for waiver services provided to Medicaid-eligible persons with related conditions (waiver services). "Persons with related conditions" is defined according to §27.102 of this title (relating to Definitions for Level-of-Care Criteria). As of February 1, 1991, DHS will reimburse qualified providers for a one-time administrative expense which covers the initial assessment and care planning for the cli-

ent. This administrative expense fee is not included in the waiver services but will be paid from Medicaid administrative funds. The DHS Board determines, for the initial assessment and care planning for waiver program applicants, an administrative expense fee that is uniform, prospective, and cost-related. The DHS Board determines, for Medicaid waiver services, reimbursement rates that are uniform, prospective, and cost-related. The DHS Board determines reimbursement rates and an administrative expense fee according to §24.101 and §24.102 of this title (relating to General Specifications and Methodology). DHS staff submit rate and administrative expense fee recommendations to the DHS Board.

(b) Frequency of rate and administrative expense fee determination. DHS determines rates and the administrative expense fee at least annually. Both [Rates] may be determined more often than annually if the DHS Board determines that it is necessary.

(c) (No change.)

(d) Initial administrative expense fee analysis. For the initial rate period, providers will be reimbursed an administrative expense fee using a method based upon pro forma projected expenses. Until an adequate cost report data base becomes available, the pro forma expenses and information are developed for the administrative expense fee by specifying a list of staff and the amount of direct service time spent with the client while participating in the initial assessment and care planning process, and by costing out these requirements at estimated current year prices. Costs will be developed by using data from surveys; cost report data from other similar programs, providers, associations, and professionals experienced in delivering services to persons with related conditions; and other sources.

(e)[(d)] Reporting of cost.

(1) Cost report. Each provider must submit financial and statistical information on a cost report or in a survey format designated by DHS. The cost report must capture the expenses of the waiver services provider, including salaries and benefits, administration, building and equipment, utilities, supplies, travel, and indirect overhead expenses related to the waiver services program. Also, the cost report must capture pertinent information related to the initial assessment and care planning process for waiver-program applicants.

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

(H) Record keeping requirements. Each provider must maintain records according to the requirements stated in

§69.202 of this title (relating to Contractors' Records) [§51.50 of this title (relating to Record Retention Requirements)]. The provider must ensure that the records are accurate and sufficiently detailed to support the financial and statistical information reported in the cost report. If a provider does not maintain records which support the financial and statistical information submitted on the cost report, the provider will be given 90 days to correct his record keeping. A hold of the vendor payments to the provider will be made if the deficiency is not corrected within 90 days from the date the provider is notified.

(I) (No change.)

(2) Other sources of cost information. In the absence of reliable cost report data from which to set waiver services unit rates or the administrative expense fee, both the rate and fee [, rates] will be developed by using data from surveys; cost report data from other similar programs; consultation with other service providers, associations, and professionals experienced in delivering services to persons with related conditions; and other sources.

(f)(e) waiver rate determination methodology Rate setting methodology.

(1) (No change.)

(2) Exclusion or adjustment of expenses. Providers must eliminate unallowable expenses from the cost report. DHS excludes from the data [rate] base any unallowable expenses included in the cost report and makes the appropriate adjustments to expenses and other information reported by providers; the purpose is to ensure that the data [rate] base reflects costs and other information which are consistent with efficiency, economy, and quality of care; are necessary for the provision of waiver services; and are consistent with federal and state Medicaid regulations. If there is doubt as to the accuracy or allowableness of a significant part of the information reported, individual cost reports may be eliminated from the data [rate] base.

(3) (No change.)

(g) Administrative expense fee determination methodology.

(1) One-time administrative expense fee. Reimbursement for the initial assessment and care planning process required to determine eligibility for the waiver program will be provided as a one-time administrative expense fee.

(2) Exclusion or adjustment of expenses. Providers must eliminate unallowable expenses from the cost report. DHS excludes from the data base any unallowable expenses included in the cost report and makes the appropriate adjustments to expenses and other information reported by providers. The purpose is to ensure that the data base reflects costs

and other information which are consistent with efficiency, economy, and quality of care; are necessary for the provision of the initial assessment and care planning process; and are consistent with federal and state Medicaid regulations. If there is doubt as to the accuracy or allowableness of a significant part of the information reported, individual cost reports may be eliminated from the data base.

(3) Administrative expense fee determination process. The DHS Board determines a one-time administrative expense fee which will reasonably reimburse the costs of an economical and efficient provider. DHS staff submit recommendations for an administrative expense fee reimbursement. The recommended fee is determined in the following manner.

(A) Total number of direct service hours with the client and number of initial assessments of clients by type of professional service will be determined by analyzing allowable historical cost and other information reported on the cost report and any other pertinent cost survey information.

(B) The number of direct service hours per initial assessment is determined by dividing, for each type of professional service, the direct service hours by the number of assessments per provider.

(C) The number of initial assessments by type of professional service for each provider is arrayed from low to high and a weighted median is determined.

(D) The number of direct service hours per assessment that corresponds to the weighted median number of initial assessments for that type service is selected.

(E) The direct service hours per assessment is multiplied by the appropriate recommended reimbursement rate as described in subsection (f) of this section for that type of professional service to determine the final cost for that particular service.

(F) Final cost for each professional service under the direct service provider will be summed to derive a final administrative expense fee for the direct service provider, and cost for the case management service will be used as the final case management administrative expense fee. These two final costs will be combined to determine one total administrative expense fee.

(h) [(f)] Allowable and unallowable costs.

(1) (No change.)

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

(A) Allowable costs—Those expenses that are reasonable and necessary in the normal conduct of operations relating to the provision of waiver services.

(i)[(A)] The term "reasonable" refers to the amount expended. The test of reasonableness is that the amount expended does not exceed the cost which would be incurred by a prudent business operator seeking to contain costs.

(ii)[(B)] The term "necessary" refers to the relationship of the cost to provision of waiver services. To qualify as a necessary expense, a cost must be one that is usual and customary in the operation of waiver services and must meet the following requirements:

(I)[(i)] the expenditure was not for personal or other activity not specifically related to the provision of waiver services;

(II)[(ii)] the cost does not appear on the list of specific unallowable costs and is not unallowable under other federal, state, or local laws or regulations;

(III)[(iii)] the cost bears a significant relationship to the provision of waiver services. The test of significance is whether elimination of the expenditure would adversely affect the delivery of waiver services;

(IV)[(iv)] The expense was incurred in the purchase of materials, supplies, or services provided directly to the clients or staff of the program in the conduct of normal business operations.

(III)[(C)] Normal conduct of operations relating to waiver services and the initial assessment process includes, but is not limited to, the following.

(I)[(i)] Expenses are not used solely for the provision of waiver services and the initial assessment. Whenever allowable costs are attributable partially to personal or other business interests not related to the provision of waiver services/initial assessment and partially to waiver services/initial assessment, the latter portion may be allowed on a pro rata basis if the proportion of use by the waiver services/initial assessment is well-documented.

(II)(ii) related-party transaction.] Allowable costs must result from arms-length transactions involving unrelated parties. In related-party transactions, the allowable cost to the waiver services program is the cost to the related party. Allowable costs in this regard are limited to the lesser of the actual purchase price to the related party, or usual and customary charges for comparable goods or services. A related party is a natural person or organization related to the provider entity by blood/marriage, or common ownership, or any association which permits either entity to exert power or influence, either directly or indirectly, over the other.

(III) **The administrative expense fee covers reimbursement for the initial assessment and care planning professional services which include, but are not limited to, case management, nursing, psychological, physical therapist, occupational therapist, and speech pathologist.**

(IV) **Only direct contact with the client is considered allowable when recording initial assessment and care planning time for each type of professional service.**

(V) **Only cost associated with the initial assessment and care planning of those clients seeking enrollment into the waiver program will be allowed.**

(B) **Unallowable costs.** Those expenses that are not reasonable or necessary for the provision of waiver services and the initial assessment. Unallowable costs are not included in the data base used to determine recommended rates and fees.

(3) List of allowable costs. The following list of allowable costs is not comprehensive, but rather serves as a general guide and identifies certain key expense areas. The absence of a particular cost does not necessarily mean that it is not an allowable cost.

(A) compensation of waiver services staff. Compensation will be given only to those staff who provide waiver services directly to the clients or in support of staff of the waiver services in the normal conduct of operations relating to the provision of waiver services. This includes:

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

(iii) employee benefits. Employer-paid health, life, accident, liability, and disability insurance for employees; contributions to employee retirement fund; and deferred compensation limited to the dollar amount the employer contributes. The expense:

(I) (No change.)

(II) must not be incurred as a benefit to employees who do not provide services directly to the clients or staff of the waiver services program; and [.]

(III) (No change.)

(B)-(DD) (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 April 12, 1991.

TRD-9104367

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

Proposed date of adoption: July 1, 1991

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

Part VII. Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Chapter 189. Purchases of Products and Services of Blind and Severely Disabled Persons

• 40 TAC §§189.2, 189.3, 189.5, 189.10

The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons proposes amendments to §§189.2, 189.3, 189.5, and 189.10, concerning requirements and the procedure for determining a fair market price for products and services considered by the Committee.

Section 189.2 provides definitions for market analysis techniques used to determine the range of cost to acquire a product or service in the market place and a guideline when the Committee will generally consider a price to be excessive and unreasonable.

Section 189.5 defines the procedure and the considerations which will be given by the Committee when it is determining a fair market price for products and services. Amendments to these sections are proposed to formalize the Committee's activities and to inform the public what it must do to have a product or service considered by the Committee.

Section 189.3 defines the conflict of interest standard for members which has been adopted by the Committee.

The purpose of this amendment is to formalize the Committee's conflict of interest policy.

Section 189.10 provides workshops participating in the program the opportunity to appear before the Committee and present information regarding a pending or past action relating to that workshop. This amendment is proposed to inform the public of the availability of a hearing process governed by the Open Meetings Act.

Michael T. Phillips, committee member, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Phillips 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 consistent application of the fair market price determination process, conflict of interest standards, and the notice and hearing process. 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 Michael T. Phillips, Committee Member, Texas Commission for the Blind, 4800 North Lamar Boulevard, Austin, Texas 78756.

The amendments are proposed under Title 8, Human Authority Resources Code, Chapter 122, §122.010, which provides the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons with the authority to adopt rules for the implementation, extension, administration or improvement of the provisions authorized by the statute.

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

Excessive and unreasonable price—A price which is substantially greater than the same or a similar item in purpose and quality that could readily be obtained through normal market sources. For the purposes of the subcommittee an excessive or unreasonable price would generally be any price greater than the average price or 10% above the lowest state bid price as found by the State Purchasing and General Services Commission.

Market analysis—An organized effort to discover the lowest total cost and/or the range of costs to purchase a product or service in a given market which will satisfy the needs of a specified user.

§189.3. Organization of the Committee.

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

(f) **Committee Members** who have personal or private interest in any matter pending before the Committee or any subcommittee of the Committee must disclose that fact publicly in a meeting held under the Open Meetings Act, and they must not participate in the decision.

The disclosure and non-participation shall both be a matter of record in the Committee or subcommittee minutes.

(g) Committee Members may not appoint or vote for any person related to that individual within the third degree of consanguinity (related by blood) or the second degree of affinity (related by marriage) to any paid state position.

§189.5. Determination of a Fair Market Price.

(a) A subcommittee composed of three committee members appointed by the chairman will be utilized to make the initial determination of fair market price.

(b) The Central Nonprofit Agency (CNA) is to submit on behalf of participating or prospective workshops all price and cost data and any other information deemed necessary for the subcommittee's review.

(c) The pricing subcommittee shall present to the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons (the Committee) a recommended fair market price for approval.

(d) The proposed fair market price shall be based on current relevant factors and shall not be excessive or unreasonable. Relevant factors include, but are not limited to, the following:

(1) price for similar products and services paid by the federal government and its agencies;

(2) price paid by the state or its agencies for similar products and services;

(3) price paid by private enterprise for similar products and services when purchased from reputable providers;

(4) the actual cost of manufacturing the product or service by the sheltered workshop with due consideration for the legal and moral imperative to pay the disabled workers equitable wages; and

(5) the usual, customary, and reasonable cost of manufacturing, marketing, and distribution.

(e) Typical sources for obtaining the pricing data may be:

(1) current bid data from federal bids;

(2) current bid data from state bids;

(3) catalogs;

(4) manufacturers price lists;

(5) current prices of state, federal, county, or municipal contracts;

(6) retailers;

(7) manufacturers, producers, or providers;

(8) market analysis; and

(9) specific area surveys.

(f) The fair market market price determination procedure is as follows.

(1) Upon receipt of pricing and other relevant information from the CNA, the State Purchasing and General Services Commission shall make the initial determination if the proposed product will be made according to specifications adopted or developed by the State Purchasing and General Services Commission. If specifications have not been adopted or developed, the issue is returned to the CNA without further consideration until the specifications have been developed or adopted.

(2) If the specifications have been developed or adopted, then the State Purchasing and General Services Commission shall review the pricing and other relevant data supplied with the application for completeness. If the pricing and other relevant data analysis appears complete and reasonable, the application will be forwarded to the State Purchasing Division for market analysis. If the application is judged incomplete, it shall be returned to the CNA with comments regarding the additional information required.

(3) After analysis by the State Purchasing Division, the Pricing Subcommittee shall review the pricing and other relevant information for accuracy and report to the Committee the lowest private market price found, the range of the most recent state bid prices, the average of the state bid prices, the quality of the proposed product as compared to the products currently available to the state, the suitability of the product for its intended use, and the projected probability of the product's success as a set aside item.

(4) Upon completion of their review, the subcommittee shall make their price recommendation(s) to the Committee.

(5) The Committee shall revise the fair market price whenever marketing conditions or conditions of manufacture reflect that a significant change has occurred.

(g) The Committee may delegate the fair market price analysis to one or more of its members for recommendation of a fair market price; however, the determination of the fair market price shall be the duty of the full committee (see §189.4 of this title (relating to Duties and Responsibilities of the Committee)).

(h) Workshops or state agencies may request the Committee to reconsider

its determination of fair market price at a regularly scheduled open meeting.

[(a) The committee shall determine a fair market price for all suitable products and services provided by workshops under this chapter and offered for sale to the various agencies and departments of state government and of the political subdivisions thereof. This determination shall be made after a subcommittee composed of three committee members appointed by the chairman has reviewed the data used to determine fair market value and made recommendations to the committee concerning the fair market price for the products and services.

[(b) The workshop offering the product or service shall submit all relevant cost and overhead data requested by the committee.

[(c) In determining the fair market price of products and services offered for sale, the subcommittee appointed in subsection (b) of this section and the committee shall give due consideration to the following type of factors:

[(1) to the extent applicable, the amounts being paid for similar articles in similar quantities by federal agencies purchasing the products or services under the authorized federal program of like effect;

[(2) the amounts which private business would pay for similar products or services in similar quantities if purchasing from a reputable corporation engaged in the business of selling similar products or services;

[(3) to the extent applicable, the amount paid by the state in any recent purchases or similar products or services in similar quantities, making due allowance for general inflationary or deflationary trends;

[(4) the actual costs of manufacturing the product or service at a sheltered workshop offering employment services to blind or other severely handicapped individuals, with adequate weight to be given to legal and moral imperatives to pay blind or other severely handicapped workers equitable wages; and

[(5) the usual, customary, and reasonable costs of manufacturing, marketing, and distribution.

[(d) The fair market price for a product or service, determined after consideration of relevant factors of the type listed in subsection (c) of this section, may not be excessive or unreasonable; however, the fair market price may include a reasonable charge for overhead and profit.

[(e) The committee shall revise the fair market price whenever marketing conditions or conditions of manufacture reflect that a significant change has occurred.

[(f) The committee may delegate the fair market price analysis to one or more of its members for recommendation of a fair market price; however, the determination of the fair market price shall be the duty of the full committee (See §189.4 of this title (relating to Duties and Responsibilities of the Committee)).]

§189.10. Notice and Hearing [Required Prior to Suspension]. The Texas Committee shall provide any workshop, covered under the Open Meetings Act, the

opportunity to appear before the Committee and present information regarding a pending or past action relating to that workshop. Such appearance shall be governed by provisions of the Open Meetings Act. [The committee will follow the requirements of Texas Civil Statutes, Article 6252-13a, as they relate to notice and hearings in contested cases before the committee. However, hearings on suspension shall be held only during regular meetings of the committee.]

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 April 11, 1991.

TRD-9104270

Michael T. Phillips
Committee Member
Texas Committee on
Purchases of Products
and Services of Blind
and Severely Disabled
Persons

Earliest possible date of adoption: May 24, 1991

For further information, please call: (512) 459-2604

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Withdrawn Sections

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

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

- 16 TAC §§3.28, 3.30, 3.31, 3.34

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendments to §§3.28, 3.30, 3.31, and 3.34, submitted by the Railroad Commission of Texas has been automatically withdrawn, effective April 15, 1991. The amendments as proposed appeared in the October 12, 1990, issue of the *Texas Register* (15 TexReg 5987).

TRD-9104431

- 16 TAC §3.88, §3.89

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the

proposed new §3.88 and §3.89, submitted by the Railroad Commission of Texas has been automatically withdrawn, effective April 15, 1991. The new sections as proposed appeared in the October 12, 1991, issue of the *Texas Register* (15 TexReg 5994).

TRD-9104432

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 57. Fisheries

Scientific and Zoological Permits

- 31 TAC §§57.271-57.281

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed repeals of §§57.271-57.281, submitted by the Texas Parks and Wildlife Department has been automatically withdrawn, effective April 12, 1991. The repeals as proposed appeared in the October 9, 1991, issue

of the *Texas Register* (15 TexReg 5908).

TRD-9104251

Chapter 69. Resource Protection

Subchapter C. Scientific and Zoological Permits

- 31 TAC §§69.41, 69.43, 69.45, 69.47, 69.49, 69.51, 69.53, 69.55, 69.57, 69.59, 69.61, 69.63, 69.65, 69.67, 69.69

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed new §§69.41, 69.43, 69.45, 69.47, 69.49, 69.51, 69.53, 69.55, 69.57, 69.59, 69.61, 69.63, 69.65, 69.67, and 69.69, submitted by the Texas Parks and Wildlife Department has been automatically withdrawn, effective April 12, 1991. The new sections as proposed appeared in the October 9, 1990, issue of the *Texas Register* (15 TexReg 5909).

TRD-9104252



Brandon Brown

Name: Brandon Brown
Grade: 8
School: San Jacinto Jr. High, Midland 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 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 1. Practice and Procedure

The Railroad Commission of Texas adopts the repeals of §§1.1-1.7, 1. 21-1.25, 1.31-1.39, 1.51-1.54, 1.61-1.64, 1.71-1.79, 1.91-1.98, 1.111-1.114, 1. 121-1.123, 1.131-1.136, and new §§1.1-1.9, 1.21-1.29, 1.41-1.48, 1.61-1.65, 1.81-1.85, 1.101-1.108, 1.121-1.129, and 1.141-1.152. Sections 1.1, 1.2, 1.8, 1. 21-1.25, 1.27, 1.28, 1.44, 1.62, 1.64, 1.65, 1.81-1.85, 1.101, 1.121, 1.128, 1. 129, and 1.145, are adopted with changes to the text as proposed in the November 6, 1990, issue of the *Texas Register* (15 TexReg 6359). The remaining sections are adopted without changes and will not be republished. The commission is repealing all of existing Chapter 1 (Subchapters A-J) and replacing it with new Chapter 1 (Subchapters A-H).

The new sections are adopted to increase certainty, uniformity, and clarity of the administrative process at the commission. The new sections will eliminate obsolete rules which are no longer observed, provide for new practices and new technology such as telecopy machines, and decrease the need for special rules for the different divisions of the commission.

Several changes have been made in the rules from the version proposed. Most of the changes were non-substantive or grammatical, and therefore they merely clarify the provisions originally intended. In §1.1, the list of divisions to which these rules apply has been eliminated, referring instead to operating divisions and the legal division. The definition of "party" in §1.2 (relating to definitions) has been changed to bring it into conformity with the Administrative Procedure and Texas Register Act (APTRA), Texas Civil Statutes, Article 6252-13a. The provision in §1.21 which allows the commission to notify a petitioner of the deficiencies in a rulemaking petition has been eliminated as unnecessary; the director of the appropriate division obviously can notify the petitioner of its errors, and will in most cases do so. That section is also changed to encourage rulemaking petitions to be filed with the appropriate division director rather than with the commissioners directly. The provision in §1.22 which limits the inclusion of discovery requests within the record has been altered to recognize that such requests may be part of other pleadings which are in the administrative record. The language in §1.23 has been changed to reduce the num-

ber of pleadings filed with the commissioners directly and to encourage filing documents with the correct section. Section 1.24 has been clarified to specifically bar the filing of exceptions, replies, motions for rehearing, and replies to motions for rehearing by telecopy; to provide that pleadings must be filed by 5 p.m. on the deadline day and that telecopy transmissions must be complete by that time; and to recognize that exceptions to the deadlines may be granted in cases of extreme injustice. Filings will be required to be on standard letter-size paper in §1.25, rather than on paper no larger than 8 1/2 by 11 inches. The requirements of §1.27, along with those of §1.85(d) and §1.145, are changed to be consistent with regard to discretionary appeals, but are general in order to maintain the commission's ability to react to individual situations. The deadline for responding to a complaint which institutes a proceeding in §1.28 was extended to 20 days.

The definitions in §1.62 have been changed to include the agency staff within the terms of the various classifications of parties. This change will allow all provisions in the rules for "parties" to apply to the commission staff when it participates as a party. Respondents are added to the list of parties not required to file petitions to intervene in §1.64.

There are several changes in the rules relating to discovery. The permissible forms of discovery in §1.81 are limited: depositions are oral only, and requests for production and for entry onto land are allowed to be made only of parties. The time for responding to discovery requests in §1.83 is clarified to be 14 days from service. The identical time provisions repeated in §1.84 are eliminated as redundant, and the applicability of the Rules of Civil Procedure is made specifically subject to any superseding provisions in the commission's rules. Finally, §1.85 is changed in three primary ways: there will be no automatic hearing on requests for discovery orders; the original request for discovery orders must show good cause; and requests for discovery orders may be denied if the order would cause unnecessary delay or burdens on the responding party. The procedures for in camera reviews and appeals from a discovery order are also clarified.

Three portions of §1.128 are changed: to allow the examiner to alter the order of procedure, to change the title of subsection (c) to "Voir dire," and to specifically allow for objections to additional evidence. Examiner's discretion in allocating transcript charges is preserved in the adopted version of §1.129. Section 1.145 has been changed to set out the procedures for seeking reconsideration of an interim order.

The repeal of the old rules and adoption of the new rules will further unify the operations of the various sections of the commission. The special rules for various sections will be

retained only insofar as is necessary due to atypical situations. The new rules will in many instances not change procedures, but will simply conform the written rules with the practice which has evolved. The ultimate effect of the new rules is to increase accessibility by the public to the administrative process, and to efficiently and expeditiously process applications and petitions in a manner consistent with the requirements of due process.

Numerous comments were received regarding the proposed rules, including many suggested changes. Many of the comments challenged the exercise of power in various sections. For the most part, the commission disagrees with such comments. The commission has broad powers and discretion to institute procedural guidelines which are not inconsistent with the requirements of the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a) and which protect due process. Further, while particular procedures may be unallowable or inappropriate in one circumstance, they are necessary and proper in other circumstances; thus they are provided for in the general rules of procedure.

Other comments received criticized the proposed procedures for discovery. In particular, the procedures were seen as too burdensome, and inappropriate for most proceedings which are currently brief and uncomplicated. It was feared that the rules as proposed would lead to "paper wars" that would intimidate inexperienced and unsophisticated parties. While the commission shares the concerns which spurred the comments, it disagrees with the proper solution. As adopted, the rules will provide for no hearing on requests for discovery orders unless necessary. Requests for discovery orders must show good cause, and requests for discovery may be denied if the discovery would cause delay, if it is unduly burdensome, or if it is otherwise inappropriate.

Other comments regarding the discovery provisions argued that the rules should include other statutory limitations on discovery; inquired whether admissions, requests for production, or motions for entry upon land are available from non-parties; asserted that 14 days for filing responses to discovery is insufficient; complained that allowing the examiner to view offered evidence in camera is troublesome, as it could affect the examiner's judgment even if not admitted; suggested that the complete absence of response to a request for discovery should be deemed a waiver of any objections; maintained that the sanctions provided in APTRA for noncompliance with a subpoena are exclusive; and disputed the provision for the award of attorney's fees.

The commission disagrees with most of these comments. The rules are not capable of overruling any statutory limitations on discovery

and do not attempt to do so; however, they need not explicitly recognize any and all limitations wherever they may be suspected. APTRA allows requests for production and motions for entry only from parties; accordingly, those provisions are clarified to limit their applicability. The expeditious setting of hearings will usually preclude the allowance of 30 days to respond, but if more time is necessary, it can be requested when responding to a motion to require response to discovery request. The examiner is presumed to be able to disregard non-admitted testimony, as is a judge, but the rule has been amended to allow review of the inspection by the examiner's supervisors. There are too many instances of unsophisticated *pro se* parties not knowing what they are required to do. The language of APTRA regarding sanctions for noncompliance with subpoenas does not indicate an intent that those sanctions be exclusive. Finally, while the commission agrees that the award of attorney's fees for abuse of the discovery process is harsh, such a sanction may be necessary in the most egregious cases.

One comment noted that the statement in §1.84 that requests for admissions are generally ruled by the Texas Rules of Civil Procedure is vague and unenforceable. As adopted, this rule has been clarified to recognize variances in the rules themselves.

Other comments regarded the procedures for commission review of discovery orders, orders denying interim relief, and other examiner orders. The rules have therefore been clarified to reflect current practice. The adopted version of §1.145, regarding orders which require commission action to grant, clarifies that motions for such orders should not be denied by an examiner without commission consideration. This situation is distinguished from appeals from an examiner's ruling, which may not be appropriate for full commission consideration. In these instances (set out in §1.85 for discovery orders and in §1.27 for appeals from other examiner's orders), the rules now provide that the interlocutory appeal will be transmitted to the commissioners.

The following is a summary of the remainder of the comments received, along with the agency's response to the comments:

Comments on §1.2: The delegation of authority provisions should require delegation in writing in order to allow parties to be certain of delegation. Also, if authority is delegated, that should not be reversed by commission. The commission disagrees with this comment. Delegations of authority should be adjustable as circumstances and personnel changes require. The commission always retains the authority to change a staff member's action.

Further comments on §1.2: The definition of "party" is unduly limiting, and departs unnecessarily from the APTRA definition. The commission agrees with this comment. Accordingly, the definition is changed to be consistent with the APTRA definition.

Comment on §1.3: To allow temporary suspension of rules would essentially be to allow rulemaking without APTRA procedures. The commission disagrees with this comment. A suspension of rules is intended to apply to particular cases (or groups of cases). Broad

changes in procedures will continue to require formal rulemakings.

Comment on §1.4: The application of commission contempt power to procedural situations is questionable. The commission disagrees with this comment. The commission has full district court contempt powers under Texas Civil Statutes, Article 6451 (Vernon 1926).

Comment on §1.5: The broadcasting, televising, or recording of hearings should only be allowed if all parties agree. The commission disagrees with this comment. The examiner's discretion is sufficient to protect the parties' interests and to maintain decorum.

Comment on §1.21: The director should be required to notify the petitioner of the nature of any deficiencies in a rulemaking petition (the current version is permissive). The commission disagrees with this comment, and will instead eliminate the sentence. If the commission staff decides to refuse a petition on the basis of deficiencies, it will normally inform the petitioner of these deficiencies. There is, however, no need for a rule requiring this action.

Comments on §1.22: Requests for discovery and responses thereto should be made part of the record when part of a motion to compel discovery; alternatively, they should be made part of the record if filed by the parties. The commission disagrees with the second of these comments, but agrees that the rule can be clarified to not specifically prohibit the inclusion of these pleadings in the record. Accordingly, the last sentence of §1.22(a) is amended to provide that such pleadings become part of the record when otherwise admitted into evidence or made part of another pleading in the record.

Comment on §1.23: The rule does not specify exactly where pleadings or applications should be filed; some are filed with specific sections rather than directly with division directors. The commission disagrees with this comment. The rules do not cover every conceivable situation; directors can delegate to sections.

Comment on §1.23: The rule should not invite applications or pleadings to be filed directly with the commissioner's offices. The commission agrees with this comment. Although pleadings filed in the commissioner's offices will of course be accepted, to avoid unnecessary correspondence burdening the offices, the rule should avoid the appearance of inviting such pleadings to be filed there. The language is therefore deleted from §1.21 with regard to petitions for rulemaking, and from §1.23 with regard to other pleadings.

Comment on §1.24: The exclusion of exceptions, replies, motions for rehearing, and replies thereto from the documents which may be filed by telecopy is not clear. It could be interpreted as an exclusion from the 10-page limit. The commission agrees with this comment. Accordingly, in the adopted version the parenthetical is moved to immediately follow "Pleadings", so that the sentence reads: "Pleadings (other than exceptions, replies, motions for rehearing and replies to motions for rehearing) containing 10 or fewer pages . . ."

Comment on §1.24: The last sentence of subsection (b) leaves unclear the disposition

of normally filed pleadings received after 5 p.m., and could also force employees to stay late to receive late telecopy transmissions and stamp them in. The commission agrees with this comment. Accordingly, the last sentence in subsection (b) is deleted, and the following sentence is added to subsection (c): "Pleadings filed after 5 p.m. local time of the commission shall be deemed filed the first day following that is not a Saturday, Sunday, or official state holiday." In addition, it is made clear that telecopy transmissions must be complete by the end of the business day in order to be considered filed that day.

Comment on §1.24: Documents which are received in the commission mail room on the due date but which are not transmitted to Docket Services the same day should be considered timely. While the commission is sympathetic to the concerns in this comment, rather than setting out a specific exception the commission will eliminate "only" from the first sentence of §1.24. The exception provision in §1.9 will allow the prevention of obvious injustice.

Comment on §1.25: The rules should not allow 1 1/2-spaced pleadings, just double-spaced. The commission disagrees with this comment; the flexibility in the rules as written is desirable.

Comment on §1.25: The rules should not set out 8 1/2 X 11 as a maximum, but as the requirement. Smaller documents would also be difficult to process. The commission agrees with this comment, and has changed the rule accordingly.

Comment on §1.26: There is no reason why correction of pleadings would be precluded by law; the provision should be removed. The commission disagrees with this comment. Amendments to motions for rehearings, as only one example, may in some instances be precluded by law.

Comment on §1.26: The time periods for Surface Mining cases should be consistent with the policy adopted by the commission. The commission disagrees with this comment. The existing commission policy is in effect within the constraints of the present rule; no change in the policy or the rule is proposed.

Comment on §1.27: The rule should make clear that a supporting affidavit which accompanies a motion may be requested and filed after the motion is filed. The commission disagrees with this comment. The rule is sufficiently broad to allow this type of procedure.

Comment on §1.27: The requirement that an affidavit accompany and support a motion should not be left to the discretion of the examiner. The commission disagrees with this comment. Some facts are obvious and unlikely to be contested; others are in need of additional support.

Comment on §1.28: Responsive pleadings should be due more than 10 days after the original pleading. The commission disagrees with this comment. The time periods of deciding pre-hearing motions must be expeditious in order to avoid delay in the hearing process.

Comment on §1.28: The rules should clarify when a response to a complaint is due. The deadline should be longer than the 10 days set out for other pleadings. The commission agrees with this comment. Accordingly, the rules will allow 20 days to respond to a complaint which institutes a proceeding.

Comment on §1.28: Instead of allowing action prior to response in emergencies, an expedited response should be required. The commission disagrees with this comment. If expedited response is possible, the staff will very likely take that course; if immediate action is required, the power to take it needs to be available.

Comment on §1.29: Additional notice of hearing should be ordered by the examiner only if delegated power by the commission. The commission disagrees with this comment. Circumstances of different cases may require different procedures.

Comment on §1.45: The rule should set out when a request for a more definite and detailed statement of issues involved needs to be filed and specify who provides that description. The commission disagrees with this comment. These details do not need to be spelled out.

Comment on §1.48: Service of documents on other parties by FAX should be complete by 5 p.m. in order to be considered served on that day. The commission disagrees with this comment. The problem of FAX abuse does not warrant rules specifically designed to prevent it. Sanctions or other orders are available from the examiner to rectify any misuse.

Comment on §1.48: A complaint should be filed on all known affected parties. The commission disagrees with this comment. In many cases it may be impossible to notify all parties; in such cases, notice is usually given through some sort of publication.

Comment on §1.48: A pleading which requires a response within a certain deadline should state that deadline within the pleading. This would allow disputes about calculation of time periods to be resolved in a timely manner. The commission disagrees with this comment. This suggestion would be subject to abuse due to intentional mistakes, and raises more questions than it answers.

Comment on §1.62: The commission staff, when it appears in a hearing, should be given party status as per its role in each given proceeding. The commission agrees with this comment. The definitions of applicant or petitioner, complainant, intervenor, and protestant have been changed to include the agency staff.

Comment on §1.63: The rule appears to allow protests only when the commission specifically allows. The commission disagrees with this comment. The rule actually requires protests to be filed within time periods stated by the commission.

Comment on §1.64: A respondent named in a complaint should not be required to file an intervention to be a party. The commission agrees with this comment. "Respondent" is added to the list of persons not required to file an intervention.

Comment on §1.65: The commission should not begin letting non-lawyers who are not employed by a party represent the party. The commission disagrees with this comment. The rule as published does not represent a change in commission policy. The restriction found for transportation cases will remain in effect as a special rule.

Comment on §1.101: The rules should specifically state the reasons that an examiner

might not admit evidence in the absence of an objection. The commission disagrees with this comment. While there are some obvious instances where this action is appropriate, the rules should not limit its use.

Comment on §1.108: The rules should not allow cross-examination on a bill of exceptions; this makes a full-blown hearing out of what should be a routine administrative matter. The commission disagrees with this comment. A bill of exceptions should preserve evidence in case an evidentiary ruling is reversed by any reviewing authority. Otherwise, such a reversal could require reconvening of the hearing.

Comment on §1.122: The rule should require the examiner to set out all rulings in a subsequent written order. The commission disagrees with this comment. There appears to be no reason to require a written order, especially with regard to minor details and issues.

Comment on §1.124: The five-day continuance rule is usually ignored and should be eliminated. It may also be difficult to serve a discovery request on a party, and then request a continuance based on the need for discovery more than five days prior to the hearing. The commission disagrees with this comment. The five-day rule is not ignored everywhere, and should be followed in the future. Furthermore, a hearing will rarely (if ever) be set so quickly that a discovery request can not be formulated within five days.

Comment on §1.127: The procedures for sealing documents admitted into evidence should be included. The commission disagrees with this comment. This is a complicated, rare issue that has not been fully resolved, and may take a separate rulemaking proceeding to adequately resolve.

Comment on §1.128: The subsection (c) should be entitled "Voi Dire" rather than "Clarifying Questions." The commission agrees with this comment. This subsection deals entirely with voi dire, and the term "clarifying questions" is often used by the court reporter to describe questions by the examiner.

Comment on §1.128: Parties should be allowed to object to additional evidence. This comment is well-founded, and the rule as adopted is changed to specifically provide for objections.

Comment on §1.129: It is not clear how transcript charges should be assessed when one party does not request transcripts. The commission disagrees with this comment. The rule leaves the discretion with the examiner, and general practices will develop for various situations. There is no reason to limit the rule with respect to one particular set of circumstances.

Comment on §1.129: The examiner's discretion to allocate transcript charges equitably should be retained. The commission agrees with this comment. The rule as adopted adds "as otherwise directed by the examiner" to the list of allocation methods.

Comment on §1.141: Waiver of the PFD should be allowed on the record (not in writing). The commission disagrees with this comment. Waiver of PFD must be in writing according to the provisions of APTRA.

Comment on §1.142: Reply deadlines for exceptions should be calculated from the ser-

vice date rather than from the file date. The commission disagrees with this comment. The calculation of dates according to date of service is impracticable, as the commission is unaware when the pleading is received. The only certain way to ascertain such dates is to base them on the date filed with the commission.

Comment on §1.142 and §1.149: This may confuse people who see telecopy filing allowed in §1.24. The commission disagrees with this comment. The provisions of §1.24 were clarified. The effect is fully consistent in the various rules.

Comment on §1.145: The rule should provide for appeals of interim orders if allowed by law. The commission disagrees with this comment. The rules cannot prevent appeals if allowed, but generally they are not. Unless they are in fact allowed under some particular circumstances, there is no need to provide for such appeals in the rules.

Comment on §1.146: Parties should be considered served with the final order three days after mailing. The commission disagrees with this comment. APTRA was amended, and extra time was given to file motions for rehearing, based on the presumption that there would be some lag time due to mailing.

Comment on §1.148: The procedures regarding time periods and related appeals apply only to Surface Mining and Transportation. There are no rules with general applicability. The commission disagrees with this comment. There are no specified time periods for Oil and Gas or Gas Utilities proceedings because they do not fall within the statutory requirement.

Comment on §1.149: Motions for rehearing should be served on other parties by FAX or overnight mail in order to allow full time to respond. The commission disagrees with this comment. Pleadings should not be required to be served by FAX in any instance.

The following groups and associations submitted comments regarding the proposed rule: Association of Texas Intrastate Natural Gas, Common Carrier Motor Freight Association, Inc., Sand and Gravel Motor Carriers Association, Inc., Southwestern Warehouse and Transfer Association, Inc., Texas Agricultural Distributors Association, and the Texas Mining and Reclamation Association. These comments are not best described as for or against the proposed rules. Instead, the comments generally sought changes to the proposed version when the new rules were adopted. Opposition was limited to particular provisions of the proposed rules.

Subchapter A. Definitions and General Provisions

• 16 TAC §§1.1-1.7

The repeals are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

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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• 16 TAC §§1.1-1.9

The new sections are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

§1.1. Purpose, Scope, and Conflict with Special Rules.

(a) Purpose. These rules provide a system of procedures for practice before all divisions of the Railroad Commission of Texas that will enable the just disposition of proceedings and public participation in the decision-making process.

(b) Scope. These rules govern the institution, conduct, and determination of commission proceedings required or permitted by law, whether instituted by order of the commission or by the filing of an application, complaint, petition, or any other pleading. These rules shall not be construed so as to enlarge, diminish, modify, or otherwise alter the jurisdiction, powers, or authority of the commission or the substantive rights of any person or agency. These rules apply to proceedings before the operating divisions and the Legal Division.

(c) Conflict with special rules. The commission may adopt special rules of practice and procedure to be applicable only to proceedings before a specific division. Special rules may be adopted when a division has unique requirements which are not accommodated by these rules. When a special rule is in conflict with these rules, the division's special rule shall control.

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

Agency—A state board, commission, department, or officer having statewide jurisdiction, other than an agency wholly financed by federal funds, the legislature, the courts, and institutions of higher education, which makes rules or determines contested cases.

APTRA—The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, as it may be amended.

Authorized representative—A person or persons representing anyone before the commission pursuant to these rules.

Commission—The Railroad Commission of Texas.

Commissioner—One of the elected or appointed members of the Railroad Commission of Texas.

Contested case—A proceeding in which the legal rights, duties, or privileges

of a party are to be determined by the commission after an opportunity for adjudicative hearing.

Director—The administrator appointed by commission in charge of a division or section within the commission. Subject to commission directive, a director may delegate the director's authority to another commission employee. When these rules delegate authority to a director or the appropriate director, that authority shall be deemed delegated to the director of the division which is responsible for the disposition of the matter at issue. A grant of authority to a director by these rules shall not be construed to deny the commission the power to exercise the authority so granted. Action taken by a director or the director's delegate under authority of these rules is subject to review by the commission.

Division—An administrative subdivision of the commission, including the operating divisions (i.e. Oil and Gas, Transportation/Gas Utilities, Surface Mining and Liquefied Petroleum Gas) and the Legal Division.

Examiner—A person appointed by the commission to conduct hearings.

Final order—The commission's final disposition, whether affirmative, negative, injunctive, or declaratory.

Party—Each person or agency named or admitted as a party.

Person—An individual, partnership, corporation, association, governmental subdivision, entity, or public or private organization other than an agency.

Pleading—A written document submitted by a person, an agency, or their representative setting forth allegations of fact, legal arguments, claims, requests for relief, or other matters. Pleadings may take the form of applications, petitions, complaints, protests, exceptions, replies, motions, responses or answers, or other requests for action.

Proceeding—A formal hearing, investigation, inquiry, or other fact-finding or decision-making procedure. It may be rulemaking or nonrulemaking.

Protested contested case—A contested case in which a party appears and contests or opposes the relief sought in the application, petition, or complaint.

Register—The Texas Register established by Acts of 1975, 64th Legislature, cited in Texas Civil Statutes, Article 6252-13a.

Rule—A commission statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the commission's procedure or practice requirements. The term includes the amendment or repeal of a rule but does not include statements concerning only the internal management or organization of the commission and not affecting private rights or procedures.

Rulemaking proceeding—A proceeding to implement a new rule or to amend or repeal an existing rule as provided in the definition of "rule" set forth in this section.

§1.8. Computation and Extensions of Time.

(a) In computing any period of time prescribed or permitted by the director, the examiner, a rule or an order of the commission, or any applicable statute, the day of the act, event, or default from which the period of time begins to run shall not be included, but the last day of the period being computed shall be included, unless it is a Saturday, Sunday, or an official state holiday, in which event the period shall continue to run until 5 p.m. on the next day that is not a Saturday, Sunday, or an official state holiday except as otherwise provided by statute. Saturdays, Sundays, and official state holidays shall not be counted for any purpose in any time period of five days or less in these rules.

(b) Unless otherwise provided by statute or special rule, the time for filing any pleading or other document may be extended upon the granting of a motion for extension of time. Except for good cause shown, the motion shall be filed with the examiner or the commission prior to the applicable deadline. The motion shall show that there is good cause for an extension of time and that the need for the extension is not caused by the negligence, indifference, or lack of diligence of the person, party, or representative filing the motion. A copy of any such motion shall be served upon all parties of record contemporaneously with its filing.

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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Subchapter B. Parties

• 16 TAC §§1.21-1.25

The repeals are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

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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Subchapter B. Pleadings

• 16 TAC §§1.21-1.29

The new sections are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

§1.21. *Petition for Adoption of Rules.*

(a) Any interested person or agency may petition the commission requesting adoption of a rule. Petitions shall be in writing, should be filed with the appropriate division director, and shall comply with the following requirements.

(1) Each petition must state the name and address of the petitioner.

(2) Each petition shall include:

(A) a brief explanation of the proposed rule;

(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(C) a statement of the statutory or other authority under which the rule is proposed to be promulgated; and

(D) a justification for adoption of the rule.

(b) The appropriate director shall review all petitions for compliance with this section. The petitioner shall have the right to file a corrected petition which complies with the requirements of this section.

(c) Upon receipt of a petition which complies with the requirements of this section, the appropriate director shall present the petition to the commission with a recommendation on whether a rulemaking proceeding should be initiated.

(d) The commission shall deny the petition or initiate rulemaking proceedings in accordance with the Administrative Procedure and Texas Register Act (APTRA) and these rules. The commission may modify any proposed rule to ensure that it conforms to the format of commission rules, adequately addresses the perceived problem or other subject matter, and conforms to the filing requirements of the *Texas Register*.

§1.22. *Classification of Pleadings.*

(a) Pleadings filed in proceedings before the commission should be designated as one of the following: application, peti-

tion, complaint, notice of protest, answer, motion, exception or, if authorized by this title, response or reply to one of the preceding pleadings. If there is an error in the designation of a pleading, the examiner or the appropriate director may determine its appropriate status in the proceeding and treat it accordingly. Requests for discovery and responses thereto shall not be classified as pleadings and shall become a part of the administrative record in a contested case only when offered as evidence, or when part of a request for an order compelling a discovery response, or a reply thereto.

(b) Pleadings shall be liberally construed. The commission may construe a document as a pleading if the intent of the filing or document is evident.

§1.23. *Institution of Nonrulemaking Proceedings.* All applications, petitions, complaints, and other documents relating to any proceeding to be initiated before the commission shall be filed with the appropriate division director. Such pleadings and other documents, including notices of protest and answers, shall be deemed filed only when they are actually received and are accompanied by any required filing fee.

§1.24. *Filings with the Legal Division.*

(a) After transfer to the Legal Division, pleadings and other documents shall be filed with the Docket Services Section of the Legal Division.

(b) Pleadings and other documents filed with the Legal Division shall be deemed filed only when they are actually received by the Docket Services Section of the Legal Division. The time and date of filing shall be determined by the file stamp affixed thereon. Pleadings (other than exceptions, replies, motions for rehearing, and replies to motions for rehearing) containing 10 or fewer pages including exhibits may be filed by telephonic document transfer to the Docket Services Section. Pleadings filed after 5 p.m. local time of the commission shall be deemed filed the first day following that is not a Saturday, Sunday, or official state holiday. Pleadings filed by telephonic document transfer shall be considered filed after 5 p.m. local time if the last page of the pleading is received after 5 p.m. local time.

(c) Pleadings and other documents shall be timely filed if received and stamped by the Docket Services Section of the Legal Division on or before 5 p.m. of the filing deadline.

§1.25. *Form and Content of Pleadings.*

(a) Unless otherwise permitted or required by commission rules or by statute, a pleading shall contain a statement of the pleading's objectives, a concise statement of supporting facts, and a specific request for any relief requested.

(b) A pleading shall be typewritten or printed on white paper that is 8 1/2

inches wide and 11 inches long, with at least one-inch margins, or on the appropriate commission form. Exhibits attached to a pleading shall be the same size as pleadings or folded to that size. The impression shall only be on one side of the paper and shall be double or one and one-half spaced, except that footnotes and lengthy quotations may be single spaced.

(c) The signed original or a copy of said original shall be filed. When a copy of the signed original is filed, the party or the party's authorized representative shall maintain the signed original for examination by the commission, the examiner, the director, or any party to the proceedings, should a question arise as to its authenticity.

(d) Each pleading shall be signed by the party or the party's authorized representative. A pleading shall contain the filing party's business address, telephone number, and, if applicable, telecopier number or, if filed by an authorized representative, the business address, telephone number, and, if applicable, the representative's state bar number and telecopier number.

§1.27. *Motions.*

(a) A motion shall be in writing, unless dictated into the record, and shall state the relief sought and the specific reasons therefor. If the motion is based upon alleged facts that are not a matter of record, it may, in the examiner's discretion, be supported by an affidavit. Notice of action on any motion shall be served promptly on all parties of record. Motions shall be served on all parties in accordance with §1.48 of this title (relating to Service in Protested Contested Cases).

(b) A motion filed prior to presentation of a contested case to the commission shall generally be acted on by the appropriate director or the examiner. An appeal of any staff ruling shall be filed with the staff or the commission. The staff will forward the pleading filed with it to the commission.

§1.28. *Responsive Pleadings and Emergency Action.*

(a) Unless otherwise specified, a responsive pleading, if filed, shall be filed by a party within 10 days after filing of the pleading to which the response is made. Unless otherwise precluded by law or these rules, the commission, the director, or the examiner may take action on a pleading before the deadline for filing responsive pleadings. Such action will only be taken in an emergency that presents a risk of imminent pollution, waste, or injury to persons or real or personal property. Action taken under such conditions is subject to modification based on a timely responsive pleading.

(b) A responsive pleading to a complaint filed to institute a proceeding shall be filed by the respondent within 20 days after service of the complaint.

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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Subchapter C. Pleadings

• 16 TAC §§1.31-1.39

The repeals are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

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Subchapter C. Docketing, Notice, and Service

• 16 TAC §§1.41-1.48

The new sections are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

§1.44. Transportation Docketing and Transportation Notice of Hearing for Nonrulemaking Proceedings.

(a) Notice of publication. At least twice a month, the Transportation/Gas Utilities Division director shall issue publications that contain a transportation notice of hearing for nonrulemaking transportation proceedings. The notice of hearing shall give notice of all applications or other pleadings by which transportation contested cases have been instituted in the Transportation/Gas Utilities Division since the last notice of hearing. The notice of hearing shall contain the following:

(1) the name and address of the applicant or other party filing the pleading and the name and address of that party's authorized representative, if any;

(2) a concise statement of the action sought in the proceeding with reference to the commission's source of jurisdiction and authority to take the action sought; and

(3) a statement of the procedure to be followed, including the requirements for filing a notice of protest.

(b) Docket assignment. Transportation applications to which one or more notices of protest have been filed shall be assigned to the protested docket and transferred to the Legal Division. Applications to which notices of protest have not been filed shall be assigned to the unprotected docket upon expiration of the protest period. An applicant whose application is placed on the unprotected docket shall not be relieved of sustaining the burden of proof imposed by law.

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Subchapter D. Docketing and Notice

• 16 TAC §§1.51-1.54

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Subchapter E. Prehearing Proceedings

• 16 TAC §§1.61-1.64

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Subchapter D. Parties and Intervention

• 16 TAC §§1.61-1.65

The new sections are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

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

Applicant or petitioner—A person or agency, including the agency staff, who by written application or petition, including appeals, seeks a remedy from the commission.

Complainant—A person or agency, including the agency staff, who complains to the commission of any act or omission committed by the commission or any person or agency subject to the commission's jurisdiction.

Intervenor—A person or agency (including the agency staff), other than an applicant, complainant, protestant, or respondent, who is permitted to become a party to a proceeding.

Protestant—A person or agency, including the agency staff, opposing an application or petition submitted to the commission.

Respondent—A person or agency against whom any complaint has been filed or who is under formal investigation by the commission.

§1.64. Intervention.

(a) Except for transportation cases, any person or agency who has a justiciable or administratively cognizable interest and who is not an applicant, petitioner, complainant, respondent, or protestant and who desires to be designated as a party in any contested case before the commission may file a petition for leave to intervene no later than five days prior to the hearing date.

(b) The examiner, the Legal Division director, or the commission shall act on

all petitions for leave to intervene. All interventions shall be subject to a motion to strike for having been improperly admitted.

§1.65. Representative Appearances. Any party may appear individually or may appear through any person properly authorized by that party to make an appearance.

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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Subchapter F. Hearings

• 16 TAC §§1.71-1.79

The repeals are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

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Subchapter E. Discovery

• 16 TAC §§1.81-1.85

The new sections are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

§1.81. Forms and Scope of Discovery in Protested Contested Cases.

(a) Permissible forms of discovery by parties are:

(1) oral depositions of a party or a nonparty;

(2) written interrogatories to a party;

(3) requests of a party for admission of facts or the genuineness or identity of documents or things;

(4) requests of a party for production, examination and copying of documents or other tangible materials; and

(5) requests of a party for entry upon and examination of real or personal property, or both.

(b) The scope of discovery shall be the same as provided by the Texas Rules of Civil Procedure and shall be subject to the constraints provided therein for privileges, objections, protective orders, and duty to supplement as well as the constraints provided in the Administrative Procedure and Texas Register Act (APTRA) §14 and §14a.

§1.82. Service and Filing of Discovery Requests and Responses. Requests for discovery and responses thereto shall be served in the manner provided by 1.48 of this title (relating to Service in Protested Contested Cases) and should not be filed with the commission. Requests for issuance of a commission to take deposition shall be filed with the examiner or the Legal Division director with a proposed commission to take deposition only if the parties disagree on the scheduling or scope of the deposition. Depositions shall be returned in the manner provided in the Administrative Procedure and Texas Register Act (APTRA), §14. Except for good cause shown, all requests for discovery shall be timely made prior to the hearing.

§1.83. Deadlines for Responses to Discovery Requests. Responses to discovery requests shall be made within a reasonable time period of not less than 14 days after service as directed by the party seeking discovery. The examiner or the Legal Division director may shorten or lengthen such time periods as the interest of justice requires.

§1.84. Requests for Admission. Except as otherwise provided, requests for admission shall be governed by the applicable provisions of the Texas Rules of Civil Procedure. Each matter for which an admission is requested shall be separately stated. The matter shall be deemed to be admitted without necessity of a commission order unless, within the prescribed time for responding, the party to whom the request is directed serves upon the requesting party a written answer or objection addressed to the matter. The requests for admission document must clearly set forth this provision for deemed admissions, in bold print or by underlining, in a conspicuous location calculated to fairly inform the opposing party of the consequences of a failure to respond within the prescribed time. The examiner or the commission may permit withdrawal or amendment of responses and deemed admissions upon a showing of good cause, if necessary in the interest of justice.

§1.85. Discovery Orders.

(a) Commission to take deposition. The Legal Division director or the examiner is authorized to issue a commission to take deposition, which shall authorize the issuance of any subpoenas necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers, or other objects that may be necessary and proper for the purposes of the proceeding.

(b) Other discovery orders. The examiner may issue protective orders and orders compelling discovery responses. Requests for discovery orders shall contain a statement under oath or affirmation that, after due diligence, the desired information cannot be obtained through informal means, and that good cause exists for requiring discovery. The Legal Division director, the appropriate assistant director, or the examiner may conduct *in camera* inspections of materials when requested by a party or when necessary to determine facts required to issue appropriate discovery orders. The request for a discovery order may be denied if the request is untimely or unduly burdensome in light of the complexity of the proceeding, if the requesting party has failed to exercise due diligence, if the discovery would result in undue cost to the parties or unnecessary delay in the proceeding, or for other good cause in the interest of justice.

(c) Sanctions. After notice and opportunity for hearing, an order imposing sanctions, as are just, may be issued by the commission, the Legal Division director, or the examiner for failure to comply with a discovery order or subpoena issued pursuant to a commission for deposition or production of books, records, papers, or other objects. The order imposing sanctions may:

(1) disallow any further discovery of any kind or of a particular kind by the disobedient party;

(2) require the party, the party's representative, or both to obey the discovery order;

(3) require the party, the party's representative, or both to pay reasonable expenses, including attorney fees, incurred by reason of the party's noncompliance;

(4) direct that the matters regarding which the discovery order was made shall be deemed established in accordance with the claim of the party obtaining the order;

(5) refuse to allow the disobedient party to support or oppose designated claims or defenses or prohibit the party from introducing designated matters in evidence;

(6) strike pleadings or parts thereof or abate further proceedings until the order is obeyed; or, if entered by the commission,

(7) dismiss the action or proceeding or any part thereof or render a decision by default against the disobedient party.

(d) Commission review. Any discovery order or subpoena and any order imposing sanctions issued by the examiner or the Legal Division director is subject to review by an appeal to the commission. The appeal shall be filed with the staff or the commission. The staff will forward the pleading filed with it to the commission. The appeal may be carried with the underlying case if the commission fails to act.

(e) Compliance. The commission may enforce compliance with any discovery order or subpoena issued by the examiner, the Legal Division director, or by the commission by exercising its contempt powers as authorized by Texas Civil Statutes, Articles 6446, 6451, 6471, 6472a, and 6519a and the Texas Natural Resources Code, §81.053 or as otherwise permitted by law.

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 April 15, 1991.

TRD-9104529 Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1991

Proposal publication date: November 6, 1990

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

Subchapter G. Evidence

• 16 TAC §§1.91-1.98

The repeals are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

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 April 15, 1991.

TRD-9104530 Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1991

Proposal publication date: November 6, 1990

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

Subchapter F. Evidence in Contested Cases

• 16 TAC §§1.101-1.108

The new sections are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a,

which requires agencies to adopt rules of practice.

§1.101. Rules of Evidence. The rules of evidence as applied in nonjury civil cases in the district courts of Texas shall be followed in contested cases. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible under them may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The rules of privilege recognized by law shall apply in commission proceedings. Objections to evidentiary offers may be made and shall be noted in the record. If no objections are made, the evidence may be admitted.

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 April 15, 1991.

TRD-9104531 Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1991

Proposal publication date: November 6, 1990

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

Subchapter H. Examiner's Report, Proposal for Decision, and Related Actions

• 16 TAC §§1.111-1.114

The repeals are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

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 April 15, 1991.

TRD-9104532 Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

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Proposal publication date: November 6, 1990

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

Subchapter I. Orders

• 16 TAC §§1.121-1.123

The repeals are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

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 April 15, 1991.

TRD-9104533 Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1991

Proposal publication date: November 6, 1990

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

Subchapter G. Hearings

• 16 TAC §§1.121-1.129

The new sections are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

§1.121. Presiding Officer.

(a) Examiner or presiding examiner. Hearings may be conducted by commissioners, directors, or employees designated as examiners, all of whom are referred to in this section as the presiding examiner.

(b) Powers. Subject to any limitations imposed by law or by commission rule, the presiding examiner shall have broad discretion in regulating the course and conduct of the hearing. The presiding examiner shall have, but shall not be limited to, the following authority:

- (1) to administer oaths and affirmations;
- (2) to issue subpoenas to compel the attendance of witnesses and the production of papers and documents;
- (3) to authorize the taking of depositions and issue discovery orders as authorized by law;
- (4) to call and examine witnesses;
- (5) to receive evidence;
- (6) to rule upon the admissibility of evidence and amendments to pleadings;
- (7) to limit the number of witnesses whose testimony would be merely cumulative;
- (8) to set reasonable times within which a party may testify, cross-examine witnesses, or present evidence;
- (9) to impose sanctions;
- (10) to recess any hearing;
- (11) to issue a proposal for decision, including proposed findings of fact and conclusions of law and a recommended order;

(12) to amend the proposal for decision or recommended order, or both, based upon exceptions and replies filed by the parties;

(13) to issue a supplemental or amended proposal for decision and proposed order; and

(14) to take other permissive action which is necessary for a fair, just, and proper hearing.

(c) Replacement. If prior to a final decision by the commission the presiding examiner is unable to continue to serve, the appropriate director or director's delegate may appoint another examiner to perform any remaining functions without the necessity of repeating previous proceedings.

(d) Interlocutory appeals. Interlocutory appeals to the commission of an examiner's rulings may be permitted by the commission.

§1.128. Hearing Procedures.

(a) Opening the hearing. The examiner shall open the hearing and make a concise statement of its scope and purposes. Appearances shall then be entered by all parties. Thereafter, parties may make motions or opening statements.

(b) Order of procedure. In protested cases, parties shall be permitted to make opening statements, offer direct evidence, cross-examine witnesses, and present supporting arguments. The petitioner, applicant, or complainant shall be entitled to open and close. When several proceedings are heard on a consolidated record or when the proceeding has been initiated by the commission, the examiner shall designate who may open and close. The examiner will determine at what stage intervenors shall be permitted to offer evidence. The examiner may direct that closing argument be made in writing. The examiner may alter the order of procedure if necessary for efficient conduct of the hearing.

(c) *Voir dire*. *Voir dire* examination to evaluate the qualifications of a witness to testify may be permitted but will not be substituted for cross-examination.

(d) Rebuttal. The petitioner, applicant, or complainant may rebut evidence and argument presented by protestants or intervenors. The examiner may allow additional rebuttal from other parties.

(e) Additional evidence. The commission, Legal Division director, or examiner may subpoena records or may call upon or subpoena any party, persons, or employees of the commission who are not assigned to render a decision or to make findings of fact and conclusions of law for additional evidence on any issue. Additional evidence shall not be admitted without an opportunity for examination, objection, and rebuttal by all parties.

§1.129. Reporters and Transcripts.

(a) Request for transcript. When requested by the commission, the examiner or a party, a certified shorthand reporter shall make a record and transcript of the hearing. For proceedings before the Surface Mining and Reclamation Division, a verbatim record of each public hearing shall be made.

(b) Assessment of costs. The cost of the original transcripts shall be assessed in the following manner:

(1) to all parties equally;

(2) to the applicant in cases where the commission determines that the transcript costs should be so assessed;

(3) to the requesting party in surface mining and reclamation proceedings;

(4) equally to the party or parties that request a transcript in commission-called hearings; or

(5) as otherwise directed by the examiner.

(c) Charges. The commission shall approve rates to be charged by reporters for appearances, original transcripts and copies. The rates shall not exceed rates authorized by law to be paid to district court reporters.

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 April 15, 1991.

TRD-9104534

Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1991

Proposal publication date: November 6, 1990

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

Subchapter J. Ancillary Proceedings and Proceedings Beyond the Order

• 16 TAC §§1.131-1.136

The repeal is adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

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 April 15, 1991.

TRD-9104535

Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1991

Proposal publication date: November 6, 1990

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

Subchapter H. Decision

• 16 TAC §§1.141-1.152

The new sections are adopted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which requires agencies to adopt rules of practice.

§1.145. Interim Orders.

(a) When an interim order is provided for by law, a request for an interim order will be presented to the commission for consideration. An interim order shall not be considered a final commission decision. Interim orders are not appealable and shall not be subject to exceptions or motions for rehearing.

(b) A party may file a written motion to set aside, modify, or reconsider an interim order. The motion shall be filed with the staff or the commission. The staff will forward the pleading filed with it to the commission.

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 April 15, 1991.

TRD-9104536

Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: June 1, 1991

Proposal publication date: November 6, 1990

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

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

• 16 TAC §3.54

The Railroad Commission of Texas adopts an amendment to §3.54, without changes to the proposed text as published in the February 5, 1991, issue of the *Texas Register* (16 TexReg 632). The amendment eliminates the requirement that operators of casinghead gas processing plants file semi-annually with the commission a list of all leases and wells to which the plant is connected. Adoption of the amendment relieves operators of the obligation to compile this lease and well information and will reduce the filing burden of the commission.

All of the comments received favored adoption of the amendment as proposed. The commenters stated that the amendment will save operators the time that was required to

comply with subsection (b) and the commission will be relieved of a filing burden for information that is seldom used.

The following commenters expressed support for the amendment: Association of Texas Inrastate Natural Gas Pipelines, Conoco Inc., Kerr-McGee Corporation, and Texas Mid-Continent Oil and Gas Association.

The amendment is adopted under the Texas Natural Resources Code, Title 3, Chapter 86, §86.041 and §86.042, which provide the commission with the authority to adopt rules regarding the regulation of natural gas.

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 April 15, 1991.

TRD-9104517 Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: May 7, 1991

Proposal publication date: February 5, 1991

For further information, please call: (512) 463-6864

• 16 TAC §3.78

The Railroad Commission of Texas adopts new §3.78, with changes to the proposed text as published in the February 15, 1991, issue of the *Texas Register* (16 TexReg 936).

The new section is adopted to provide regulation of drilling activity that without such regulation would pose a danger to life and property and would threaten injury to costly facilities designed for research in high energy physics.

The new section defines terms, restricts drilling operations upon or through any portion of the Superconducting Super Collider, and requires additional information to be filed for proposed wells within 500 feet of the Superconducting Super Collider. The only change to the proposed text is found in subsection (b)(2) to make clear that well coordinates are not required for any well 500 feet or more from the superconducting super collider.

The one comment filed emphasizes the public benefits to be realized from the Superconducting Super Collider project and asserts that it is a constitutional exercise of the state's police power.

The Texas National Research Laboratory Commission made comments for the proposed rule; there were no comments against the proposed rule.

The new section is adopted under the Texas Natural Resources Code, Title 3, subtitles A and B, Chapter 81, §81.051 and §81.052, Chapter 85, §85.042, and Chapter 86, §86.042, which provides the Railroad Commission of Texas with the authority to regulate drilling operations to prevent injury to life and property.

§3.78. Drilling Operations in the Vicinity of the Superconducting Super Collider, Ellis County.

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

(1) Commission—The Railroad Commission of Texas.

(2) Department of Energy—The United States Department of Energy.

(3) Operator—A person, acting for himself or as an agent for others and designated to the commission as the one who has the primary responsibility for complying with its rules and regulations in any and all acts subject to the jurisdiction of the commission.

(4) Well—Any well under the commission's jurisdiction including a gas well, oil well, exploratory well, disposal well, injection well, injection water source well, cathodic protection well, brine solution mining well, geothermal resource well, underground hydrocarbon storage well, or seismic well.

(5) Superconducting Super Collider—The Superconducting Super Collider research laboratory facility project and related facilities to be located in Ellis County, which project is referred to in Department of Energy Record Decision: Superconducting Super Collider (6450-01) dated January 18, 1989 (54 FedReg 3651 (1989)), authorized and sponsored by the Department of Energy.

(6) Collider arc region—The elliptical configuration of the subsurface arc which encases the Superconducting Super Collider tunnel. The collider arc region is 1,000-foot wide, 80 feet thick, and ranges in depth from the soil surface to a maximum depth of 450 feet below existing ground level.

(7) Collider support area—The area of the Superconducting Super Collider excluding the collider arc region.

(8) Ellis County map—The commission's most current computerized, well-location map of Ellis County on which the boundaries of the Superconducting Super Collider are superimposed two-dimensionally (map styled "Ellis Co. Super Collider").

(9) Coordinates—Latitude/longitude and/or state plane coordinates for the Texas North Central Zone based on NAD 1927 (North American Datum).

(10) Directionally deviated wellbore—As used in this rule means a well directionally deviated from vertical in a predetermined compass direction.

(b) Well Locations.

(1) No well shall intersect any portion of the collider arc region.

(2) Every operator who proposes to drill a well in Ellis County shall determine from the Ellis County map the location of the proposed well in relation to the Superconducting Super Collider. If the

proposed well is within 500 feet of the Superconducting Super Collider, the operator shall provide coordinates of the surface location and projected bottom hole location. The coordinates shall be filed with the drilling application (Form W-1). If no drilling application is required and the well is within 500 feet of the Superconducting Super Collider, before drilling commences, well coordinates shall be provided and notification received from the commission that the proposed location is approved.

(3) In order that a well may be completed in zones occurring beneath the collider arc region, the commission may authorize the drilling of directionally deviated wells. All such directionally deviated wells shall be vertical to a minimum depth of 500 feet before directional deviation may begin. Applications and permits to directionally deviate wells shall be subject to the provisions of 16 TAC §3.11 of this title (relating to Inclination and Directional Surveys Required).

(4) In order that a well may be completed in zones occurring beneath the collider support area, the commission may authorize the drilling of directionally-deviated wells which are surfaced off of the collider arc region or collider support area. All such directionally-deviated wells shall be vertical to a minimum depth of 500 feet. Applications and permits to directionally deviate wells shall be subject to the provisions of 16 TAC §3.11.

(A) Persons wishing to complete wells in zones occurring beneath the collider support area may also apply to the commission for directional or vertical drilling permits which include surface locations upon the collider support area. The commission shall only grant such a permit after notice and opportunity for hearing, and the Texas Natural Research Laboratory Commission, the Department of Energy, and the Superconducting Super Collider Laboratory operator contractor shall have standing to such hearing. Such a permit may be granted by the commission if it finds from evidence presented by the applicant who shall have the burden of proof that:

(i) drilling to the applicant's tract from a surface location off of the collider support area would materially and substantially prevent the full and effective development of applicant's tract; and

(ii) the permitted surface location and bottom hole location will be positioned in such a manner to protect existing or planned Superconducting Super Collider facilities from damage or disturbance as a result of drilling, production or storage activities in connection with such well;

(B) Notwithstanding anything contained within this subsection, no well shall intersect any portion of the collider arc region.

(c) Notification of Department of Energy. The commission will provide the Department of Energy with copies of all those drilling applications for wells within 500 feet of the Superconducting Super Collider area.

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 April 15, 1991.

TRD-9104516 Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: May 7, 1991

Proposal publication date: February 15, 1991

For further information, please call: (512) 463-7152

Chapter 5. Transportation Division

Subchapter K. Safety Requirements

• 16 TAC §5.173

The Railroad Commission of Texas adopts an amendment to §5.173, without changes to the proposed text as published in the February 19, 1991, issue of the *Texas Register* (16 TexReg 1024).

The amendment as adopted will exempt specialized motor common carriers authorized to transport sand, gravel, and other similar type road building and construction commodities from the requirement of maintaining a driver's daily log when the driver is operating within a 150-air-mile radius of the normal work reporting location. The rule as amended will also reduce the amount of record keeping required by the involved carriers and will be consistent with the exemption contained in Texas Civil Statutes, Article 6701d, §139(a)(7), which is applicable to intrastate carriers as enforced by the Texas Department of Public Safety.

The comments received were uniformly supportive of the proposed amendment. They stressed how burdensome the current rule has been to the involved carriers, that operation expenses have increased as a result of compliance with the current rule, that a majority of the hauls made by the involved carriers are short-hauls occurring within a 150-mile radius of the driver's normal work reporting location, and that consistency with the logging exemption as enforced by the DPS is desirable.

The Sand and Gravel Motor Carriers Association, Inc., commented in support of the proposed amendment.

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

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 April 15, 1991.

TRD-9104518 Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: May 7, 1991

Proposal publication date: February 19, 1991

For further information, please call: (512) 463-7096

Part II. Public Utility Commission of Texas Chapter 23. Substantive Rules Quality of Service

• 16 TAC §23.61

The Public Utility Commission of Texas adopts an amendment to §23.61, without changes to the proposed text as published in the February 8, 1991, issue of the *Texas Register* (16 TexReg 709).

The amendment deletes subsection (m) in light of the permanent injunction entered in *US Sprint, et al v. Public Utility Commission, et al*, Cause Number 458,204 by the Travis County District Court on January 4, 1990. In that case, the court permanently enjoined the commission from enforcing subsection (m) on the grounds that subsection (m) was unreasonably discriminatory.

All of the following submitted comments in response to the February 8, 1991, *Texas Register* publication: MCI Telecommunications Corporation (MCI) and GTE Southwest Incorporated (GTE).

MCI stated that subsection (m) should be deleted in its entirety. The commission agrees with MCI.

GTE suggested rewriting subsection (m) to state that no local exchange carrier shall grant reseller credits to interexchange carriers. The commission disagrees with GTE's suggestion for the following reasons. The tariffs of all local exchange carriers, except for GTE, have been amended to govern the availability of reseller credits. GTE's tariff will be amended shortly, pursuant to the commission's order on rehearing in Docket Numbers 8585 and 8218. Secondly, it would be more appropriate to consider GTE's proposed rule in Project Number 9942, the access charge rulemaking project. Project Number 9942 involves a comprehensive examination of the structure of Texas intrastate access charges. The rule that will result from that project should address the issue raised by GTE.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

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 April 10, 1991.

TRD-9104241 Mary Ross McDonald
Secretary of the
Commission
Public Utility Commission

Effective date: May 1, 1991

Proposal publication date: February 8, 1991

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

Part VIII. Texas Racing Commission Chapter 303. General Provisions

Subchapter F. Licensing Persons with Criminal Backgrounds

• 16 TAC §303.202

The Texas Racing Commission adopts an amendment to §303.202, without changes to the proposed text as published in the February 22, 1991, issue of the *Texas Register* (16 TexReg 1125).

The amendment is adopted to ensure that the occupational licensing program of the commission is conducted in accordance with the applicable laws.

The amendment clarifies the offenses that the commission considers directly related to a person's ability to perform the duties associated with holding a license.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 April 12, 1991.

TRD-9104456 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: May 7, 1991

Proposal publication date: February 22, 1991

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

Chapter 305. Licenses for Pari-mutuel Racing

Subchapter B. Individual Licenses

General Provisions

• 16 TAC §305.37

The Texas Racing Commission adopts an amendment to §305.37, without changes to the proposed text as published in the February 22, 1991, issue of the *Texas Register* (16 TexReg 1125).

The amendment is adopted to ensure that racing with pari-mutuel wagering is conducted with the utmost integrity.

The amendment clarifies the restrictions placed on veterinarians licensed also as an owner or trainer.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 April 12, 1991.

TRD-9104455 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: May 7, 1991

Proposal publication date: February 22, 1991

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

Subchapter B. Individual Licenses

Specific Licenses

• 16 TAC §305.42

The Texas Racing Commission adopts an amendment to §305.42, without changes to the proposed text as published in the February 22, 1991, issue of the *Texas Register* (16 TexReg 1125).

The amendment is adopted to ensure that the occupational licensing program of the commission is operated efficiently and effectively.

The amendment clarifies the restrictions placed on veterinarians licensed also as an owner or trainer.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 April 12, 1991.

TRD-9104454 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: May 7, 1991

Proposal publication date: February 22, 1991

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

Subchapter D. Suspension and Revocation of Licenses

• 16 TAC §305.243

The Texas Racing Commission adopts an amendment to §305.243, without changes to the proposed text as published in the February 22, 1991, issue of the *Texas Register* (16 TexReg 1126).

The amendment is adopted to ensure that racing in Texas is consistent with racing in other pari-mutuel states.

The amendment clarifies the responsibilities of an owner if it is not an individual.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 April 12, 1991.

TRD-9104453 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: May 7, 1991

Proposal publication date: February 22, 1991

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

Chapter 307. Practice and Procedure

Subchapter B. Adjudicative Procedures

Orders

• 16 TAC §307.182

The Texas Racing Commission adopts an amendment to §307.182, without changes to the proposed text as published in the February 22, 1991, issue of the *Texas Register* (16 TexReg 1126).

The amendment is adopted to ensure that the administrative process of the commission will operate effectively and efficiently.

The amendment clarifies the number of commissioners who must sign a final order.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 April 12, 1991.

TRD-9104452 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: May 7, 1991

Proposal publication date: February 22, 1991

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

Subchapter C. Proceedings by Stewards and Racing Judges

General Provisions

• 16 TAC §307.205

The Texas Racing Commission adopts an amendment to §307.205, without changes to the proposed text as published in the February 22, 1991, issue of the *Texas Register* (16 TexReg 1126).

The amendment is adopted to ensure that the rules of the commission are internally consistent.

The amendment extends the time in which a fine must be paid.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 April 12, 1991.

TRD-9104451 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: May 7, 1991

Proposal publication date: February 22, 1991

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

Chapter 309. Operation of Racetracks

Subchapter A. General Provisions

Facilities and Equipment

• 16 TAC §309.19

The Texas Racing Commission adopts an amendment to §309.19, without changes to the proposed text as published in the February 22, 1991, issue of the *Texas Register* (16 TexReg 1126).

The amendment is adopted to ensure that racing with pari-mutual wagering will be regulated effectively.

The amendment clarifies the requirements for office space and equipment for regulatory personnel at a racetrack.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 April 12, 1991.

TRD-9104450 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: May 7, 1991

Proposal publication date: February 22, 1991

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

Subchapter B. Horse Race- tracks

Operations

• 16 TAC §309.199

The Texas Racing Commission adopts an amendment to §309.199, without changes to the proposed text as published in the February 22, 1991, issue of the *Texas Register* (16 TexReg 1127).

The amendment is adopted to ensure that racing with pari-mutuel wagering is conducted with the utmost integrity.

The amendment clarifies the required procedure for paying out of the horsemen's account

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 April 12, 1991.

TRD-9104446 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: May 7, 1991

Proposal publication date: February 22, 1991

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

Subchapter C. Greyhound Racetracks

Operations

• 16 TAC §309.357

The Texas Racing Commission adopts an amendment to §309.357, without changes to the proposed text as published in the February 22, 1991, issue of the *Texas Register* (16 TexReg 1127).

The amendment is adopted to ensure that racing with pari-mutuel wagering is safe for the race animals.

The amendment clarifies the schooling requirements for a greyhound's eligibility for entry.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 April 12, 1991.

TRD-9104447 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: May 7, 1991

Proposal publication date: February 22, 1991

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

Chapter 311. Conduct and Duties of Individual Licensees

Subchapter B. Specific Licensees

General Provisions

• 16 TAC §311.106

The Texas Racing Commission adopts an amendment to §311.106, without changes to the proposed text as published in the February 22, 1991, issue of the *Texas Register* (16 TexReg 1127).

The amendment is adopted to ensure that the occupational licensing program of the commission is operated efficiently and effectively.

The amendment clarifies the requirements for registering a stable or kennel.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing 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 April 12, 1991.

TRD-9104449 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: May 7, 1991

Proposal publication date: February 22, 1991

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

Chapter 313. Officials and Rules of Horse Racing

Subchapter A. Officials

General Provisions

• 16 TAC §313.4

The Texas Racing Commission adopts an amendment to §313.4, without changes to the proposed text as published in the February 22, 1991, issue of the *Texas Register* (16 TexReg 1127).

The section is adopted to ensure that racing with pari-mutuel wagering is conducted with the utmost integrity.

The amendment requires a licensed race-track to submit its proposal for officials at least 30 days before a race meeting begins.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing 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 April 12, 1991.

TRD-9104445 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: May 7, 1991

Proposal publication date: February 22, 1991

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

Chapter 319. Veterinary Practices and Drug Testing

Subchapter A. General Provisions

• 16 TAC §319.2

The Texas Racing Commission adopts an amendment to §319.2, without changes to the proposed text as published in the February 22, 1991, issue of the *Texas Register* (16 TexReg 1127).

The amendment is adopted to ensure that the occupational licensing program of the commission is operated efficiently and effectively.

The amendment clarifies the types of treatment that are restricted by the commission.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §14.03, which provide the commission with the authority to adopt rules prohibiting the illegal influencing of the outcome of a race, including, but not limited to, the use of medication, stimulants, or depressants to attempt to or to influence illegally the outcome of a race.

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 April 12, 1991.

TRD-9104448 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: May 7, 1991

Proposal publication date: February 22, 1991

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

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 15. Surplus Lines Insurance

Subchapter B. Surplus Lines Stamping Office of Texas

• 28 TAC §15.101

The State Board of Insurance adopts an amendment to §15.101, with changes to the proposed text as published in the October 16, 1990, issue of the *Texas Register* (15 TexReg 6059).

Section 15.101 concerns the plan of operation of the surplus lines stamping office of Texas. The amendment is necessary to allow the stamping office to better communicate with, and receive better supervision by, the commissioner of insurance and the State Board of Insurance. In response to comments, changes to the proposed text include modification of subsection (c)(1) and (4) to increase general flexibility for composition of the board of directors so that the availability of expertise on an effective board of directors is not unnecessarily restricted. A change to subsection (e)(10) describes the status of the stamping office as a nonprofit association in order to conform to the Insurance Code, Article 1.14-2, §6A(a). In response to comments, a change to subsection (f)(2)(D) and (E) refers to the stamping office's function in compiling information on unauthorized insurers so that broader information will be possible on that subject from that source. In response to comments, a change restoring language to subsection (f)(2) and (3) should avoid reducing information available to and through the stamping office. In response to comments a change adding subsection (f)(5) has provided for closer adherence to the analysis of the stamping office in order to provide greater protection against participation by insurers of questionable eligibility.

The amendment provides for changes in the internal management of the stamping office.

Commenting against the section as proposed were two individual commenters; Casualty Market Specialists, Inc.; Dillard-Harris, Inc.; General Agency, Inc.; Godsoe Special Lines Corporation; Longhorn General Agency, Inc; Offenhauser & Company; Southern Marine & Aviation Underwriters, Inc.; the Surplus Lines Stamping Office of Texas; Texas Surplus Lines Association, Inc.; United Republic Reinsurance Company; and Floyd West & Company.

Some commenters expressed a concern that overly specific description of the composition of the board of directors could restrict the availability of expertise necessary for an effective board of directors. In response, the State Board of Insurance has retained a specific requirement for participation by consumers, but has increased the general flexibility for composition of membership. Commenters urged that the section should provide greater protection against participation by insurers of questionable eligibility. In response, the State Board of Insurance has provided for closer adherence to the analysis of the stamping office. The commenters objected that the pro-

posed amendment would hamper the effectiveness of the stamping office by reducing information available to the stamping office. In response, the State Board of Insurance has restored language in paragraph (f)(3) under which the stamping office may make inquiries and examine agents. The commenters recommended that a general requirement for report to the State Board of Insurance would provide greater clarity in reporting requirements. The State Board of Insurance responded that specific repetition of the requirements for reporting to the State Board of Insurance will call attention to each need for reporting to the State Board of Insurance. Commenters objected to elimination of the stamping office as a source for collecting information concerning unauthorized insurers. In response, the State Board of Insurance has restored language to subsection (f)(2)(D) and (E).

The amendment is proposed under the Insurance Code, Article 1.04 and Article 1.14-2. Article 1.04 authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. Article 1.14-2, §3(A), provides that the State Board of Insurance may promulgate rules to enforce Article 1.14-2, concerning surplus lines insurance. Article 1.14-2, §6(A)(d), provides that any amendments to the plan of operation of the surplus lines stamping office of Texas shall become effective upon approval by order of the State Board of Insurance.

§15.101. Plan of Operation of the Surplus Lines Stamping Office of Texas.

(a) Plan of operation. The plan of operation of the surplus lines stamping office of Texas (the plan) and any amendment thereto shall become effective upon written approval of the State Board of Insurance, and shall constitute the manner in which the surplus lines stamping office of Texas (the stamping office) shall operate and discharge its responsibilities in accordance with the Insurance Code and the rules and regulations of the State Board of Insurance.

(b) Those to whom the plan applies. All persons licensed as surplus lines agents under the Insurance Code, Article 1.14-2, shall be subject to the provisions of the plan.

(c) Directors.

(1) Board of directors. The management of all the affairs, property, and business of the stamping office shall be vested in the board of directors, and such board of directors shall consist of no less than five nor more than nine persons. No less than one-third of the membership of the board of directors shall be drawn from consumers of surplus lines insurance including risk managers and the public counsel of the Division of Consumer Protection appointed under the Insurance Code, Article 1.35A. The public counsel shall automatically serve as a public member. Consumers and risk managers shall have a minimum of three years of experience in the purchase of commercial insurance coverage. Other members shall be representative of the seg-

ments of the insurance industry involved in surplus lines transactions including surplus lines agents, local recording agents, and surplus lines companies. No surplus lines company shall be represented on the board unless such company has presented satisfactory evidence of eligibility to the State Board of Insurance.

(2) Appointment and removal. The board of directors shall be appointed by the State Board of Insurance. The State Board of Insurance may remove a director for willful misconduct or absence from three or more meetings of the board of directors during a calendar year. A director who is absent from six meetings of the board of directors during a calendar year automatically vacates his or her position on the board of directors.

(3) Initial board of directors. The initial board of directors shall consist of three directors appointed for two years, three directors appointed for three years, and three directors appointed for four years. Thereafter, directors will serve for a term of three years. Directors may not serve consecutive full terms, except for the public counsel of the Division of Consumer Protection appointed under the Insurance Code, Article 1.35A. Directors shall serve until their successors are duly appointed except when removed from office. The minutes of the stamping office shall show the names of the board of directors and the term of office for each.

(4) Vacancies. Vacancies on the board of directors may be filled for the remaining period of the vacating director's term by appointment by the State Board of Insurance. Persons currently on the board of directors will continue to serve until their present terms expire (unless removed from office). Vacancies thereafter shall be filled by persons meeting the qualifications as listed in paragraph (1) of this subsection. A person appointed to fill a vacancy must have the same qualifications as the director whose vacancy is being filled.

(5) Actions. A majority of the board of directors shall constitute a quorum for the transaction of business and the acts of a majority of the directors present at a meeting at which a quorum is present shall be the acts of the board of directors, except that an affirmative vote of six or more directors is required to:

(A) adopt an annual budget after review by the State Board of Insurance;

(B) (No change.)

(C) recommend for adoption by the State Board of Insurance a schedule for stamping fees and other fees;

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

(F) authorize bank signatures; or

(G) adopt and amend the procedures manual, following State Board of Insurance review.

(6) Polling by telephone. When issues listed in paragraph (5) of this subsection are presented to the directors at any annual, regular, or special meeting, those directors absent from such meeting may be polled by the chairman of the board of directors on such issues by telephone or telegraph and any vote cast by such an absentee director on such issues by telephone or telegraph shall be as valid as though such absentee director was in fact present at the meeting for purposes of determining whether a quorum is present and voting. Votes cast in this manner shall be subsequently confirmed in writing by letter from such absentee director to the chairman.

(7) Directors' annual meeting. The first regular meeting of the board of directors in the fiscal year is designated as the directors' annual meeting, and shall be held at such place designated by the board of directors. At each directors' annual meeting the board of directors shall:

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

(C) review operating expenses, schedule of fees, and annual report for submission to the State Board of Insurance and the commissioner;

(D) review, consider, and act on any other matters deemed by the board of directors to be necessary to the administration and purposes of the stamping office under the Insurance Code, Article 1.14-2, and rules and regulations adopted thereunder by the State Board of Insurance which are specifically applicable to the stamping office.

(8) Board organization. The directors of the stamping office shall elect a chairman, a vice-chairman, and a secretary. They shall be elected at the board of directors' annual meeting and shall hold office until the next directors' annual meeting, or until their successors are elected and installed, unless removed pursuant to subsection (c)(2) of this section.

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

(9) Regular and special meetings. Regular meetings of the board of directors shall be held monthly on the third Tuesday of each month and the State Board of Insurance and the commissioner or his designee shall be notified. The chairman shall designate the time and place of such regular meetings and may cancel or postpone

any regular meeting when, in the chairman's judgment, such cancellation or postponement will not interfere with the business of the stamping office. Special meetings of the board of directors may be called by the chairman and shall be called at the request of any three directors upon not less than five days' written notice to each director and to the State Board of Insurance and the commissioner or his designee of the time and place, which shall be in the State of Texas, and purpose or purposes of any special meeting. Such notice for any special meeting may be waived by written waiver signed by all the directors before or after such meeting. At any regular or special meeting the directors may consider and decide any matter deemed to be necessary for the administration of the stamping office.

(10) Telephone meetings. Any meeting of the board of directors, except the annual meeting, may be held by telephone conference call when all or certain of the directors are not physically present at the place of the meeting, but participate in the conduct thereof by telephone, and, for all voting purposes, such directors shall be considered present and acting.

(11) Consent. Any action which may be taken at regular or special meetings of the board of directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all the directors entitled to vote at a meeting. Any such consent signed by such directors shall have the same effect as a unanimous vote.

(12) Compensation; reimbursement. Directors shall serve without compensation, but they may be reimbursed for reasonable expenses incurred by them in carrying out their duties and responsibilities as members of the board of directors.

(d) General manager. The board of directors shall employ a general manager who will be responsible for the operation and management of the stamping office in accordance with policy established by the board of directors and shall serve at the pleasure of the board of directors.

(e) Operations.

(1) (No change.)

(2) Employees and contracts. The stamping office may employ such persons, or contract with such firms or corporations, individuals, attorneys, or accountants, as are necessary for the performance of its duties. Contracts shall be subject to policies adopted by the board of directors.

(3) Bank accounts; borrowing. The stamping office may open one or more bank accounts. The board of directors shall recommend for approval by the State Board of Insurance an investment and cash management policy for the stamping office. Such policy may provide for reasonable

delegation of deposit and withdrawal authority to such accounts for stamping office business as may be consistent with prudent fiscal policy. The stamping office may borrow money as the board of directors may approve.

(4) Budget and fee schedule. Prior to November 1 of each year, the board of directors shall adopt, subject to State Board of Insurance review, a budget for the stamping office operating and capital expenses and contingent expenses for the period from January 1 to December 31 following. The budget shall take into account unknown and unanticipated expenses as may reasonably occur and make provision for such expenses in accordance with prudent business practice, but reserves, excluding funds for asset replacement, shall not exceed one year's operating expenses. Based upon the anticipated volume of surplus lines premium during the upcoming calendar year, the board of directors shall recommend for adoption by the State Board of Insurance a stamping fee to be charged on all surplus lines business submitted to the stamping office.

(5) (No change.)

(6) Minutes. Upon approval of the minutes of each meeting of the board of directors, a copy shall be provided to the State Board of Insurance and the commissioner.

(7) Reports. The stamping office shall record all surplus lines insurance documents submitted to it pursuant to the Insurance Code and rules and regulations of the State Board of Insurance and shall prepare reports to the commissioner of insurance, to the State Board of Insurance, and to surplus lines agents as required therein. Reports shall also be prepared for such other purposes as approved by the board of directors, or as the commissioner or the State Board of Insurance may reasonably request. The stamping office will furnish records and/or documents to staff of the State Board of Insurance upon request, for purposes of regulation, examination, or tax collection. The following shall be submitted to the commissioner and the State Board of Insurance:

(A) the adopted budget;

(B) a copy of the annual audit; and

(C) an annual summary of operations which contains information on transactions, conditions, operations, and investments during the preceding year, such report to contain such matters and information as prescribed by and in such form as approved by the board of directors. The commissioner or the State Board of Insurance may at any time require the stamping office to furnish additional information with

respect to any matter connected therewith and considered to be material in evaluating the economic, efficient, fair, and nondiscriminatory operation of the stamping office.

(8) Procedures manual. The stamping office shall prepare, distribute, and maintain a procedures manual to each surplus lines agent setting forth the procedure for submitting surplus line insurance documents to the stamping office and other matters germane to the operation of the stamping office. The manual shall be prepared in cooperation with the State Board of Insurance, and any changes, updates, or amendments shall be submitted to the State Board of Insurance for review prior to distribution.

(9) Insurance. The stamping office shall procure such bonds and insurance covering the stamping office, the directors, officers, employees, and agents of the stamping office, and its properties and activities as it deems appropriate.

(10) Status. The stamping office is a non-profit association created by statute and operated under this chapter to assist the State Board of Insurance by performing duties authorized by this chapter and by the Insurance Code, Article 1.14-2, and any other laws applicable to the stamping office functions.

(f) Functions.

(1) (No change.)

(2) The stamping office shall assist the State Board of Insurance and facilitate compliance with the insurance laws of the state and the rules and regulations promulgated thereunder by conducting the following functions under the rules promulgated by the State Board of Insurance:

(A) identifying technical deficiencies in policy preparation and submission, and seeking correction of such deficiencies;

(B) identifying potential nonfraudulent violations;

(C) notifying surplus lines agents of such potential nonfraudulent violations and seeking information related to the potential violations;

(D) compiling information on the eligibility of surplus lines insurance and unauthorized insurers;

(E) immediately reporting to the State Board of Insurance all potentially fraudulent and willful violations of law or rules; and reporting to the commissioner and the Surplus Lines Section of the State Board of Insurance, within time frames

specified by the surplus lines section, the following information:

(i) evaluations of eligibility under §15.7 and §15.8 of this title (relating to Eligibility Requirements for Surplus Lines Insurance and Eligibility Requirements for Surplus Lines Insurers);

(ii) all apparent violations;

(iii) summaries of the stamping office activities including actions relating to deficiencies and potential violations which were determined by obtaining additional information to be nonexistent;

(iv) results of inquiries relating to complaints;

(v) result of any other actions under §15.13 of this title (relating to Surplus Lines Insurance Requests for Information, Examination, and Complaints);

(vi) patterns and practice of any surplus lines agent that may constitute lack of compliance with the applicable insurance laws of the state;

(vii) calculation of tax due on policies filed with the stamping office by surplus lines agents or agencies;

(viii) compilations of premiums for property coverage written under a separate policy by a surplus lines insurer affiliated with a licensed insurer which information should include the total policy premium; the portion of the premium that is actual extended coverage and other allied lines, if available; and where the risk is located;

(ix) summaries of the stamping office activities including actions relating to guidelines for encouraging compliance; and

(x) compilations of premium volume by surplus lines agent, insurer, and kinds and class of surplus lines insurance coverage.

(F)-(H) (No change.)

(I) maintaining communication with the commissioner and State Board of Insurance including electronic or computer communication as required;

(J)-(K) (No change.)

(3) The stamping office is authorized by §15.13 of this title (relating to Surplus Lines Insurance Requests for Information, Examination, and Complaints) to make inquiries and examine agents to effect its function under this chapter.

(4) Any information collected under this chapter that indicates potential nonfraudulent violation of the laws of this state or the rules or regulations adopted thereunder that has not been determined by

inquiries for information to be nonexistent or corrected as a technical deficiency shall be reported to the commissioner and the Surplus Lines Section of the State Board of Insurance. Such report shall not be released to the public by the stamping office. In any proceeding initiated under this chapter, stamping office personnel shall be available to provide evidence and testimony.

(5) Stamping office recommendations against eligibility under §15.8 of this title (relating to Eligibility Requirements for Surplus Lines Insurers) shall be accepted by the commissioner. The stamping office may change an eligibility recommendation based on new or corrected information.

(g) Records and reports.

(1) A written record of the proceedings of each meeting of the board of directors shall be retained by the secretary with copies furnished to each director and to the commissioner and the State Board of Insurance.

(2) The board of directors shall, once each year, provide for an independent audit of all the books and records of the stamping office, and a copy of the audit report shall be provided to the commissioner and the State Board of Insurance.

(h) (No change.)

(i) Dissolution. In the event the stamping office is dissolved, the commissioner shall take charge of and transfer the remaining assets, books, and records of the stamping office to the State Board of Insurance or to another organization established for the same or similar purpose as the stamping office and which organization shall be exempt under the Internal Revenue Code, §501(c)(3).

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 April 15, 1991.

TRD-9104500

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: May 7, 1991

Proposal publication date: October 16, 1990

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 15. Medicaid Eligibility

Subchapter C. Basic Program Requirements

• 40 TAC §15.310

The Texas Department of Human Services adopts an amendment to §15.310, without changes to the proposed text as published in the March 8, 1991, issue of the *Texas Register* (16 TexReg 1451).

The amendment is justified because it saves state dollars.

The amendment will function by providing for certain prisoners who are placed in nursing facilities to be eligible for Medicaid.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on April 15, 1991.

TRD-9104403 Nancy Murphy
Agency liaison, Policy and Document Support
Texas Department of Human Services

Effective date: May 15, 1991

Proposal publication date: March 8, 1991

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

Chapter 79. Legal Services

Subchapter D. Rulemaking Procedures

• 40 TAC §§79.301-79. 305

The Texas Department of Human Services (DHS) adopts amendments to §§79.

301-79.305, without changes to the proposed text as published in the March 15, 1991, issue of the *Texas Register* (16 TexReg 1934).

The purpose of the amendments is to revise and clarify the language concerning rulemaking procedures.

The amendments will function by providing the public and staff with a clearer understanding of the procedures for rulemaking.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public 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 April 16, 1991.

TRD-9104467 Nancy Murphy
Agency liaison, Policy and Document Support
Texas Department of Human Services

Effective date: June 1, 1991

Proposal publication date: March 15, 1991

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

Part V. Veterans Land Board

Chapter 175. General Rules

• 40 TAC §175.4

The Veterans Land Board adopts the repeal of §175.4, without changes to the proposed text as published in the March 8, 1991, issue of the *Texas Register* (16 TexReg 1451).

The repeal will allow the adoption of a new rule which more clearly defines the requirements for surveying tracts of land to be purchased through the Veterans Land Program.

By repealing the section and simultaneously adopting new §175.4, the board will require tracts to be described by a legally sufficient description with tie calls to an original grant or survey if locatable or if not impractical to obtain.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Natural Resources Code, §161.061 and §161.063, which provides the Veterans Land Board with

the authority to adopt rules that it considers necessary or advisable to ensure the proper administration of the Veterans Land 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 April 12, 1991.

TRD-9104458 Garry Mauro
Chairman
Veterans Land Board

Effective date: May 7, 1991

Proposal publication date: March 8, 1991

For further information, please call: (512) 463-5009

The Veterans Land Board adopts new §175.4, without changes to the proposed text as published in the March 8, 1991, issue of the *Texas Register* (16 TexReg 1451).

The new section more clearly defines the requirements for surveying tracts of land to be purchased through the Veterans Land Program.

As adopted the section will require tracts to be described by a legally sufficient description with tie calls to an original grant or survey if locatable or if not impractical to obtain. The survey must also describe any necessary road easements, and bear the seal and original signature of the surveyor preparing the same.

No comments were received regarding adoption of the new section.

The new section is adopted under the Natural Resources Code, §161.061 and §161.063, which provides the Veterans Land Board with the authority to adopt rules that it considers necessary or advisable to ensure the proper administration of the Veterans Land 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 April 15, 1991.

TRD-9104457 Garry Mauro
Chairman
Veterans Land Board

Effective date: May 7, 1991

Proposal publication date: March 8, 1991

For further information, please call: (512) 463-5009



Name: Bryan Sanderson

Grade: 8

School: San Jacinto Jr. High, Midland ISD

Open Meetings

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

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

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

Texas Department of Agriculture

Tuesday, April 23, 1991, 9:30 a.m. The Aquaculture Executive Committee of the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Ninth Floor Conference Room, Austin. According to the complete agenda, the committee will review and approve minutes; discuss and act on status of licensing of fish farms by T.D.A.; review of exotic permitting by TP&WD; review of G.L.O. programs for aquaculture; review of legislation affecting aquaculture; and status of memorandum of understanding between agencies dealing with aquaculture.

Contact: Bill Peacock, P.O. Box 12847, Austin, Texas 78711, (512) 463-7432.

Filed: April 12, 1991, 10:54 a.m.

TRD-9104331

Thursday, April 25, 1991, 2 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture, Stephen F. Austin Building, Ninth Floor Conference Room, 1700 North Congress Avenue, Austin. According to the complete agenda, the department will hold a public hearing to receive comments regarding proposed amendments concerning inspection fee for the issuance of a phytosanitary certificate.

Contact: Danny Johnson, P.O. Box 12847, Austin, Texas 78711, (512) 463-0012.

Filed: April 15, 1991, 10:40 a.m.

TRD-9104389

Thursday, April 25, 1991, 7:30 p.m. The Scurry County Cotton Producers Board of the Texas Department of Agriculture will meet at the Chamber of Commerce Board Room, 2302 Avenue R, Snyder. According to the complete agenda, the board will review minutes; discuss finances; 1991-1992 budget approval; refund requests; and any other business needed.

Contact: Jon Derouen, P.O. Drawer CC, Snyder, Texas 79549, (915) 573-3558.

Filed: April 12, 1991, 10:54 a.m.

TRD-9104332

Tuesday, May 7, 1991, 8 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, 122 Heiman Street, First Floor, San Antonio. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et. seq. (Vernon) by J.A.V. Ag Inc. doing business as Van De Walle Vegetable, Inc., as petitioned by P & J Farms.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: April 17, 1991, 2:12 p.m.

TRD-9104559

Tuesday, May 7, 1991, 9 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, 122 Heiman Street, First Floor, San Antonio. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et. seq. (Vernon) by J.A.V. Ag Inc. doing business as Van De Walle Vegetable, Inc., as petitioned by Disbro Farms and Kiser and Sons.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: April 17, 1991, 2:12 p.m.

TRD-9104560

Tuesday, May 7, 1991, 10 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, 122 Heiman Street, First Floor, San Antonio. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et. seq. (Vernon) by J.A.V. Ag Inc. doing business as Van De Walle Vegetable, Inc., as petitioned by Kiser and Sons, Inc. and Bill Storm Agri Business.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: April 17, 1991, 2:13 p.m.

TRD-9104561

Tuesday, May 7, 1991, 11 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, 122 Heiman Street, First Floor, San Antonio. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et. seq. (Vernon) by J.A.V. Ag Inc. doing business as Van De Walle Vegetable, Inc., as petitioned by Del Paso, Inc.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: April 17, 1991, 2:14 p.m.

TRD-9104562

Tuesday, May 7, 1991, 12 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, 122 Heiman Street, First Floor, San Antonio. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et. seq. (Vernon) by J.A.V. Ag Inc. doing business as Van De Walle Vegetable, Inc., as petitioned by Walter Ray Carroll.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: April 17, 1991, 2:16 p.m.

TRD-9104566

Tuesday, May 7, 1991, 1 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, 122 Heiman Street, First Floor, San Antonio. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et. seq. (Vernon) by J.A.V. Ag Inc. doing business as Van De Walle Vegetable, Inc., as petitioned by J. J. Produce Brokers.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: April 17, 1991, 2:16 p.m.

TRD-9104567

Tuesday, May 7, 1991, 2 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District

Office, 122 Heiman Street, First Floor, San Antonio. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et seq. (Vernon) by J.A.V. Ag Inc. doing business as Van De Walle Vegetable, Inc., as petitioned by Seal Sales Company.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: April 17, 1991, 2:16 p.m.

TRD-9104565

Tuesday, May 7, 1991, 3 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, 122 Heiman Street, First Floor, San Antonio. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et seq. (Vernon) by J.A.V. Ag Inc. doing business as Van De Walle Vegetable, Inc., as petitioned by Black and White Vegetable Co., Inc.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: April 17, 1991, 2:15 p.m.

TRD-9104564

Tuesday, May 7, 1991, 4 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, 122 Heiman Street, First Floor, San Antonio. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et seq. (Vernon) by J.A.V. Ag Inc. doing business as Van De Walle Vegetable, Inc., as petitioned by R. B. Todd.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: April 17, 1991, 2:14 p.m.

TRD-9104563

Tuesday-Wednesday, May 7-8, 1991, 1 p.m. and 8 a.m. respectively. The Texas Wheat Producers Board of the Texas Department of Agriculture will meet at the Fifth Season Inn, West, (Palo Duro Room for Tuesday, Amarillo Room for Wednesday), 6801 I-40 West, Amarillo. According to the complete agenda, the board will hear TDA report; set 1991 assessment level; adopt FY 1991/1992 operating budget; and discuss new business from board members.

Contact: Bill Nelson, Suite 803, Texas Commerce Bank, 2201 Civic Circle, Amarillo, Texas 79109, (806) 352-2191.

Filed: April 15, 1991, 3:02 p.m.

TRD-9104424

Tuesday, May 7, 1991, 6 p.m. The Southern Rolling Plains Cotton Producers Board of the Texas Department of Agriculture will meet at the Miles Co-operative Gin, 1 1/2 miles Northwest of Miles, FM 1692. Ac-

ording to the agenda summary, the board will approve minutes; treasurer's report; report of activities; committee reports; reports from special guests with discussion and action on proposals; and old and new business.

Contact: Sid Long, P.O. Box 30036, San Angelo, Texas 76903, (915) 453-2383.

Filed: April 16, 1991, 3:12 p.m.

TRD-9104495

Wednesday, May 22, 1991, 1 p.m. The Texas Department of Agriculture will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 933, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §76.116(a)(1)(Vernon 1991), and 4 TAC §7.22 by William Melott doing business as Melott Flying Service.

Contact: Chris Hanger, P.O. Box 12847, Austin, Texas 78711, (512) 463-7703.

Filed: April 15, 1991, 10:40 a.m.

TRD-9104387

Wednesday, May 29, 1991, 1 p.m. The Texas Department of Agriculture will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 933, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §76.116(a)(1)(Vernon 1991) and 4 TAC §7.22(1) by Charles Yant doing business as Yant Air Service, Inc.

Contact: Chris Hanger, P.O. Box 12847, Austin, Texas 78711, (512) 463-7703.

Filed: April 14, 1991, 10:39 a.m.

TRD-9104386

Wednesday, June 5, 1991, 8:30 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, One Empire Square, 1140 Empire Central Drive, Suite 400, Dallas. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001 et seq. (Vernon) by Pat Perez Produce as petitioned by Sutton Produce, Docket Number 94-90-APA.

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

Filed: April 16, 1991, 10:49 a.m.

TRD-9104463

Wednesday, June 5, 1991, 9 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, One Empire Square, 1140 Empire Central Drive, Suite 400, Dallas. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agri-

culture Code Annotated §103.001, et seq. (Vernon) by Pat Perez Produce as petitioned by Sutton Produce, Docket Number 95-90-APA.

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

Filed: April 16, 1991, 10:49 a.m.

TRD-9104464

Wednesday, June 5, 1991, 10 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, 1720 Regal Row, Suite 118, Dallas. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §76.116(a)(1)(Vernon 1991) and 4 TAC §7.22(a) by Jesse Thompson doing business as Thompson Flying Service.

Contact: Chris Hanger, P.O. Box 12847, Austin, Texas 78711, (512) 463-7703.

Filed: April 17, 1991, 2:11 p.m.

TRD-9104558

Wednesday, June 5, 1991, 10 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, One Empire Square, 1140 Empire Central Drive, Suite 400, Dallas. According to the complete agenda, the department will hold an administrative hearing to review an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et seq. (Vernon) by Pat Perez Produce as petitioned by Bray Farms and Produce.

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

Filed: April 16, 1991, 10:49 a.m.

TRD-9104462

Wednesday, June 5, 1991, 1 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, 1720 Regal Row, Suite 118, Dallas. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §76.116(a)(1)(Vernon 1991), and 4 TAC §§7.22(a) and 7.34(d), by Ricky Johnston.

Contact: Chris Hanger, P.O. Box 12847, Austin, Texas 78711, (512) 463-7703.

Filed: April 15, 1991, 10:40 a.m.

TRD-9104388

Texas Animal Health Commission

Monday, April 22, 1991, 1 p.m. The Search Committee for Executive Director of the Texas Animal Health Commission met at 210 Barton Springs Road, First Floor

Conference Room, Austin. According to the agenda summary, the committee met in executive session.

Contact: Jo Anne Conner, 210 Barton Springs Road, Austin, Texas 78704, (512) 479-6697.

Filed: April 11, 1991, 2:44 p.m.

TRD-9104286

Tuesday, April 23, 1991, 9 a.m. The Texas Animal Health Commission will meet at 210 Barton Springs Road, First Floor Conference Room, Austin. According to the agenda summary, the commission will approve minutes of previous meeting and actions of executive director; present awards to employees; reports of committees; epidemiology report; consideration for adopting amendments to regulations, brucellosis, exotic livestock and fowl, tuberculosis, equine and interstate; consideration for proposing amendments to regulations, brucellosis, exotic livestock and fowl, fever ticks, equine and interstate; discuss request for a new dipping vat in the tick free area.

Contact: Jo Anne Conner, 210 Barton Springs Road, Austin, Texas 78704, (512) 479-6697.

Filed: April 12, 1991, 9:03 a.m.

TRD-9104325

State Bar of Texas

Friday, April 19, 1991, 10 a.m. The Commission on Lawyer Discipline of the State Bar of Texas met at the Texas Law Center, Room 204, 1414 Colorado Street, Austin. According to the agenda summary, the commission gave presentation of duties and authorities; administration of oaths; establishment of rules and procedures; status report of general counsel selection committee, establish committees; delegation of settlement authority; budget considerations; organization of general counsel's office; general counsel budget considerations; reports to commission; and meeting dates and locations.

Contact: Pat Hiller, 1414 Colorado Street, Austin, Texas 78711, (512) 463-1541.

Filed: April 11, 1991, 2:59 p.m.

TRD-9104295.

Texas Commission for the Blind

Wednesday, May 8, 1991, 4 p.m. The El Paso District Office of the Texas Commission for the Blind will meet at the Marriott Hotel, 1600 Airway Boulevard, El Paso. According to the complete agenda, this public forum is for the purpose of giving consumers an opportunity of speaking to agency staff about services to blind or visually impaired Texans and commenting on

the agency's state plan. Consumers will also have the opportunity of participating in a question and answer period about local agency services.

Contact: Cecilia Berrios, P.O. Box 12888, Austin, Texas 78711, (512) 459-2611.

Filed: April 16, 1991, 2:09 p.m.

TRD-9104488

Bond Review Board

Thursday, April 18, 1991, 10 a.m. The Bond Review Board met at the State Capitol, Committee Room 1, Room 213, Austin. According to the emergency revised agenda summary, the board changed meeting location to Committee Room 1; added discussion of other business: consideration of bond counsel fees on Texas Public Finance Authority Series 1990A issue. The emergency status was necessary as meeting room was rescheduled to accommodate legislative meeting conflicts; and added agenda item to allow timely consideration by the board.

Contact: Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

Filed: April 12, 1991, 3:15 p.m.

TRD-9104354

Texas Cancer Council

Wednesday, May 1, 1991, 9:30 a.m. The Board of Directors of the Texas Cancer Council will meet at the Texas Department of Health, 1100 West 49th Street, Room T-607, Austin. According to the complete agenda, the board will call the meeting to order; adoption of minutes of January 22 and 23, 1991; discussion and promulgation of revised council rules; comprehensive school health programs; FY 1991 expenditures and contract amendments; FY 1992 funding priorities and application procedure/requirements; hear executive director's report; update on the 1991 Lewis Luncheon; update on the pain control symposium; discuss other business; and adjourn.

Contact: Emily Untermeyer, P.O. Box 12097, Austin, Texas 78701, (512) 463-3190.

Filed: April 16, 1991, 11:02 a.m.

TRD-9104465

Texas Department of Commerce

Friday, April 26, 1991, 9 a.m. The Board of Directors of the Texas Department of Commerce will meet at the First City Centre Building, Board Room, 11th Floor, 816 Congress Avenue, Austin. According to the

complete agenda, the board will call the meeting to order; discuss briefing concerning restructuring of the agency; and adjourn.

Contact: Kathy Schwartz, Suite 1100, 816 Congress Avenue, Austin, Texas 78701, (512) 320-9630.

Filed: April 18, 1991, 8:43 a.m.

TRD-9104586

Comptroller of Public Accounts

Wednesday, April 24, 1991, 6 p.m. The Texas Performance Review of the Comptroller of Public Accounts will meet at Southern Methodist University Campus, Umphrey Leo Center-Ballroom, Corner of Hillcrest and Dyer, Dallas. According to the complete agenda, the comptroller will take public testimony regarding the Texas Performance Review, which is in the process of conducting a complete review of all state agencies and all programs, services and activities operated by those agencies.

Contact: Kathy McElveen, 111 East 17th Street, Room 1101, Austin, Texas 78701, (512) 475-0332.

Filed: April 12, 1991, 4:08 p.m.

TRD-9104360

Court Reporters Certification Board

Saturday, April 20, 1991, 9 a.m. The Court Reporters Certification Board will meet at 1414 Colorado, Room 206, Texas Law Center, Austin. According to the complete agenda, the board conducted a formal hearing in Cause Number 90285207; conducted preliminary reviews in Cause Numbers 91308302 and 91089603; reviewed current and adopted future complaint review process and related issues; discussed pending legislation affecting Chapter 52 of the Government Code; considered policy on members accepting speaking invitations; reviewed year-to-date expenditures; and any other business that may come before the board.

Contact: Peg Liedtke, 3000 South IH-35, Suite 120, Austin, Texas 78704, (512) 463-1630.

Filed: April 11, 1991, 10:31 a.m.

TRD-9104264

Texas Department of Criminal Justice Board of Pardons and Paroles

Monday-Friday, April 22-26, 1991, 10 a.m. The Board of Pardons and Paroles of

the Texas Department of Criminal Justice will meet at 2503 Lake Road, Suite #9, Huntsville. According to the agenda summary, a panel (composed of 3 board members) will receive, review and consider information and reports concerning reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2744.

Filed: April 12, 1991, 3:28 p.m.

TRD-9104358

East Texas State University

Thursday, April 25, 1991, 1 p.m. The Board of Regents, Student and University Advancement Committee of East Texas State University will meet at the McDowell Administration Building, East Texas State University, Commerce. According to the complete agenda, the committee will hear a report on division activities; and distinguished alumnus awards.

Contact: Charles Turner, East Texas State University, E.T. Station, Commerce, Texas 75429, (903) 886-5539.

Filed: April 16, 1991, 1:46 p.m.

TRD-9104475

Thursday, April 25, 1991, 1:30 p.m. The Board of Regents, Academic Affairs Committee of East Texas State University will meet at the McDowell Administration Building, East Texas State University, Commerce. According to the complete agenda, the committee will hear a report on division activities; ETSU-Commerce faculty promotions; ETSU-Clarksville curriculum changes; and ETSU-Clarksville curriculum deletions.

Contact: Charles Turner, East Texas State University, E.T. Station, Commerce, Texas 75429, (903) 886-5539.

Filed: April 16, 1991, 1:47 p.m.

TRD-9104477

Thursday, April 25, 1991, 1:30 p.m. The Board of Regents, Executive Committee of East Texas State University will meet at the McDowell Administration Building, East Texas State University, Commerce. According to the complete agenda, the committee will hold election of officers and appointment of secretary; appointment of standing committees; determination of date and location of board meetings; and drug-free workplace and campus policy-Clarksville.

Contact: Charles Turner, East Texas State University, E.T. Station, Commerce, Texas 75429, (903) 886-5539.

Filed: April 16, 1991, 1:47 p.m.

TRD-9104479

Thursday, April 25, 1991, 2:30 p.m. The Board of Regents, Campus Planning, Finance and Auditing Committee of East Texas State University will meet at the McDowell Administration Building, East Texas State University, Commerce. According to the complete agenda, the committee will review and discuss adjustments in the ETSU-Commerce FY91 operating budget; adjustments in the ETSU-Clarksville FY91 operating budget; ETSU-Clarksville FY91 budget reduction in compliance with Senate Bill 111; ETSU-Commerce FY91 budget reduction in compliance with Senate Bill 111; ETSU-Commerce housing system fee schedule; ETSU-Commerce renovation-Cowling Hall and selection of architect; ETSU Commerce renovation-MSC and selection of engineering firm; and resolution authorizing investments.

Contact: Charles Turner, East Texas State University, E.T. Station, Commerce, Texas 75429, (903) 886-5539.

Filed: April 16, 1991, 1:47 p.m.

TRD-9104478

Friday, April 26, 1991, 9 a.m. The Board of Regents of East Texas State University will meet at the McDowell Administration Building, East Texas State University, Commerce. According to the agenda summary, the board will approve its agenda and minutes of the meeting of February 15, 1991; receive a report from the president; and consider motions and reports from the Student and University Advancement Committee, the Academic Affairs Committee, the Campus Planning, Finance and Auditing Committee, and the Executive Committee. The board will meet in executive session under the authority of sections (e), (g) and (r) of Article 6252-17, Vernon's Annotated Texas Civil Statutes.

Contact: Charles Turner, East Texas State University, E.T. Station, Commerce, Texas 75429, (903) 886-5539.

Filed: April 16, 1991, 1:46 p.m.

TRD-9104476

Texas Education Agency

Monday, April 22, 1991, 1 p.m. The State Textbook Subject Area Committee for Agricultural Science and Technology/Business and Office Education of the Texas Education Agency met at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee discussed the state textbook area committee members' mission; administration of the oath of office; textbooks adoption procedures schedule; legal matters pertaining to textbook review and selection; committee members complete and sign affidavits and other necessary forms; and members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 12, 1991, 1:37 p.m.

TRD-9104343

Tuesday, April 23, 1991, 8 a.m. The State Textbook Subject Area Committee for Business and Office Education of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 5-101, Austin. According to the agenda summary, the committee will give an overview of textbook review procedures; Proclamation 67 subject area content description; how to evaluate textbooks; further discussion of processes and procedures; election of chairperson and vice-chairperson; and subject area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:05 p.m.

TRD-9104404

Tuesday, April 23, 1991, 8 a.m. The State Textbook Subject Area Committee for Agricultural Science and Technology of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 3-102, Austin. According to the agenda summary, the committee will give an overview of textbook review procedures; Proclamation 67 subject area content description; how to evaluate textbooks; further discussion of processes and procedures; election of chairperson and vice-chairperson; and area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:05 p.m.

TRD-9104405

Tuesday, April 23, 1991, 10 a.m. The Commissioner's Advisory Council for Regional Services Committee for Research and Development of the Texas Education Agency will hold an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-111, Austin. According to the complete agenda, the council will review actions taken by the State Board of Education; discuss Public Education Information Management System (PEIMS); and discuss computer services to school districts. The emergency status is necessary due to urgent public necessity for this meeting to be held at this time so the council can review current legislation and its effect.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: April 16, 1991, 1:32 p.m.

TRD-9104473

Tuesday, April 23, 1991, 1 p.m. The State Textbook Subject Area Committee for Industrial Technology/Secondary Science/Language Arts of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will discuss the state textbook subject area committee members' mission; administration of the oath of office; textbooks adoption procedures schedule; legal matters pertaining to textbook review and selection; committee members complete and sign affidavits and other necessary forms; and area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:06 p.m.

TRD-9104406

Tuesday, April 23, 1991, 1:30 p.m. The Commissioner's Advisory Council for Regional Services-Committee for Operations and Services Special Programs of the Texas Education Agency will hold an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the complete agenda, the council will review actions taken by the State Board of Education; and discuss issues related to the education service center comprehensive plan and application. The emergency status is necessary due to urgent public necessity for this meeting to be held at this time so the council can review current legislation and its effect on service centers.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: April 16, 1991, 1:32 p.m.

TRD-9104472

Tuesday, April 23, 1991, 1:30 p.m. The Commissioner's Advisory Council for Regional Services Committee for Accreditation of the Texas Education Agency will hold an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-111, Austin. According to the complete agenda, the council will review actions by the State Board of Education; and discuss issues related to the provision of training services to school districts. The emergency status is necessary due to urgent public necessity for this meeting to be held at this time so the council can review current legislation and its effect on service centers.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: April 16, 1991, 1:31 p.m.

TRD-9104470

Tuesday, April 23, 1991, 1:30 p.m. The Commissioner's Advisory Council for Regional Services, Committee for Curriculum and Personnel Development of the Texas Education Agency will hold an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the complete agenda, the council reviewed actions taken by the State Board of Education; discussed efforts for curriculum and personnel development by TEA and Education Service Centers. The emergency status was necessary as the agency found it to be of urgent public necessity for this meeting to be held at this time so the council could review current legislation and its effect on service centers.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: April 17, 1991, 4:20 p.m.

TRD-9104581

Wednesday, April 24, 1991, 8 a.m. The State Textbook Subject Area Committee for Language Arts of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 5-103, Austin. According to the agenda summary, the committee will give an overview of review procedures; Proclamation 67 subject area content description; how to evaluate textbooks; further discussion of processes and procedures; election of chairperson and vice-chairperson; and area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:07 p.m.

TRD-9104408

Wednesday, April 24, 1991, 8 a.m. The State Textbook Subject Area Committee for Secondary Science of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the agenda summary, the committee will give an overview of review procedures; Proclamation 67 subject area content description; how to evaluate textbooks; further discussion of processes and procedures; election of chairperson and vice-chairperson; and area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:07 p.m.

TRD-9104409

Wednesday, April 24, 1991, 8 a.m. The State Textbook Subject Area Committee for Industrial Technology of the Texas Educa-

tion Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the agenda summary, the committee will give an overview of textbook review procedures; Proclamation 67 subject area content description; how to evaluate textbooks; further discussion of processes and procedures; election of chairperson and vice-chairperson; and area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:08 p.m.

TRD-9104410

Wednesday, April 24, 1991, 8:30 a.m. The Commissioner's Advisory Council for Regional Services General Session of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-111, Austin. According to the complete agenda, the council will hear committee reports; and comments from the Interim Commissioner of Education.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: April 16, 1991, 1:31 p.m.

TRD-9104471

Wednesday, April 24, 1991, 1 p.m. The State Textbook Subject Area Committee for Mathematics and Social Studies of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will discuss the state textbook subject area committee members' mission; administration of the oath of office; textbooks adoption procedures schedule; legal matters pertaining to textbook review and selection; committee members complete and sign affidavits and other necessary forms; and area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:06 p.m.

TRD-9104407

Thursday, April 25, 1991, 8 a.m. The State Textbook Subject Area Committee for Social Studies of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the agenda summary, the committee will give an overview of textbook review procedures; Proclamation 67 subject area content description; how to evaluate textbooks; further discussion of processes and procedures; election of chairperson and vice-

chairperson; and area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:08 p.m.

TRD-9104412

Thursday, April 25, 1991, 8 a.m. The State Textbook Subject Area Committee for Mathematics of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the agenda summary, the committee will give an overview of review procedures; Proclamation 67 subject area content description; how to evaluate textbooks; further discussion of processes and procedures; election of chairperson and vice-chairperson; and area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:09 p.m.

TRD-9104413

Thursday, April 25, 1991, 1 p.m. The State Textbook Subject Area Committee for Art, Band and Orchestra, and English as a Second Language of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will discuss state textbook subject area committee members' mission; administration of the oath of office; textbooks adoption procedures schedule; legal matters pertaining to textbook review and selection; committee members complete and sign affidavits and other necessary forms; and area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:08 p.m.

TRD-9104411

Friday, April 26, 1991, 8 a.m. The State Textbook Subject Area Committee for English as a Second Language of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 5-102, Austin. According to the agenda summary, the committee will give an overview of textbook review procedures; Proclamation 67 subject area content description; how to evaluate textbooks; further discussion of processes and procedures; election of chairperson and vice-chairperson; and area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:09 p.m.

TRD-9104414

Friday, April 26, 1991, 8 a.m. The State Textbook Subject Area Committee for Band/Orchestra of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the agenda summary, the Proclamation 67 subject area content description; how to evaluate textbooks; further discussion of processes and procedures; election of chairperson and vice-chairperson; and area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:09 p.m.

TRD-9104415

Friday, April 26, 1991, 8 a.m. The State Textbook Subject Area Committee for Art of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the agenda summary, the committee will give an overview of review procedures; Proclamation 67 subject area content description; how to evaluate textbooks; further discussion of processes and procedures; election of chairperson and vice-chairperson; and area committee members remain under no-contact rules until the close of balloting in August 1991.

Contact: Ira Nell Turman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: April 15, 1991, 2:10 p.m.

TRD-9104416

Friday-Saturday, May 24-25, 1991, 8:30 a.m. The State Parent Advisory Council for Migrant Education of the Texas Education Agency will meet at the Driskill Hotel, 604 Brazos Street, Austin. According to the complete agenda, the council will approve minutes; discussion of prekindergarten/kindergarten retention issues; status report on University of Texas and Texas Tech correspondence courses; migrant education program evaluation data; review of state plan for migrant education for fiscal year 1991-1992; members' report of late entry/early withdrawal and transfer grade policies in school districts; members' discussion of nation migrant conference; legislative update; and recommendations for next meeting.

Contact: Frank Contreras, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9067.

Filed: April 17, 1991, 4:20 p.m.

TRD-9104582

Advisory Commission on State Emergency Communications

Friday, April 26, 1991, 8:30 a.m. The Executive Committee of the Advisory Commission on State Emergency Communications will meet at 1101 Capital of Texas Highway South, B-100, Austin. According to the agenda summary, the committee will call the meeting to order; recognize guests; hear public comment; consider approval of 9-1-1 fee billing for Panola County and Cities of Gary, Carthage, Beckville and Glen Rose; hear staff reports; consider any new business; and adjourn.

Contact: Glenn Roach, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: April 17, 1991, 4:28 p.m.

TRD-9104584

Employees Retirement System of Texas

Thursday, April 25, 1991, 8:30 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet at the ERS Auditorium, ERS Building, 18th and Brazos Streets, Austin. According to the agenda summary, the board will review and approve minutes; hear appeals of contested cases; final adoption of trustee rules concerning hearings on disputed claims; firm selection as flexible benefits (Cafeteria Plan) program claim administrator; consideration of HMO applications and basic plan rates coverages/administration of Texas Employees Uniform Group Insurance Program for FY 1992; consideration of investment in Texas Growth Fund; executive director's report; next trustee meeting date; and adjournment.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3336.

Filed: April 17, 1991, 11:23 a.m.

TRD-9104550

Texas Employment Commission

Tuesday, April 23, 1991, 8:30 a.m. The Texas Employment Commission will meet at the TEC Building, 101 East 15th Street, Room 644, Austin. According to the agenda summary, the commission will approve prior meeting notes; meet in executive session to discuss Don Estes doing business as Estes Automotive versus Texas Employ-

ment Commission and Ted Culverhouse; discuss actions, if any, resulting from executive session; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 17; and set date of next meeting.

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

Filed: April 15, 1991, 4:15 p.m.

TRD-9104428

Texas State Board of Registration for Professional Engineers

Tuesday-Wednesday, April 23-24, 1991, 8:30 a.m. The Texas State Board of Registration for Professional Engineers will meet at the Ramada Inn, Room C, 1502 South Texas Avenue, College Station. According to the agenda summary, the board will receive reports from board members and staff; interview applicants; take action on applications for registration; reading of communications; and other related business in accordance with the agenda.

Contact: Charles E. Nemir, 1917 IH-35 South, Austin, Texas 78741, (512) 440-7723.

Filed: April 11, 1991, 2:09 p.m.

TRD-9104276

Governor's Task Force on Revenue

Thursday, April 25, 1991, 9 a.m. The Governor's Task Force on Revenue will meet at the Greer Building, 125 East 11th Street, Austin. According to the complete agenda, the task force will give an overview of state expenditures, Dale Craymer, Director, Budget and Planning, Office of the Governor; overview of state revenues, Tom Plaut, Chief Revenue Estimator, Office of the State Comptroller; state-wide performance audits: A Status Report, Billy Hamilton, Deputy State Comptroller; presentation on property tax as a revenue source, John Kennedy, Texas Research League; presentation on the new public school education bill, Dan Casey, Executive Director, Legislative Education Board; and presentation on funds dedicated to highways, Raymond Stoker, Chairman State Highways and Public Transportation Commission.

Contact: Terrell Blodgett, P.O. Box 12068, Austin, Texas 78711, (512) 463-3004.

Filed: April 17, 1991, 9:56 a.m.

TRD-9104544

Texas Department of Health

Monday-Tuesday, April 29-30, 1991, 7 p.m. and 8:30 a.m. respectively. The Trauma Technical Advisory Committee of the Texas Department of Health will meet at the Red Lion Hotel, Salon B, 6121 IH-35 North, Austin. According to the complete agenda, the committee will approve minutes of previous meeting; consider and possibly act on drafts of emergency medical services trauma system rules; report of Chief, Bureau of Emergency Management; report of Associate Commissioner for Community and Rural Health; consider other business not requiring action; and adjourn. (Committee will adjourn on first day and reconvene on second day).

Contact: Gene Weatherall, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7550.

Filed: April 16, 1991, 2:03 p.m.

TRD-9104482

Friday, May 3, 1991, 3 p.m. The Texas Radiation Advisory Committee, Well Logging Committee of the Texas Department of Health will meet at 1212 East Anderson Lane, Austin. According to the complete agenda, the committee will discuss and possibly act on draft of Part 36, Texas Regulations for the Control of Radiation; and adjourn.

Contact: L. Don Thurman, P.E., 1100 West 49th Street, Austin, Texas 78756, (512) 835-7000.

Filed: April 16, 1991, 2:03 p.m.

TRD-9104484

Friday, May 3, 1991, 4 p.m. The Texas Radiation Advisory Board, NORM Committee of the Texas Department of Health will meet at 1212 East Anderson Lane, Austin. According to the complete agenda, the committee will discuss and possibly act on disposal options; comments on draft two of Texas Regulations for the Control of Radiation; and adjourn.

Contact: L. Don Thurman, P.E., 1100 West 49th Street, Austin, Texas 78756, (512) 835-7000.

Filed: April 16, 1991, 2:04 p.m.

TRD-9104485

Friday, May 3, 1991, 5 p.m. The Texas Radiation Advisory Board, Executive Committee of the Texas Department of Health will meet at 1212 East Anderson Lane, Austin. According to the complete agenda, the committee will discuss and possibly act on legislation; draft one of part 40, Texas Regulations for the Control of Radiation; and adjourn.

Contact: L. Don Thurman, P.E., 1100 West 49th Street, Austin, Texas 78756, (512) 835-7000.

Filed: April 16, 1991, 2:04 p.m.

TRD-9104486

Friday, May 3, 1991, 6 p.m. The Texas Radiation Advisory Board, Medical Committee of the Texas Department of Health will meet at 1212 East Anderson Lane, Austin. According to the complete agenda, the committee will discuss and possibly act on parts 32 and 33 of the Texas Regulations for the Control of Radiation; and adjourn.

Contact: L. Don Thurman, P.E., 1100 West 49th Street, Austin, Texas 78756, (512) 835-7000.

Filed: April 16, 1991, 2:05 p.m.

TRD-9104487

Saturday, May 4, 1991, 1:30 p.m. The Texas Radiation Advisory Board of the Texas Department of Health will meet at 1212 East Anderson Lane, Austin. According to the complete agenda, the board will approve minutes of previous meeting; consider and possibly act on Texas Low-Level Radioactive Waste Disposal Authority activities; committee reports (well logging; NORM; medical; executive; chairman); rules and regulatory guide; program activities (general; compliance and inspection; licensing, registration and standards); and adjourn.

Contact: L. Don Thurman, P.E., 1100 West 49th Street, Austin, Texas 78756, (512) 835-7000.

Filed: April 16, 1991, 2:03 p.m.

TRD-9104483

Texas Health and Human Services Coordinating Council

Friday, April 12, 1991, 2 p.m. The Human Service Interagency Committee of the Texas Health and Human Services Coordinating Council held an emergency meeting at the TDHS, Commissioners Conference Room, 701 West 51st Street, Austin. According to the complete agenda, the committee called the meeting to order; approved minutes of November 1990 meeting; heard status report-community resources group; long range goals for improved service delivery; executive discussion on structuring HHS to meet future needs; and adjourned. The emergency status was necessary to address legislative request for information.

Contact: James P. Smothermon, 9101 Burnet Road, Suite 216, Austin, Texas 78758, (512) 873-2400.

Filed: April 11, 1991, 11:17 a.m.

TRD-9104267

Texas Historical Commission

Wednesday, April 24, 1991, 3 p.m. The Texas Preservation Trust Fund Committee of the Texas Historical Commission will

meet at the Beaumont Hilton, Plaza Cafe, 2355 I-10 South, Beaumont. According to the complete agenda, the committee will give an update on Viva S. Huffman estate property transaction; advisory board and guardians; approval of revised organizational chart; status of appointments; future meetings; update on state legislation; and discuss other business.

Contact: Curtis Turnell, P.O. Box 12276, Austin, Texas 78701, (512) 463-6094.

Filed: April 11, 1991, 1:26 p.m.

TRD-9104269

Thursday, April 25, 1991, 7 a.m. The National Register Committee of the Texas Historical Commission will meet at the Plaza Cafe of the Beaumont Hilton, 2355 I-10, Beaumont. According to the complete agenda, the committee will hear announcements of State Board of Review Statewide Planning session and quarterly meeting; certified local government conference; staff update; and quarterly report of activities.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: April 12, 1991, 2:17 p.m.

TRD-9104350

Thursday, April 25, 1991, 7 a.m. The Main Street Committee of the Texas Historical Commission will meet at the Beaumont Hilton Coffee Shop, Plaza Cafe, 2355 I-10 South, Beaumont. According to the complete agenda, the committee will discuss progress in the main street cities; resource team report; grant writing workshops; and main street application workshops.

Contact: Cindy Laguna Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: April 12, 1991, 2:17 p.m.

TRD-9104349

Thursday, April 25, 1991, 8 a.m. The Architecture Committee of the Texas Historical Commission will meet at the Beaumont Hilton, Plaza Cafe, 2355 I-10 South, Beaumont. According to the complete agenda, the committee will hear report of quarterly activities; update on significant projects; update on Texas Historic Preservation Grants (FY91); endangered Historic properties of Texas; update on Texas Preservation trust fund; and update on federal and state legislation.

Contact: Curtis Turnell, P.O. Box 12276, Austin, Texas 78701, (512) 463-6100.

Filed: April 11, 1991, 1:25 p.m.

TRD-9104268

Thursday, April 25, 1991, 8 a.m. The State Marker Committee of the Texas Historical Commission will meet at the Beaumont Hilton, Diplomat I Room, 2355 I-10 South, Beaumont. According to the agenda summary, the committee will call the meet-

ing to order; make announcements; review of alterations to recorded Texas historic landmarks; and inactive marker applications.

Contact: Frances Rickard, 1511 Colorado Street, Austin, Texas 78701, (512) 463-6100.

Filed: April 17, 1991, 2:08 p.m.

TRD-9104555

House of Representatives

Monday, April 22, 1991, 8 a.m. The House Committee on Redistricting of the House of Representatives met at the El Paso City Council Chamber Room, City Hall, Second Floor, El Paso. According to the complete agenda, the committee gave an overview of the redistricting process, (Karen White and Jeff Archer, Texas Legislative Council); regional redistricting issues and testimony; El Paso area-Congressional districts 16 and 21 (part): Midland, Reagan, Upton, Crane, Crockett, Pecos, Terrell, Brewster, Presido; heard testimony of other interested parties; discussed committee business; and adjourned.

Contact: Brian Jammer, P.O. Box 2910, Austin, Texas 78769, (512) 463-9948.

Filed: April 11, 1991, 4:46 p.m.

TRD-9104316

Texas Department of Human Services

Friday, April 19, 1991, 10 am. The Texas Board of Human Services of the Texas Department of Human Services met at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the agenda summary, the board considered action on approval of March 20, 1991 minutes; board assignments and announcements by the chairman; medicaid coverage for newborns; pilot health care project for low-income people in the Lower Rio Grande Valley; hospice program; feasibility of combining and expanding all or some of the Medicaid waiver programs; effects of setting a minimum wage standard for community care programs; TDHS liability for programs which TDMHMR provides the state match; senate finance committee report on TDHS; child protective services contract acquisitions; commissioner's report; and NHIC current balances in reserve fund. The board will recess for a briefing on the following subjects: state performance audits; corporate advisory council; legislative update; and policy development process. No board action was taken during the briefing. The board met in a closed executive session on the following subjects: litigation regarding Texas Hospital Association versus NHIC and TDHS; and personnel matters. The board reconvened in open session.

Contact: Sherron Heinemann, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3048.

Filed: April 11, 1991, 4:03 p.m.

TRD-9104307

Tuesday, April 23, 1991, 10 a.m. The Client Self-Support Services Advisory Council of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the council will call the meeting to order; approval of minutes; lunch plans; travel claims; deputy commissioner's comments; update on state and federal legislation; regional-level advisory council coordination; public information support for the advisory council; child care committee report; rules on child care, development block grant eligibility, management services; refugee cash assistance; medicaid coverage for newborns; removal of the application requirement; treatment of adoption subsidy assistance in the AFDC and medicaid programs; treatment of educational assistance in the food stamp program; budgeting income of disqualified members in AFDC and medicaid households; medically needy budget periods; CCMS technical amendments; OBRA requirements for outstationed eligibility workers; native american programs; closing remarks; and other business and adjournment.

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

Filed: April 12, 1991, 3:28 p.m.

TRD-9104359

State Board of Insurance

Wednesday, April 24, 1991, 8:30 a.m. The State Board of Insurance will meet at 1110 San Jacinto Street, Room 460, Austin. According to the agenda summary, the board will review personnel; litigation; and solvency matters.

Contact: Angelia Johnson, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: April 16, 1991, 4 p.m.

TRD-9104499

Wednesday, April 24, 1991, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Clyde Earl Mordica III, Austin, who holds a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11143.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 15, 1991, 2:43 p.m.

TRD-9104419

Wednesday, April 24, 1991, 10 a.m. The State Board of Insurance will meet at 1110 San Jacinto Street, Room 460, Austin. According to the agenda summary, the board will consider requests by Valiant Insurance Company and United States Fidelity and Guaranty Company for cessation of acceptance of small premium policies through the Small Premium Policy Plan; motion for re-hearing in Docket 1814, appeal of John Henry Pelt and John Kyle Pelt; extension of emergency effectiveness of new 28 TAC §§1.409, 7.69, 7.75, 7.1009, 9.31 and 25.715; amendment to Texas Basic Manual of Rules, Classifications and Rates for Workers' Compensation and Employers' Liability Insurance pertaining to adoption of Senate Bill 1 litigation surcharge endorsement; personnel; and litigation.

Contact: Angelia Johnson, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: April 16, 1991, 3:59 p.m.

TRD-9104498

Wednesday, April 24, 1991, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Charles Ronald Hughes, Joshua and Fort Worth, for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11167.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 15, 1991, 2:43 p.m.

TRD-9104420

Wednesday, April 24, 1991, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the complete agenda, the section will conduct a public hearing to consider the approval of restated Articles of Agreement of Delta Lloyds Insurance Company of Houston. Docket Number 11171.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 15, 1991, 2:44 p.m.

TRD-9104421

Thursday, April 25, 1991, 9:30 a.m. The State Board of Insurance will meet at the State Insurance Building, 1110 San Jacinto Street, Room 460, Austin. According to the complete agenda, the board will consider authorization of for publication as a proposal of an amendment to a rule as 28 TAC §5.4501, concerning rules and regulation for the Texas Catastrophe Property Insurance Association and particularly concern-

ing coastal and beach surcharges under the Texas General Basis Schedules originally considered as Item 6 at a public hearing on August 8, 1990.

Contact: Angelia Johnson, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: April 12, 1991, 2:51 p.m.

TRD-9104352

Monday, April 29, 1991, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the complete agenda, the section will reopen a public hearing to consider whether disciplinary action should be taken against Wilbert Randolph Elder, Easton, and Tyler, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Local Recording Agent's license. Docket Number 11033.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 15, 1991, 2:44 p.m.

TRD-9104422

Monday, April 29, 1991, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of the proposed plan of merger of New Era Life Insurance Company, San Antonio, with State Reserve Life Insurance Company being the survivor and for approval of the restatement with amendments to the Articles of Incorporation of State Reserve Life Insurance Company, San Antonio, changing the name of the company, increasing the authorized capital, naming the board of directors, pertaining to the kinds of insurance authorized, changing the home office of the company, providing for the existence of the company and redesignating and renumbering sections of the original Articles of Incorporation as amended.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 15, 1991, 2:44 p.m.

TRD-9104423

Legislative Budget Board

Thursday, April 18, 1991, 8 a.m. The Legislative Budget Board held an emergency meeting at the State Capitol, Senate Chamber, Austin. According to the complete agenda, the board considered a request from the Department of Human Services for approval to transfer funds; received a report from Comptroller John Sharp on the progress of the Texas Performance Review;

and any other business that may have come before the board. The emergency status was necessary to avoid depletion of funds in certain DHS Programs and to obtain information necessary to expedite legislative response to various budget issues.

Contact: Jim Oliver, Room 207-A, State Capitol, Austin, Texas 78701, (512) 463-1166.

Filed: April 12, 1991, 12:36 p.m.

TRD-9104338

Texas Department of Licensing and Regulation

Monday, April 22, 1991, 9 a.m. The Talent Agencies Department of the Texas Department of Licensing and Regulation met at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department held an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the Respondent's license for Kim Liebelt doing business as Take One Entertainment for violation of Statutes, Articles 5221a-9 and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: April 11, 1991, 2:26 p.m.

TRD-9104278

Monday, April 29, 1991, 9 a.m. The Business and Occupational Programs Department of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the respondent's license for James S. Bailey for violation of Statutes, Articles 6687-9b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: April 11, 1991, 2:28 p.m.

TRD-9104281

Monday, April 29, 1991, 11 a.m. The Business and Occupational Programs Department of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the respondent's license for Antonio Medina for violation of Statutes, Articles 6687-9b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: April 11, 1991, 2:29 p.m.

TRD-9104282

Tuesday, April 30, 1991, 9 a.m. The Business and Occupational Programs Department of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the respondent's license for Sterling Smith for violation of Statutes, Articles 6687-9b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: April 11, 1991, 2:29 p.m.

TRD-9104283

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Texas State Board of Medical Examiners

Friday, April 19, 1991, 8 a.m. The Reciprocity Committee of the Texas State Board of Medical Examiners met at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee reviewed reciprocal endorsement applicants; recommended ineligibility as determined by the Reciprocity Committee to be reported to the board; met in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 11, 1991, 4:15 p.m.

TRD-9104312

Friday, April 19, 1991, 8:30 a.m. The Disciplinary Process Review Committee of the Texas State Board of Medical Examiners met at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee discussed February and March 1991 enforcement reports; current employee vacancies and recruitment activities; proposed case priority setting system; met in executive session to review selected files and cases, under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 11, 1991, 4:14 p.m.

TRD-9104310

Friday, April 19, 1991, 9:30 a.m. The Examination Committee of the Texas State Board of Medical Examiners met at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee reviewed examination applicants; new Texas Medical Jurisprudence Examination; request for extension of Visiting Professor Permit; met in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 11, 1991, 4:14 p.m.

TRD-9104311

Friday, April 19, 1991, 11:30 a.m. The Finance Committee of the Texas State Board of Medical Examiners met at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee reviewed financial statements and budgets; met in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 11, 1991, 4:14 p.m.

TRD-9104309

Friday-Saturday, April 19-20, 1991, 1 p.m. and 8:30 a.m. respectively. The Texas State Board of Medical Examiners met at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the board reviewed new jurisprudence examination; public hearing regarding proposed rule changes; reciprocity hearings; proposals for decision; termination of suspension; approvals; agreed orders, minutes, probationary panel reports; probationary appearances; request for reinstatement; long range planning; federation meeting; executive director's report-budget; report on legislative appearances; review of liability claim system; insurance for DRC members; remedial courses; licensure; computer; and enforcement; met in executive session under authority of Article 6252-17, as related to Article 4495b, 3.05(d), 4.05(d), 5.06(s)(1) and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 11, 1991, 4:13 p.m.

TRD-9104308

Saturday, April 20, 1991, 8 a.m. The Standing Orders Committee of the Texas State Board of Medical Examiners met at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee considered waivers to standing delegation orders rules; discussion of proposed changes to board rules regarding Ra-

diologic Technologists; met in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 11, 1991, 4:15 p.m.

TRD-9104313

Saturday, April 20, 1991, 1 p.m. The Executive Committee of the Texas State Board of Medical Examiners held an emergency meeting at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee considered licensee under provisions of Article 4495b, 4.13; met in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Attorney General Opinion 1974, Number H-484. The emergency status was necessary as information had come to the attention of the agency and merited prompt consideration.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 17, 1991, 12:15 p.m.

TRD-9104552

Thursday, April 25, 1991, 1 p.m. The District Review Committee Number Two of the Texas State Board of Medical Examiners will meet at the Dallas County Medical Society, 140 East 12th Street, Dallas. According to the agenda summary, the committee will review investigative files, liability claims; meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 17, 1991, 12:15 p.m.

TRD-9104551

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Texas Department of Mental Health and Mental Retardation

Thursday, May 2, 1991, 12:30 p.m. The Board Audit Committee of the Texas Department of Mental Health and Mental Retardation will meet at the Administrative Offices, Dallas County MHMR Center, 1341 West Mockingbird Lane, Suite 1000-E, Board Room, Dallas. According to the complete revised agenda, the committee will give an update on the Corpus Christi State School audit; discussion of quarterly report; and distribution of investigative reports. If deaf interpreters required, notify TDMHMR (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 465-4506.

Filed: April 16, 1991, 11:56 a.m.

TRD-9104468

Thursday, May 2, 1991, 1:30 p.m. The Board of the Texas Department of Mental Health and Mental Retardation will meet at the Administrative Offices, Dallas County MHMR Center, 1341 West Mockingbird Lane, Suite 1000-E, Board Room, Dallas. According to the revised agenda summary, the board will call the meeting to order; and hear citizens' comments (limited to three minutes). If deaf interpreters required, notify TDMHMR (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 465-4506.

Filed: April 16, 1991, 11:56 a.m.

TRD-9104469

Texas State Board of Pharmacy

Tuesday-Thursday, April 23-25, 1991, 9 a.m. The Texas State Board of Pharmacy will meet at the Joe C. Thompson Center, 2405 East Campus Drive, Austin. According to the revised agenda summary, the board will hear testimony and review alleged violations of those laws which persons are subject to administrative sanctions and what form the sanctions are to take. The board will approve minutes of November 6-7, 1990, January 14-15, 1991, February 5-6, 1991, and disciplinary hearings of February 6, 1991; hear a presentation by the advisory committee on home health care services; consider proposed rules 291.36, 281.9, 291.91, 291.93, 291.53, 291.73, 291.74, and 291.75; consider for adoption rule 303.1; consider approval of drug/alcohol-free workplace guidelines; the TSBP FY 1992 calendar of events, and an amendment to the Class A Pharmacy inspection form; hear reports on the FY 1991 mid-year performance and financial report, the APhA annual meeting, the TSHP annual meeting, and the WTPA annual meeting; discuss and review proposed legislation and hear reports on TSBP and DEA's proposed reclassification of Stadol and Nubain; hear update on upcoming meetings; consider proposed agreed board orders; and commence in executive session for discussion of the FY 1992-1993 executive director's contract; and approval of the FY 1992-1993 executive director contract.

Contact: Fred S. Brinkley, Jr., R.Ph., 8505 Cross Park Drive, #110, Austin, Texas 78754-4594, (512) 832-0661.

Filed: April 12, 1991, 1:18 p.m.

TRD-9104342

Thursday, April 25, 1991, 9 a.m. The Texas State Board of Pharmacy will meet at the Joe C. Thompson Center, 2405 East Campus Drive, Austin. According to the

complete revised agenda, the board will hold a hearing to consider the merits of the following referenced case, the board will also consider the respondent's motion for rehearing and to set aside order filed on April 15, 1991, Texas State Board of Pharmacy versus Lawrence Obed Chikezie, R. Ph., and E-Z Pharmacy, Inc.

Contact: Fred S. Brinkley, Jr., R.Ph., 8505 Cross Park Drive, #110, Austin, Texas 78754-4594, (512) 832-0661.

Filed: April 16, 1991, 10:43 a.m.

TRD-9104460

Texas Department of Public Safety

Thursday, April 25, 1991, 10 a.m. The Public Safety Commission of the Texas Department of Public Safety will meet at DPS Headquarters, Commission Room, 5805 North Lamar Boulevard, Austin. According to the complete agenda, the commission will approve minutes; discuss personnel matters, including the upcoming vacancy of director and vacancies that may occur as a result of filling that position; pending and contemplated litigation; real estate matters; and miscellaneous and other unfinished business.

Contact: Joe E. Milner, 5805 North Lamar Boulevard, Austin, Texas 78773, (512) 465-2000, ext. 3700.

Filed: April 16, 1991, 10:29 a.m.

TRD-9104459

Public Utility Commission of Texas

Monday, April 22, 1991, 10 a.m. The Public Utility Commission of Texas met at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission held a prehearing conference in Docket Number 10150-application of Southwestern Bell Telephone Company for an exception to Substantiative Rule 23.45 as it relates to the itemization of charges for extended metropolitan service.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 11, 1991, 3:15 p.m.

TRD-9104302

Tuesday, April 23, 1991, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10167-application of GTE Southwest, Inc. to revise tariff with regard to the conversion of 59 central offices to process E911 calls and provide automatic number identification.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 11, 1991, 3:15 p.m.

TRD-9104303

Thursday, April 25, 1991, 10 a.m. (rescheduled from April 15, 1991). The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 9469-application of Brazos Electric Power Cooperative, Inc. for a certificate of convenience and necessity for proposed transmission line and substation within Dallas and Denton counties.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 15, 1991, 3:52 p.m.

TRD-9104426

Thursday, April 25, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10138-application of GTE Southwest, Inc. to provide an additional E911 console for the City of San Angelo's Emergency System.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 15, 1991, 3:53 p.m.

TRD-9104427

Thursday, April 25, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 9469-application of Brazos Electric Power Cooperative, Inc. for a certificate of convenience and necessity for proposed transmission line and substation within Dallas and Denton counties.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 16, 1991, 2:59 p.m.

TRD-9104491

Friday, April 26, 1991, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10200-application of Texas-New Mexico Power Company for authority to change rates.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas

78757, (512) 458-0100.

Filed: April 16, 1991, 3:02 p.m.

TRD-9104494

Friday, April 26, 1991, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10131-application of Southwestern Bell Telephone Company to revise the wats tariff to introduce maximizer 800 service (sm) common line 800 service.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 15, 1991, 3:18 p.m.

TRD-9104356

Tuesday, April 30, 1991, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold an interim rate hearing in Docket Number 9983-petition of the general counsel to inquire into the reasonableness of the rates and services of Southwest Texas Telephone Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 11, 1991, 3:12 p.m.

TRD-9104297

Tuesday, April 30, 1991, 10 am. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold an interim rate hearing in Docket Number 9985-petition of the general counsel to inquire into the reasonableness of the rates and services of Alltel Texas, Inc.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 11, 1991, 3:13 p.m.

TRD-9104298

Tuesday, April 30, 1991, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold an interim rate hearing in Docket Number 9981-petition of the general counsel to inquire into the reasonableness of the rates and services of Central Telephone Company of Texas.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 11, 1991, 3:13 p.m.

TRD-9104299

Monday, May 6, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10144-application of Lea County Electric Cooperative, Inc. for final approval of a leveled fuel and PCRf clause.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 17, 1991, 3:25 p.m.

TRD-9104571

Friday, May 10, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10094-application of Southwestern Bell Telephone Company to add tariff for telecommunications service priority (TSP) system.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 16, 1991, 3:02 p.m.

TRD-9104493

Tuesday, July 2, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 9749-application of GTE Southwest Incorporated to revise tariff to provide its local calling plans (LCP).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 16, 1991, 3:01 p.m.

TRD-9104492

Tuesday, July 16, 1991, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold a hearing on the merits in Docket Number 10096-application of Southwestern Bell Telephone Company for revisions to the access service tariff.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 11, 1991, 3:14 p.m.

TRD-9104300

Monday, July 29, 1991, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 10047-petition of Harris-Nissi Corporation against Southwestern Bell Telephone Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 11, 1991, 3:14 p.m.

TRD-9104301

State Purchasing and General Services Commission

Wednesday, April 24, 1991, 10 a.m. The State Purchasing and General Services Commission will meet at the Central Services Building, 1711 San Jacinto Street, Austin. According to the agenda summary, the commission will consider proposed amendments and new §§113.13, 113.21-113.25, 125.47, 125.61-125.67 regarding alternative fuel; discussion on Texas Research League study; operating budget report and contingency plan; micro-computer implementation Plan; TEC facility status report; construction project report; 3.09 report; division activity reports; meet in executive session to consider status of purchase of real property pursuant to Article 601b; receive a report regarding pending litigation; and consider personnel matters.

Contact: Judith Monaco Porras, 1711 San Jacinto Street, Austin, Texas 78701, (512) 463-3583.

Filed: April 16, 1991, 9:21 a.m.

TRD-9104436

Railroad Commission of Texas

Monday April 15, 1991, 9 a.m. The Railroad Commission of Texas met at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room, Room 12-126, Austin. According to the complete emergency revised agenda, the commission considered whether to use state funds to plug a leaking well, unidentified operator, Lola Hill lease, Well "B", unknown field, Brown County. The emergency status was necessary the well was an open hole, leaking saltwater to the surface at the rate of 25 barrels per day, causing an imminent threat to the public's health and safety.

Contact: Kinder Chambers, P.O. Box 12967, Austin, Texas 78711, (512) 463-6831.

Filed: April 11, 1991, 2:02 p.m.

TRD-9104275

Texas National Research Laboratory Commission

Wednesday, April 17, 1991, 1:30 p.m. The Texas National Research Laboratory Commission met at the Dallas Love Field

Airport, Southwest Airlines, University for People, Training Room II, Dallas. According to the emergency revised agenda summary, the commission took roll call of members; met in executive session to discuss land acquisition and litigation; real estate valuation; personnel; reconvened at 2 p.m. and approved minutes of March 20, 1991; heard chairman's report-J. Fred Bucy; executive director's report-Edward C. Bingler; committee and commissioner reports; committee assignments-J. Fred Bucy; bond counsel-Charles Duncan; budget and finance-P. O'Donnell; land acquisition-C. Perry; research and development-P.T. Flawn; science education-P.T. Flawn; heard public comment; and adjourned. The emergency status was necessary as additional subjects were added to meet urgent public necessity of commencing revenue bond process to meet Department of Energy and related superconducting super collider funding requirements.

Contact: Karen L. Chrestay, 1801 North Hampton #400, DeSoto, Texas 75115, (214) 709-3800.

Filed: April 16, 1991, 4:21 p.m.

TRD-9104503

Texas A&M University System

Wednesday, April 17, 1991, 10 a.m. The Executive Committee of The Texas A&M University System, Board of Regents met at the Board of Regents Meeting Room, College Station, According to the complete revised agenda, the committee considered a statement on harassment and discrimination for TAMUS.

Contact: Vickie Running, Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: April 12, 1991.

TRD-9104320

Texas Southern University

Tuesday, April 23, 1991, 4 p.m. The Board of Regents Building and Grounds Committee of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the board will consider construction change orders; payment to architects, contractors and engineers; authorization and ratification of contracts and awards; review of on going construction; and current contractual relations.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: April 18, 1991, 8:54 a.m.

TRD-9104591

Tuesday, April 23, 1991, 5 p.m. The Board of Regents Development Committee of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the board will consider reports from the administration on university fund raising.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: April 18, 1991, 8:53 a.m.

TRD-9104589

Wednesday, April 24, 1991, 3 p.m. The Board of Regents Academic Affairs and Personnel Committees of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committees will consider report on progress of academic activities and programs; and personnel actions.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: April 18, 8:53 a.m.

TRD-9104588

Thursday, April 25, 1991, 4 p.m. The Finance Committee of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider matters relating to financial reporting systems, and budgets; fiscal reports from the administration; investments, and informational items.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: April 18, 1991, 8:55 a.m.

TRD-9104592

Friday, May 3, 1991, 8:30 a.m. The Board of Regents of Texas Southern University will meet at Texas Southern University, University Library, Fifth Floor, Houston. According to the complete agenda, the board will consider minutes; budget changes; investments; budgets for restricted and/or grants and projects funds; construction change orders; authorization and ratification of contracts and awards; review of on going construction and current contractual relations; personnel actions; report on progress of academic activities and programs; report of the president; and meet in executive session.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: April 18, 1991, 8:54 a.m.

TRD-9104590

Texas State University System

Monday, April 15, 1991, 9 a.m. The Board of Regents of Texas State University System held an emergency telephone conference call meeting; speakerphone available in Room 505 Sam Houston State Office Building, Austin. According to the complete agenda, the board reviewed matters of the board and the four universities in the system including: all matters of curriculum, personnel actions including new employees, promotions, resignations, terminations, and special appointments of any system employee including the presidents and chancellor; discussion of litigation; contract approvals at each university and the system office; admission requirements and fees and mission statements. (where appropriate and permitted by law, executive sessions may be held). The emergency status was necessary due to illness and the lack of a quorum the posted meeting scheduled for April 11, 1991 was postponed. This meeting will consider those previously posted items.

Contact: Lamar Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, (512) 463-1808.

Filed: April 12, 1991, 4:09 p.m.

TRD-9104361

University Interscholastic League

Wednesday, April 18, 1991, 9:30 a.m. The State Executive Committee of the University Interscholastic League met at the Radisson Plaza Hotel, Eighth and San Jacinto Streets, Austin. According to the emergency revised agenda summary, the committee heard the appeal of decision of the District 26 AAAAAA Executive Committee regarding eligibility of student from Robert E. Lee High School, San Antonio, based upon a transfer of jurisdiction from the Commissioner of Education. The emergency status was necessary as the Interim Commissioner of Education delegated the duty under Texas Education Code #21.920(e) to hold hearings and render decisions relating to eligibility to participate in extracurricular activities of the U.I.L. and appeal needed to be heard in a timely manner.

Contact: Bonnie Northcutt, P.O. Box 8028, UT Station, Austin, Texas 78713-8028, (512) 471-5883.

Filed: April 16, 1991, 3:35 p.m.

TRD-9104496

University of Texas System

April 16-19, 22-26, 29-30, 1991, 9 a.m. The Executive Committee of the Board of

Regents of the University of Texas System will meet at the Regents' Conference Room, Ninth Floor, 201 West Seventh Street, Austin. According to the complete agenda, the committee will meet by telephone conference call to exercise its delegated authority as a Pricing Committee to consider authorizing a bond purchase contract between the board of regents of the University of Texas System and the purchasers of the board's permanent university fund refunding bonds, Series 1991, and an escrow agreement between the board and the place of payment of the notes to be refunded, approving the preliminary official statement relating to the bonds and taking additional actions relating thereto. The meeting or meetings will be held at the posted time on one or more of such days upon finalization of the terms of sale of the bonds by the underwriters. Financial market conditions make it impossible to know the exact date the bonds may be sold on the most advantageous terms.

Contact: Arthur H. Dilly, P.O. Box N, U. T. Station, Austin, Texas 78713-7328, (512) 499-4402.

Filed: April 12, 1991, 10:06 a.m.

TRD-9104328

University of Texas System, M. D. Anderson Cancer Center

Tuesday, April 16, 1991, 9 a.m. The Institutional Animal Care and Use Committee of the University of Texas System, M. D. Anderson Cancer Center met at M. D. Anderson Cancer Center, Conference Room AW7.707, Seventh Floor, 1515 Holcombe Boulevard, Houston. According to the agenda summary, the committee reviewed protocols for animal care and use and modifications thereof.

Contact: Anthony Mastromarino, Ph.D., U.T. M.D. Anderson Cancer Center, 1515 Holcombe Boulevard, Houston, Texas 77030, (713) 792-3991.

Filed: April 12, 1991, 10:06 a.m.

TRD-9104329

Texas Veterans Commission

Friday, May 10, 1991, 10 a.m. The Texas Veterans Commission will meet at the E. O. Thompson Building, Sixth Floor, 10th and Colorado Streets, Austin. According to the complete agenda, the commission will consider reports of commission; and make decisions regarding administrative matters pertaining to Texas' veterans' programs.

Contact: Doug Brown, P.O. Box 12277, Austin, Texas 78711, (512) 463-5538.

Filed: April 15, 1991, 2:19 p.m.

TRD-9104417

Texas Water Commission

Wednesday, April 24, 1991, 3 p.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 various matters within the regulatory jurisdiction of the commission. 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 scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 11, 1991, 3:28 p.m.

TRD-9104304

Wednesday, May 1, 1991, 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 various matters within the regulatory jurisdiction of the commission. 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 scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 17, 1991, 3:57 p.m.

TRD-9104576

Wednesday, May 1, 1991, 3 p.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 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 scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 17, 1991, 3:56 p.m.

TRD-9104574

Wednesday, May 1, 1991, 3 p.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 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 scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 17, 1991, 3:57 p.m.

TRD-9104575

Thursday, May 9, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 3-102, Austin. According to the agenda summary, the commission will hold a hearing on a report of sale and application to transfer certificate of convenience and necessity 12112 from Kimberly L. Allen, Chapter 7 Bankruptcy trustee for T. M. Wolfe and Associates doing business as Glenlake Water System to Glenlake Water Supply Corporation. The sale and transfer includes the Glenlake subdivision which is approximately eight miles west of Austin and is generally bounded on the south by Lake Austin and on the east by City Park Road, in Travis County, Docket Number 8957-S.

Contact: Angela M. Demerle, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 11, 1991, 3:29 p.m.

TRD-9104306

Tuesday, May 14, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 618, Austin. According to the agenda summary, the commission will hold a hearing on a rate increase by Thunderbird Bay Water Services. Docket Number 9008-R.

Contact: Heidi Jackson, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 12, 1991, 4:15 p.m.

TRD-9104366

Thursday, May 16, 1991, 9 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Henderson County Courthouse Annex Building, Third Floor Conference Room, Athens. According to the agenda summary, the commission will consider Recontek for a permit (proposed permit Number HW50324) to operate a hazardous industrial solid waste management facility. The permit will authorize the use of seventeen tanks and one container storage area for storage of hazardous waste prior to recycling. The facility is on a 30 acre tract of land, at the southeast corner of the intersection of Cream Level Road and FM Road 317, approximately 1 1/2 miles north-northeast of the intersection of State Highways 31 and 19 in the City of Athens, Henderson County.

Contact: Deborah Parker, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 16, 1991, 4:41 p.m.

TRD-9104504

Tuesday, May 21, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Office Building, 1700 North Congress Avenue, Room 119, Austin. According to the agenda summary, the commission will hold a hearing on adoption of standby fees for Harris County Municipal Utility District Number 157.

Contact: Kerry Sullivan P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 16, 1991, 4:44 p.m.

TRD-9104510

Wednesday, May 22, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Office Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider adoption of standby fees for Harris County Municipal Utility District Number 239.

Contact: Gloria A. Vasquez, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 16, 1991, 4:44 p.m.

TRD-9104509

Friday, May 24, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1149A, Austin. According to the agenda summary, the commission will hold a hearing on an appeal by ratepayers concerning a rate increase by Forest Cove Municipal Utility District. Docket Number 8882-W.

Contact: Mary Sahs, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

TRD-9104364

Friday, May 24, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Office Building, 1700 North Congress Avenue, Room 618, Austin. According to the agenda summary, the commission will hold a hearing on an application for a water certificate of convenience and necessity and to decertify portions of West Beach Utilities' CCN Number 12019 and City of Southlake's CCN Number 10101 in Denton County, Docket Number 8974-C.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 16, 1991, 4:45 p.m.

TRD-9104513

Wednesday, May 29, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the complete agenda, the commission will consider an application by Rio Bravo, Inc., Application Number 23-2811A to amend its portion of Certificate Number 23-2811 by changing the purpose of use of

their 51.08 acre-feet of water from irrigation purposes to recreation and non-exempt domestic purposes, and by adding two reservoirs for the storage of water diverted from Cienegas Creek, west of Del Rio, Val Verde County.

Contact: Weldon Hawthorne, P.O. Box 13087, Austin, Texas 78711, (512) 371-6388.

Filed: April 17, 1991, 3:57 p.m.

TRD-9104577

Thursday, May 30, 1991, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Erath County Courthouse, Courtroom, Second Floor, On the Square, Stephenville. According to the agenda summary, the office will consider an application by Thomas Mear for a permit (Proposed Permit Number 03290) to authorize disposal of waste and wastewater from a dairy which consists of a maximum of 650 head in confinement. The dairy is on the south side of State Highway 220, approximately one half mile southwest of the intersection of State Highway 220 and U.S. Highway 67 in Erath County.

Contact: Clay Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 16, 1991, 4:42 p.m.

TRD-9104505

Friday, May 31, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1030, Austin. According to the agenda summary, the commission will hold a hearing on a rate increase for Kickapoo Utilities, Inc. Docket Number 9006-G.

Contact: Joseph W. O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 12, 1991, 4:13 p.m.

TRD-9104363

Friday, May 31, 1991, noon. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1149A, Austin. According to the agenda summary, the commission will hold a hearing on an appeal by ratepayers concerning a rate increase for Two Way Water Supply Corporation. Docket Number 8992-W.

Contact: William C. Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 12, 1991, 4:14 p.m.

TRD-9104365

Monday, June 3, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Office Building, 1700 North Congress Avenue, Room 1030, Austin. According to the agenda summary, the commission will hold a hearing on an application by West Lakeview Water Supply Corporation

to discontinue operation in Johnson County and to cancel its certificate of convenience and necessity Number 11829, Docket Number 8443-Q.

Contact: Sally C. Colbert, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 16, 1991, 4:43 p.m.

TRD-9104508

Monday, June 3, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Office Building, 1700 North Congress Avenue, Room 1028A, Austin. According to the agenda summary, the commission will hold a hearing on a rate increase for Payne Utilities, Inc., Docket Number 8991-G.

Contact: Deborah Parker, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 16, 1991, 4:45 p.m.

TRD-9104512

Monday, June 3, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 543, Austin. According to the agenda summary, the commission will hold a hearing on an application for a water certificate of convenience and necessity amendment for Double Diamond, Inc., CCN Number 12087, Docket Number 8933-C.

Contact: Kerry D. Sullivan, P.O. Box 13087, Austin, Texas 78711, (512) 280-0703.

Filed: April 17, 1991, 3:58 p.m.

TRD-9104579

Wednesday, June 5, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the complete agenda, the commission will consider an application by Wayne Moore and wife, Alice Moore, Application Number 12-3509A, to amend Certificate Number 12-3509 by deleting or extending the term contained in Special Condition 4.b. which states the certificate shall expire on December 31, 1990. The certificate authorizes the diversion and use of 60 acre-feet of water per annum from the perimeter of an existing, exempt dam and reservoir located on an unnamed tributary of Flat Creek, tributary of the Leon River, tributary of the Little River, tributary of the Brazos River, Brazos River Basin for irrigation of land 21 miles northeast of Comanche, Comanche County.

Contact: Mark Evans, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 11, 1991, 3:29 p.m.

TRD-9104305

Wednesday, June 5, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Office Building, 1700 North Congress Avenue, Room 118, Austin.

According to the complete agenda, the commission will consider an application by Byron Donzis, Application Number 5348, for an 11.121 water use permit to divert five acre-feet of water per annum directly from the North Fork of the Guadalupe River, tributary of the Guadalupe River, Guadalupe River Basin, for irrigation of land 16 miles northeast of Kerrville, Kerr County.

Contact: Lamm Bookout, P.O. Box 13087, Austin, Texas 78711, (512) 371-6385.

Filed: April 16, 1991, 4:42 p.m.

TRD-9104506

Thursday, June 6, 1991, 10 a.m. The Texas Water Commission will meet at the William B. Travis Office Building, 1701 North Congress Avenue, Room 3-102, Austin. According to the agenda summary, the commission will hold a hearing on a rate increase for Long Creek Water Company, Docket Number 8956-G.

Contact: Mary K. Sals, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 16, 1991, 4:46 p.m.

TRD-9104514

Thursday, June 6, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1149A, Austin. According to the agenda summary, the commission will hold a hearing on an application by Park Water Supply to cease operation in Bell County, Docket Number 8631-Q.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 17, 1991, 3:57 p.m.

TRD-9104578

Monday, June 10, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Office Building, 1700 North Congress Avenue, Room 512, Austin. According to the agenda summary, the commission will hold a hearing on an appeal by out-of-district ratepayers concerning a rate increase by Tarrant County Fresh Water Supply District Number One, Docket Number 9024-W.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 16, 1991, 4:44 p.m.

TRD-9104511

Monday, June 10, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Office Building, 1700 North Congress Avenue, Room 618, Austin. According to the agenda summary, the commission will hold a hearing on a rate increase for DL Utilities, Inc., Docket Number 8915-G.

Contact: Heidi Jackson, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 16, 1991, 4:46 p.m.

TRD-9104515

Friday, June 28, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Office Building, 1700 North Congress Avenue, Room 618, Austin. According to the agenda summary, the commission will hold a hearing on an application by West Cedar Creek Municipal Utility District to cancel its certificate of convenience and necessity Number 11499, Docket Number 8572-Q.

Contact: Leslie A. Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 17, 1991, 3:58 p.m.

TRD-9104580

Texas Water Development Board

Thursday, April 18, 1991, 9 a.m. The Texas Water Development Board met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the board considered authorizing the executive administrator and development fund manager to take all necessary steps toward the sale of Texas Water Development bonds for economically distressed areas. The emergency status was necessary to allow timely action to correct unsanitary conditions resulting from lack of water and sewer service, and which posed an immediate public health and safety threat.

Contact: G. E. Kretschmar, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: April 17, 1991, 2:09 p.m.

TRD-9104556

Texas Workers' Compensation Commission

Thursday, April 18, 1991, 9 a.m. The Texas Workers' Compensation Commission met at the Southfield Building, 4000 South IH-35, Rooms 910-911, Austin. According to the agenda summary, the commission called the meeting to order; may have approved minutes of April 4, 1991; discussion and consideration of rules for proposal; rules for adoption; extension of emergency rules in Chapter 134; response to issue relating to §10.03, loans by attorneys prohibited; discussion and consideration of matters relating to the executive director offer of resignation; met in executive session pursuant to Article 6252-17, Vernon's Texas Civil Statutes, §2(g), executive session was held for discussion of executive director's position, specifically the appointment, employment, evaluation and duties of an acting executive director until a permanent executive director is employed; discussion and consideration of matters raised in executive session; general report of issues

relating to TWCC Implementation of Senate Bill 1; discussion of future public meetings; and final adjournment.

Contact: George E. Chapman, 4000 South IH-35, Austin, Texas 78704, (512) 448-7962.

Filed: April 15, 1991, 8:47 a.m.

TRD-9104368

Texas Workers' Compensation Insurance Facility

Tuesday, April 16, 1991, 9 a.m. The Governing Committee of the Texas Workers' Compensation Insurance Facility met at the Stouffer Austin Hotel, 9721 Arboretum Boulevard, Austin. According to the emergency revised agenda summary, the committee discussed the Commissioner of Insurance Directive dated April 1, 1991. The emergency status was necessary as the Commissioner of Insurance directive dated April 1, 1991 created an unforeseen situation requiring immediate action by governing committee.

Contact: Miles L. Mathews, 8303 MoPac, Suite 310, Austin, Texas 78759-8396, (512) 345-1222.

Filed: April 11, 1991, 2:31 p.m.

TRD-9104284

Tuesday, April 16, 1991, 9 a.m. The Governing Committee of the Texas Workers' Compensation Insurance Facility met at 9721 Arboretum Boulevard, Austin. According to the emergency revised agenda summary, the committee discussed selection and hiring of an executive director for the facility, including methodology of the selection process and terms of employment and compensation; discussion regarding employment of counsel or other professionals necessary to carry out the functions of the facility, including methodology of selection, whether to hire staff or outside professionals and, if outside professionals should be hired, compensation and other arrangements for services to be performed; discussion and review of the 1990 internal audit report and any follow-up audit with respect to any issues which might affect decisions of the Governing Committee of this Facility; discussion and review of available data regarding current claims under both the old law and the new law addressing differences, if any; recommendations, if any, to be made to the State Board of Insurance regarding adequacy or inadequacy of surcharges and other fees currently being paid by the Pool population; report on current status of service company agreements, if any, with the facility. The emergency status was necessary because of an unforeseeable request by public member requiring immediate action by governing committee.

Contact: Miles L. Mathews, 8303 MoPac, Suite 310, Austin, Texas 78759-8396, (512) 345-1222.

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Regional Meetings

Meetings Filed April 11, 1991

The Brown County Appraisal District Board of Directors met at 403 Fisk Avenue, Brownwood, April 15, 1991, at 7 p.m. Information may be obtained from Bob Young, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 463-5676. TRD-9104317.

The Dewitt County Appraisal District Board of Directors met at the Dewitt Appraisal District Office, 103 Bailey Street, Cuero, April 16, 1991, at 7:30 p.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9104277.

The Houston-Galveston Area Council Board of Directors met at 3555 Timmons Lane, Fourth Floor Conference Room, Houston, April 16, 1991, at 10 a.m. Information may be obtained from Marjorie Baker, P.O. Box 22777, Houston, Texas 77227-2777, (713) 627-3200. TRD-9104265.

The Limestone County Appraisal District Board of Directors met at the Limestone County Courthouse, Board Room, Second Floor, Groesbeck, April 17, 1991, at 5:10 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009. TRD-9104274.

The Lower Colorado River Authority Audit and Budget Policy Committee met at 3700 Lake Austin Boulevard, Austin, April 16, 1991, at 1 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9104291.

The Lower Colorado River Authority Energy Operations Committee met at 3700 Lake Austin Boulevard, Austin, April 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9104287.

The Lower Colorado River Authority Finance and Administration Committee met at 3700 Lake Austin Boulevard, Austin, April 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9104288.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3700 Lake Austin Boulevard, Austin, April 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9104289.

The Lower Colorado River Authority Natural Resources Committee met at 3700 Lake Austin Boulevard, Austin, April 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9104290.

The Lower Colorado River Authority Audit and Budget Committee met at 3700 Lake Austin Boulevard, Austin, April 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9104292.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, Austin, April 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9104294.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, Austin, April 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9104293.

The Lower Neches Valley Authority Board of Directors met at the LNVA Conference Center, Rayburn Country, Sam Rayburn, April 16, 1991, at 10:30 a.m. (revised agenda). Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9104285.

The Swisher County Appraisal District Board of Directors met at the El Matador Cafe, 519 North 87, Tulia, April 18, 1991, at 7:30 a.m. Information may be obtained from Rose Lee Powell, P.O. Box 8, Tulia, Texas 79088, (806) 995-4118. TRD-9104271.

The Trinity River Authority of Texas Utility Services Committee met at 5300 South Collins Street, Arlington, April 17, 1991, at 10:30 a.m. Information may be obtained from J. Sam Scott, P.O. Box 60, Arlington, Texas 76006, (817) 467-4343. TRD-9104266.

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Meetings Filed April 12, 1991

The Alamo Area Council of Governments Planning and Program Development Committee met at 118 Broadway Street, Suite 400, San Antonio, April 17, 1991, at 10 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway Street, San Antonio, Texas 78205, (512) 225-5201. TRD-9104333.

The Alamo Area Council of Governments Management Committee met at 118 Broadway Street, Suite 400, San Antonio, April 17, 1991, at 1 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway Street, San Antonio, Texas 78205, (512) 225-5201. TRD-9104335.

The Bastrop Central Appraisal District Board of Directors met at the Bastrop Central Appraisal District 1200 Cedar Street, Bastrop, April 18, 1991, at 7:30 p.m. Information may be obtained from Dana Ripley, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9104353.

The Carson County Appraisal District Appraisal Review Board met at 102 Main Street, Panhandle, April 16, 1991, at 9 a.m. Information may be obtained from Dianne Lavake, P.O. Box 970, Panhandle, Texas 79068, (806) 537-3569. TRD-9104339.

The Central Plains Center for Mental Health and Mental Retardation and Substance Abuse Board of Trustees will meet at 308 South Columbia, April 25, 1991, at 6:30 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636. TRD-9104351.

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 North Stemmons Freeway, Dallas, April 30, 1991, at 8 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9104319.

The Dallas Area Rapid Transit Budget and Finance Committee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, April 16, 1991, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9104340.

The Dallas Area Rapid Transit Art and Design Committee met at the Board Conference Room, 601 Pacific Avenue, Dallas, April 16, 1991, at 1:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9104341.

The Eastland County Appraisal District Board of Directors will meet at the Eastland County Courthouse, Main Street, Second Floor Commissioners Courtroom, Eastland, April 24, 1991, at 1 p.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597. TRD-9104323.

The Education Service Center, Region XVII Board of Directors will meet at the ESC Region XVII, Board Room, 1111 West Loop 289, Lubbock, May 1, 1991, at 1 p.m. Information may be obtained from Weldon E. Day, 1111 West Loop 289, Lubbock, Texas 79416, (806) 793-4802. TRD-9104321.

The Education Service Center, Region VI Board of Directors and Executive Committee met at the ESC, Region VI, Huntsville, April 18, 1991, at 5 p.m. Information may be obtained from Bobby Roberts, 3332 Montgomery Road, Huntsville, Texas 77340, (409) 295-9161. TRD-9104346.

The Education Service Center, Region 20 Board of Directors will meet at 1313 Hines Avenue, San Antonio, May 1, 1991, at 2 p.m. Information may be obtained from Dr. Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208, (512) 299-2400. TRD-9104345.

The Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, April 24, 1991, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9104337.

The Middle Rio Grande Development Council Private Industry Council met at the Catholic Hall, Corner of Nueces and Kimble Streets, Rocksprings, April 17, 1991, at 1 p.m. Information may be obtained from Michael M. Patterson, P.O. Box 1109, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9104347.

The North Texas Municipal Water District Board of Directors will meet at the Administrative Offices, 505 East Brown Street, Wylie, April 25, 1991, at 4 p.m. Information may be obtained from Carl W. Riehn, 505 East Brown Street, Wylie, Texas 75098, (214) 442-5405. TRD-9104344.

The North Texas Private Industry Council will meet at the Wichita Falls Activities Center, 10th and Indiana Streets, Room 215, Wichita Falls, April 24, 1991, at 12:15 p.m. Information may be obtained from Tom O'Neil, P.O. Drawer A, Archer City, Texas 76351, (817) 574-4507. TRD-9104322.

The Region V Education Service Center Board of Directors will meet at the ESC Board Room, 2295 Delaware Street, Beaumont, April 24, 1991, at 1:15 p.m. Information may be obtained from Robert E. Nicks, 2295 Delaware Street, Beaumont, Texas 77703, (409) 835-5212. TRD-9104324.

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Meetings Filed April 15, 1991

The Austin-Travis County Mental Health and Mental Retardation Center Operations and Planning Committee met at 1430 Collier Street, Board Room, Austin, April 19, 1991, at 7:30 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9104376.

The Austin-Travis County Mental Health and Mental Retardation Center Finance and Control Committee held an emergency meeting at 1430 Collier Street, Austin, April 17, 1991, at noon. The emergency status was necessary due to several items, including not being able to finalize the agenda until Monday morning, thus missing the regular posting time. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9104383.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124A Regal Row, Austin, April 18, 1991, at 5 p.m. Information may be obtained from Bill E. Couch, 1124A Regal Row, Austin, Texas 78748, (512) 282-8441. TRD-9104401.

The Bexar-Medina-Atascosa Counties Water Control Seven Improvement District Number One Board of Directors met at the District Office, Highway 81, Natalia, April 22, 1991, at 9 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132. TRD-9104394.

The Central Texas Council of Governments Private Industry Council will meet at 302 East Central Street, Belton, April 25, 1991, at 10 a.m. Information may be obtained from Susan Kamas, P.O. Box 729, Belton, Texas 76513, (817) 939-3771. TRD-9104391.

The Colorado River Municipal Water District Board of Directors met at 400 East 24th Street, Big Spring, April 18, 1991, at 10 a.m. Information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79720, (915) 267-6341. TRD-9104373.

The Gray County Appraisal District Appraisal Review Board met at 815 North Sumner Street, Pampa, April 18, 1991, at 5 p.m. Information may be obtained from W. Pat Bagley, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791. TRD-9104399.

The Heart of Texas Council of Governments Executive Committee will meet at the HOTCOG Board Room, 300 Franklin Avenue, Waco, April 25, 1991, at 10 a.m. Information may be obtained from Mary McDow, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9104390.

The Lampasas County Appraisal District Board of Directors held an emergency meeting at 109 East Fifth Street, Lampasas, April 15, 1991, at 7 p.m. The emergency status was necessary due to citation being received by the Chairman, Henry Stoneham at 4:35 p.m. on April 12, 1991 which required immediate attention. Information may be obtained from Janice Henry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9104398.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, Austin, April 16, 1991, at 2 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9104430.

The Mills County Appraisal District met at the Mills County Commissioners Court, Goldthwaite, April 18, 1991, at 6:30 p.m. Information may be obtained from Doran E. Lemke, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253. TRD-9104396.

The North Central Texas Council of Governments Job Training Consortium Private Industry Council met at the Crown Sterling Suites, DFW, Airport Freeway, Irving, April 18, 1991, at 5 p.m. Information may be obtained from Mike Gilmore, P.O. Box COG, Arlington, Texas 76005, (817) 640-3300. TRD-9104395.

The Rieland Regional Mental Health Authority Board of Trustees met at 3007 North Richmond Road, Wharton, April 18, 1991, at 1:30 a.m. Information may be obtained from Marjorie Dornak, 3007 North Richmond Road, Wharton, Texas 77488, (409) 532-3098. TRD-9104397.

The Region VII Education Service Center Board of Directors met at the Days Inn, Highway 259 South, Henderson, April 18, 1991, at 7 p.m. Information may be obtained from Don J. Peters, 818 East Main Street, Kilgore, Texas 75662, (903) 984-3071. TRD-9104385.

The Rio Grande Council of Governments Board of Directors met at the Main Conference Room, 1014 North Stanton Street, El Paso, April 19, 1991, at 9:30 a.m. (MST). Information may be obtained from Cecile C. Gamez, 1014 North Stanton Street, Suite 100, El Paso, Texas 79902, (915) 533-0998. TRD-9104392.

The Rio Grande Council of Governments Board of Directors met at the Main Conference Room, 1014 North Stanton Street, El Paso, April 19, 1991, at 9:30 a.m. (MST). (revised agenda). Information may be obtained from Cecile C. Gamez, 1014 North Stanton Street, Suite 100, El Paso, Texas 79902, (915) 533-0998. TRD-9104400.

The Texas Municipal League Group Benefits Risk Pool Board of Trustees, Group Benefits Risk Pool met at the Four Seasons Resort and Hotel, Irving, April 19-20, 1991, at 8 a.m. Information may be obtained from Rhonda Ruckel, 211 East Seventh Street, Suite 1100, Austin, Texas 78701, (512) 320-7861. TRD-9104429.

The Tyler County Appraisal District Board of Directors met at 806 West Bluff, Woodville, April 20, 1991, at 9 a.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9104402.

The Tyler County Appraisal District Appraisal Review Board met at 806 West Bluff, Woodville, April 20, 1991, at 9 a.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9104384.

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Meetings Filed April 16, 1991

The Central Texas Council of Governments Executive Committee will meet at 302 East Central, Belton, April 25, 1991, 12:30 p.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9104433.

The Concho Valley Council of Governments Quality Work Force Planning Committee will meet at 5014 Knickerbocker Road, San Angelo, April 24, 1991, at 3 p.m. Information may be obtained from Monette Molinar, 5002 Knickerbocker Road, San Angelo, Texas 76904, (915) 944-9666. TRD-9104474.

The Education Service Center Region XV Board of Directors will meet at 612 South Irene Street, Conference Room One, San Angelo, April 23, 1991, at 1:30 p.m. Information may be obtained from Clyde Warren, 612 South Irene Street, San Angelo, Texas 76902, (915) 658-6571. TRD-9104437.

The Education Service Center, Region XVI Board of Directors will meet at the Texas Empire Room, Amarillo Club, Seventh and Tyler, Amarillo, April 26, 1991, at 1 p.m. Information may be obtained from Jim Holmes, P.O. Box 30600, Amarillo, Texas 79120, (806) 376-5521. TRD-9104489.

The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, April 24, 1991, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9104434.

The Northeast Texas Municipal Water District Board of Directors met at Highway 250 South, Hughes Springs, April 22, 1991, at 10 a.m. Information may be obtained from J. W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9104461.

The Texas Council Risk Management Fund Executive Committee met at 7800 North Mopac Expressway, Downstairs Conference Room, Austin, April 19, 1991, at 1 p.m. Information may be obtained from Spencer McClure, Westpark Building Three, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 346-5314. TRD-9104501.

The Toledo Bend Project Joint Operation Operating Board will meet at the Toledo

Bend Dam Site Office, Burkeville, April 23, 1991, at 10 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77631, (409) 746-3200. TRD-9104480.

The West Central Texas Council of Governments Executive Committee will meet at the County Courthouse, District Courtroom, Coleman, April 24, 1991, at 10:30 a.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9104489.

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Meetings Filed April 17, 1991

The Ark-Tex Council of Governments Executive Committee will meet at the Mt. Pleasant Country Club, Mt. Pleasant, April 25, 1991, at 5:30 p.m. Information may be obtained from Elizabeth A. Lea, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9104538.

The Austin-Travis County Mental Health Mental Retardation Center Executive Committee held an emergency meeting at 1430 Collier Street, Conference Room One, Austin, April 18, 1991, at 7 a.m. The emergency status was necessary as the previously posted meeting failed quorum and items required immediate attention. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 440-4031. TRD-9104585.

The Edwards County Appraisal District Board of Directors will meet at the New County Annex Building, Rocksprings, May 9, 1991, at 10 a.m. Information may be obtained from Natalie Goggans, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-4189. TRD-9104548.

The Lampasas County Appraisal District Agricultural Advisory Committee met at 109 East Fifth Street, Lampasas, April 22, 1991, at 9 a.m. Information may be obtained from Janice Henry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9104568.

The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, April 24, 1991, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9104537.

The Region One Education Service Center Board of Directors met at 1900 West Schunior Street, Edinburg, April 22, 1991, at 6 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior Street, Edinburg, Texas 78539, (512) 383-5611. TRD-9104553.

The Texas Panhandle Mental Health Authority Board of Trustees will meet at 7120 I-40 West, Suite 150, Amarillo, April 25, 1991, at 10:30 a.m. (revised agenda). Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235. TRD-9104570.

The San Jacinto River Authority Board of Directors will meet at the Lake Conroe Office Building, Highway 105 West, Conroe, April 24, 1991, at 12:30 p.m. Information may be obtained from James R. Adams, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111. TRD-9104569.

The West Central Texas Council of Governments Executive Committee will meet at the County Courthouse, District Courtroom, Coleman, April 24, 1991, at 10:30 a.m. (revised agenda). Information may be obtained from Brad Helbert, P. O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9104554.

◆ ◆ ◆
Meetings Filed April 18, 1991

The Sabine River Compact Administration will meet at the Omni-Royal Orleans Hotel, St. Louis Street, New Orleans, Louisiana, June 14, 1991, at 9:30 a.m. Information may be obtained from Max J. Forbes, Jr., P.O. Box 66492, Baton Rouge, LA 70896.



Name: Elizabeth Britton

Grade: 8

School: San Jacinto Jr. High, Midland ISD

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Department of Agriculture Notice of Exemption

The Texas Department of Agriculture adopted §7.30 of the Texas Pesticide Regulations (4 TAC 730) on July 26, 1985. This section, at subsection (c)(5) and (c)(6), establishes an interim 24-hour re-entry interval after each application of a pesticide with registered agricultural uses when used on crops requiring workers to perform labor-intensive activities, unless the pesticide has been granted an exemption from this requirement by the department.

Effective April 1, 1991, the following pesticide formulation has been granted an exemption from this requirement: Treflan E. C. (EPA Reg Number 1471-35), Treflan M.T.F. (EPA Reg Number 1471-116), Treflan S. (EPA Reg Number 1471-120), and Treflan TR-10 (EPA Reg Number 1471-143).

Issued in Austin, Texas, on April 10, 1991.

TRD-9104206 Dolores Alvarado Hibbs
Director of Hearings
Texas Department of Agriculture

Filed: April 10, 1991

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

Texas Air Control Board Notice of Public Hearing

Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act, §382.017; the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5; and the Texas Air Control Board (TACB) Procedural Rules, §103.11(4), the TACB will conduct a public hearing to receive testimony on proposed revisions to the TACB Regulation IV, Control of Air Pollution from Motor Vehicles.

The proposed amendments to Regulation IV revise §114.11, concerning alternative fuel requirements for transit authorities, to allow alternative fuel percentage conversion requirements to be met by conversion of any fleet vehicle, rather than exclusively revenue vehicles. An additional revision establishes a time limit on exemptions granted for the alternative fuel conversion requirements to two years.

A public hearing will be held at 10 a.m. on May 22, 1991, in the TACB auditorium in Austin, Texas. Public comments, both oral and written, on the proposals are invited at the hearing.

Hearings are structured for the receipt of narrative comments. Interrogation or cross-examination is not permitted. Persons desiring to testify should examine the materials on file before hand and prepare statements for presentation at the hearing.

Written comments not presented at the hearing may be submitted to the TACB central office in Austin until May

24, 1991. Comments received by 4 p.m. on that date will be considered prior to any final decision on the proposed revisions.

Copies of the proposal are available for inspection at the central office of the TACB located at 6330 Highway 290 East, Austin, Texas 78723 and at all TACB regional offices. For further information, call Lynn Wright at (512) 451-5711.

Issued in Austin, Texas, on April 10, 1991.

TRD-9104204 Lane Hartsock
Director, Planning and Development
Program
Texas Air Control Board

Filed: April 10, 1991

For further information, please call: (512) 451-5711

Texas Department of Aviation Professional Engineering Services Contract Awards

The following consultant proposal request for providing professional engineering services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The consultants request for professional engineering services was published in the *Texas Register* on December 21, 1990, (15 TexReg 7455).

The consultant proposals will be for professional engineering services for the design and construction administration phases for the following TDA project: 92/28-2-1, New Braunfels Municipal Airport.

The engineering firm for these services is: Freese and Nichols, Inc., 811 Lamar Street, Fort Worth, Texas 76102.

The total value of the contract is \$47,414 and the contract period starts on April 3, 1991, until the completion of the project.

Issued in Austin, Texas, on April 15, 1991.

TRD-9104481 Lydia Scarbrough
Director, Support and Services
Texas Department of Aviation

Filed: April 16, 1991

For further information, please call: (512) 476-9262

The following consultant proposal request for providing professional engineering services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The consultants request for professional engineering services was published in the *Texas Register* on December 21, 1990, (15 TexReg 7452).

The consultant proposals will be for professional engineering services for the design and construction administration

phases for the following TDA project: 91/44-4-3 Crystal City Municipal City Airport.

The engineering firm for these services is: W. E. Simpson Company, Inc., 7073 San Pedro Avenue, San Antonio, Texas 78216.

The total value of the contract is \$27,020 and the contract period starts on April 3, 1991, until the completion of the project.

Issued in Austin, Texas, on April 8, 1991.

TRD-9104211 Lydia Scarbrough
Director, Support and Services
Texas Department of Aviation

Filed: April 10, 1991

For further information, please call: (512) 476-9262



The following consultant proposal request for providing professional engineering services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The consultants request for professional engineering services was published in the *Texas Register* on December 21, 1990, (15 TexReg 7452).

The consultant proposals will be for professional engineering services for the design and construction administration phases for the following TDA project: 91/27-3-1 Kleberg County Airport.

The engineering firm for these services is: Castillo/Coyam & Rehmet Engineers, 624 East King Avenue, Kingsville, Texas 78363.

The total value of the contract is \$43,196 and the contract period starts on April 3, 1991, until the completion of the project.

Issued in Austin, Texas, on April 8, 1991.

TRD-9104212 Lydia Scarbrough
Director, Support and Services
Texas Department of Aviation

Filed: April 10, 1991

For further information, please call: (512) 476-9262



Request for Proposals for Professional Engineering Services

The following request for proposals for providing professional engineering services is filed under the provision of Texas Civil Statutes, Article 6252-11c.

The Texas Department of Aviation will solicit and receive proposals for professional engineering services for the preparation of an Airport Master Plan and Environmental Assessment for Del Rio International Airport, Del Rio.

Those interested consulting engineers should submit four copies of brief proposals consisting of the minimum number of pages sufficient to provide necessary information to: Texas Department of Aviation, Attention: Bruce Ehly, TDA Project Number 92/03-4-1, Mailing Address: P.O. Box 12607, Austin, Texas 78711, (512) 476-9262; Deliv-

ery Address: Anson Jones State Building, 410 East Fifth Street, Austin, Texas 78701.

Proposals must be received by 5 p.m., May 17, 1991. Only the material received by this time will be included in the proposal. No telefacsimile submissions will be accepted.

Procedures for award. Procedure for award will be in accordance with FAA Advisory Circular AC 150/5100-14B.

The total estimated project cost is approximately \$50,000.

The City of Del Rio reserves the right to reject any or all proposals received and to conduct new consulting engineer selection procedures for future projects.

The proposal shall include: firm name, address, phone number and person to contact regarding the proposal; proposed project management structure identifying key personnel and subconsultants (if any); qualifications and experience of the firm, key personnel and subconsultants relative to the performance of similar services for FAA or TDA (TAC) projects; proposed project schedule, including major task and target completion dates; technical approach-a brief discussion of the tasks or steps to accomplish the project; list of in-state references including the name, address and phone number of the person most closely associated with the firm's prior project performance; statement regarding an Affirmative Action Program; for projects with an estimated cost of \$250,000 or more, plans to utilize Disadvantaged Business Enterprises (DBEs) in contracting, subcontracting and procurement efforts associated with this project including: the names and addresses of DBE firms that will participate in the contract; a description of the work each named DBE firm will perform; and percentage of the contract amount to be contracted by each named DBE. Certification that all franchise taxes are paid or that consultant is not subject to franchise taxes.

Proposals will be reviewed by a consultant selection committee appointed by the City of Del Rio. The committee will identify from three to five consultants who will be interviewed by the committee. The final consultant selection will be made by the committee following completion of interviews.

Issued in Austin, Texas, on April 15, 1990.

TRD-9104375 Lydia Scarborough
Director, Support and Services
Texas Department of Aviation

Filed: April 15, 1991

For further information, please call: (512) 476-9262



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)	04/15/91-04/21/91	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(1)	04/01/91-04/30/91	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	04/01/91-06/30/91	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11(3)	04/01/91-06/30/91	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d)(3)	04/01/91-06/30/91	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2)(2)	04/01/91-06/30/91	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11(3)	04/01/91-06/30/91	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	04/01/91-04/30/91	10.00%	10.00%

(1)For variable rate commercial transactions only. (2)Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. (3)Credit for personal, family or household use. (4)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on April 10, 1991.

TRD-9104348 Al Endsley
Consumer Credit Commissioner

Filed: April 12, 1991

For further information, please call: (512) 479-1280

Credit Union Department Notice of Hearing

The Credit Union Department will conduct a hearing pursuant to the Administrative Procedure and Texas Register Act, Article 6252-13a, §5(c), Texas Civil Statutes, to receive public comments on the rule changes proposed by the Texas Credit Union Commission for §§97.112, 91.402, 95.2, 95.3, 95.201, 95.306, 05.307, 95.308, and 95.309, of the Texas Rules for Credit Unions.

Time and Place of Hearing. The hearing will be held on Tuesday, April 30, 1991, at 10 a.m. at the Credit Union Department conference room, 914 East Anderson Lane, Austin.

Authority. Texas Civil Statutes, Articles 6252-13a, §5(c); 2461-11. 10, and 2461-12.01 (Vernon Supplement 1989); and 7 Texas Administrative Code, §93.221.

Nature of Hearing. This hearing is to receive public comment on the rule changes proposed by the Texas Credit Union Commission for §§97.112, 91.402, 95.2, 95.3, 95.201, 95.306, 95.307, 95.308, and 95.309, of the Texas Rules for Credit Unions.

Hearings. The hearing will be conducted by the Texas Credit Union Commission.

Public Attendance and Testimony. Members of the general public may attend the hearing. Those wishing to speak during the hearing should notify the Credit Union Department and submit a written summary of their comments. Depending upon the number of speakers to appear before the commission, a time limit per speaker may be imposed. Those who plan to attend are encouraged to telephone the Credit Union Department at (512) 837-9236, a day or two prior to the hearing date in order to confirm the setting.

Any person who wants to give testimony at the hearing may do so.

Issued in Austin, Texas, on April 16, 1991.

TRD-9104539 John R. Hale
Commissioner
Credit Union Department

Filed: April 17, 1991

For further information, please call: (512) 837-9236

Texas Department of Health HIV Education/Prevention Program Request for Proposals

Purpose. The department's HIV Division is requesting proposals from Native American tribal organizations, non-profit community organizations, health centers, and public entities, to conduct Human Immunodeficiency Virus (HIV) education/prevention programs targeting Native American populations. Native American-based and/or organizations which serve Native American populations are especially encouraged to apply. The department is authorized through cooperative agreement #U62/CCU602008-06 with the Centers for Disease Control (CDC) to award grants for education and information programs to prevent and reduce exposure to, and transmission of, HIV. Proposed activities are not to supplant already existing and/or mandated health education risk reduction (HERR) programs.

Eligible applicants. They include, but are not limited to, Native American tribal organizations, public entities and non-profit private entities which serve Native American populations. Applicants must be concerned with providing AIDS/HIV prevention programs directed toward Native American individuals. Preference will be given to programs directed toward populations in which there is significant evidence of HIV infection, such as substance abusing and/or gay or bisexual men and women. Individuals are not eligible to apply.

Department review criteria. An applicant must demonstrate the following: a knowledge of the Native American population(s); thorough understanding of AIDS and the HIV epidemic; ability to address the need and demand for education and prevention services for Native American individuals with high risk behaviors; and knowledge of existing gaps in community education/prevention efforts in the Native American community. Applicants must also develop an implementation plan that includes a time-line or schedule that shows time-phased development or implementation of the education/prevention program, and expected completion dates of various project objectives over the course of the six-month grant period. The applicant budget must reflect all sources of funding which support the applicant. The applicant must give specific attention to the assurance of confidentiality and workplace guidelines. The applicant must comply with the terms and conditions in the CDC publication titled, "Content of HIV/AIDS

Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Education Sessions" (January 1991 version).

Applicant will: ensure that any educational or informational materials developed will contain material and be presented in a manner that is specifically directed toward the group for which it is intended; provide a description of the manner in which the applicant has planned and conducted the program in consultation with appropriate tribal leaders, local officials, community groups representing the area served by the program, organizations comprising and representing the specific population to which the program is directed, and individuals having expertise in Native American health education and the needs of the Native American population to be served; provide information demonstrating that the applicant has a continuing relationship, or will establish a continuing relationship, with a portion of the population at high risk in the area to be served and with the public and private entities in such area that provide health and other support services to infected individuals; provide a description of the program objectives established by the applicant and of the methods the applicant will use to evaluate the activities conducted under the program to determine if such objectives are met.

Application procedure. John Zamora, Minority HIV Education Specialist, HIV Division, Texas Department of Health, Room G-308, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7304 is the department's contact person. All requests for forms, application kits, technical, or program information, etc., should be directed to Mr. Zamora. Application kits will be available May 1, 1991. The signed original and five copies of the application and all required documents must be submitted to Mr. Zamora by 5 p.m. Central Standard Time, May 31, 1991, in order to be considered by the Department.

Issued in Austin, Texas, on April 15, 1991.

TRD-9104369 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: April 15, 1991

For further information, please call: (512) 458-7304

Intent to Revoke A Certificate of Registration

Pursuant to *Texas Regulations for Control of Radiation* (TRCE) 13.8, the Bureau of Radiation Control, Texas Department of Health, filed a complaint against the following registrant: William B. Wilson, San Antonio, Z00383.

The agency intends to revoke the certificate of registration, order the registrant to cease and desist use of radiation machine(s), and order the registrant to divest itself of such equipment, presenting evidence satisfactory to the Bureau of Radiation Control that it has complied with the order and the provisions of the Health and Safety Code, Chapter 401, as amended by Chapters 172, 840, 913, and 930, Acts of the 71st Legislature, 1989. If the fee is paid within 30 days of the date of the complaint, no order will issue.

This notice affords the opportunity for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control (director, Radiation Control Program), 1100 West 49th Street, Austin,

Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificate of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, 8 a.m. to 5 p. m. (except holidays).

Issued in Austin, Texas, on April 11, 1991.

TRD-9104263 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: April 11, 1991

For further information, please call: (512) 835-7000

Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation

(Editor's note: The Texas Register inadvertently omitted this notice from the April 5, 1991, issue of the Texas Register.)

Notice is hereby given that the Bureau of Radiation Control issued a notice of violation and assessed an administrative penalty to Murrum Corporation, former holder of Radioactive Material License Number L02655. A penalty of \$10,000 was assessed the company for violation of the *Texas Regulations for Control of Radiation*.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on March 28, 1991

TRD-9103679 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: March 28, 1991

For further information, please call: (512) 835-7000

State Department of Highways and Public Transportation Notice of Intent

The State Department of Highways and Public Transportation (SDHPT) is issuing this notice to advise the public that an environmental impact statement will be prepared covering the statewide use of pesticides (including herbicides, insecticides, fungicides, etc.) in highway maintenance.

The SDHPT, in a continuing proactive effort to address environmental concerns, will prepare an environmental impact statement (EIS) concerning use of pesticides on all roads within the Texas highway system. Such use will afford SDHPT an effective maintenance tool against offending plants, insects, and plant diseases detrimental to the highway system.

Proper maintenance of the corridor is considered necessary to protect the capital investment in paving and structures, to render maintenance practices more efficient, to enhance the beauty of the corridors, and to increase the safety of the traveling public and operations personnel.

Maintenance of the corridor provides for the integrity of the travelway, structures, and fixtures to accommodate the existing and projected traffic demand in a safe and effec-

tive manner. Alternatives to the use of pesticides under consideration include: discontinuing the use of chemical tools; controlling vegetation using hand or mechanical methods; using innovative procedures such as biological agents; and scheduling a systematic replacement of corridor elements rendered unsafe and/or ineffective.

Letters describing the proposed actions and soliciting comments will be sent to appropriate state, federal, and local agencies. Letters will be sent also to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A series of public hearings at strategic locations over Texas will be held between March-April 1992. Public notice will be given of the time and place of the meetings and hearings.

The draft EIS will be available for public and agency review and comment prior to the public hearings. No formal meetings prior to draft review are planned at this time.

Agency contact. Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to this proposed action are addressed and that significant issues are identified. Comments or questions concerning this proposed action and the EIS should be addressed to Roy L. Smith, SDHPT, Maintenance and Operations Division, 125 East 11th Street, Austin, Texas 78701-2483, (512) 465-6310. Written comments should be submitted prior to May 30, 1991.

Issued in Austin, Texas, on April 12, 1991.

TRD-9104425 Diane L. Northam
Legal Administrative Assistant
State Department of Highways and Public
Transportation

Filed: April 15, 1991

For further information, please call: (512) 463-8630

Request for Proposals

Pursuant to Texas Civil Statutes, Article 4413(56), Oil Overcharge Restitutionary Act, the State Department of Highways and Public Transportation, issues the following notice for solicitation of proposals and applications to utilize federal funds available under a program to be administered by the department for the Office of the Governor.

Notice of Invitation. The State Department of Highways and Public Transportation (SDHPT), in conjunction with the Governor's Energy Management Center (GEMC), is issuing this request for proposals. The United States Department of Energy has made available \$3,500,000 from Exxon Oil Overcharge Funds for the Planning and Feasibility Studies (PFS) Program. The aims of this program are to provide an overall evaluation of current transportation needs not being met, as well as to evaluate mid-to-long term problems through appropriate planning and feasibility studies. The theme of these studies should address areas which would contribute to significant enhancement and efficiency in the movement of goods, services, and travelers. The focus of these studies could involve broad transportation policy issues and considerations as well as improvements in transportation technology (i.e., vehicles, facility design and construction, maintenance, safety, etc.). The magnitude of such studies in transportation could range from solving local community problems to statewide concerns. Applications are to be submitted on forms available from the Texas State Department of Highways and Public Transportation.

Anticipated projects, with their weighted factor in parenthesis, may consist of: (3.0) demographics and traffic analysis studies to predict future transportation needs; (3.0) review and evaluate new technology and its possible application in the field of transportation in Texas; (2.5) study of present and future transportation vehicles to assess their efficient use of available fuels including alternative fuels; (2.0) planning studies to explore the feasibility of providing public transportation services to urban and rural areas not adequately served; (1.5) transportation energy planning keyed on conserving fossil fuels, efficient present day usage and planning for possible disruption of supplies; (1.0) any other possible study in the area of transportation.

Proposals are open for consideration for surface, water and air transportation studies. Proposals for basic research will not be considered.

An advisory panel comprised of representatives of government, industry, and other interested parties will review, comment, and make recommendations on proposals under consideration for funding. Selection of projects to be funded will be held by the State Highway and Public Transportation Commission at a regular public meeting, time and date to be announced and posted pursuant to Texas Civil Statutes, Article 6252-17.

Costs eligible for reimbursement under this program will include: costs associated with data collection; costs associated with data analysis; and costs associated with final report preparation. A detailed budget as well as timetable for project completion must be submitted on an application form available from the SDHPT.

Selection Criteria. The following criteria, with their weighted factor in parenthesis, will be used in evaluating the anticipated project proposals: (4.0) energy benefits: has conservation potential, achieves overall energy savings. Preserves fossil fuel resources. (A detailed description of just how this proposal will accomplish same must be included); (3.5) target audience: Benefits a large number of people, benefits people who purchased petroleum products from 1973 to 1981; (3.0) innovation: has potential for solving future problems or proposed new ways of solving old problems, new technologies, fuel or approaches; (2.5) longevity: produces benefits over a long period of time; (2.0) cost-effectiveness: has a payback period of short duration yielding a high return on the original investment; (1.5) enhances the quality of the environment; (1.0) geography: covers broad areas of the state; (1.0) expediency: delivers program benefits quickly; (1.0) leveraging: attracts additional financing and resources from other than oil overcharge funds; (1.0) measurability: lends itself to evaluation of benefits obtained; (1.0) facility of implementation: utilizes an administrative mechanism that is in place, permitting delivery of services with minimal lead time and overhead; (1.0) viability: has potential to provide continuing benefits without state revenues; (1.0) transferability: produces procedures and results which will apply to other program areas; (1.0) other benefits: complements other desirable objectives such as economic development and job creation.

Response Date. Written applications must be received by 3 p.m. on May 22, 1991. Applications may be mailed to Alvin R. Luedecke, Jr., P.E., State Transportation Planning Engineer, Transportation Planning Division (D-10), P.O. Box 5051, Austin, Texas 78763-5051, Attention: Robert Cuellar or hand delivered to Transportation Planning Division (D-10), West 40th Street and Jackson Avenue, Austin, Texas 78731, Attention: Robert Cuellar. Four copies of the proposal must be submitted; faxed proposals will not be accepted.

Agency Contact: Additional information and application forms may be obtained by contacting either Bob Cuellar or Jim Zach, of the Transportation Planning Division (D-10) at the previously stated address or by telephoning (512) 465-7466.

Issued in Austin, Texas, on April 12, 1991.

TRD-9104362 Diane L. Northam
Legal Administrative Assistant
State Department of Highways and Public
Transportation

Filed: April 12, 1991

For further information, please call: (512) 463-8630



Pursuant to Texas Civil Statutes, Article 4413(56), Oil Overcharge Restitutionary Act, the State Department of Highways and Public Transportation, issues the following notice for solicitation of proposals and applications to utilize federal funds available under a program to be administered by the department for the Office of the Governor.

Notice of Invitation. The State Department of Highways and Public Transportation (SDHPT), in conjunction with the Governor's Energy Management Center (GEMC), is issuing this request for applications. The applications shall be in the form of a completed grant application which is available from local SDHPT district offices. The United States Department of Energy recently approved a state-wide traffic light synchronization (TLS) program submitted by the GEMC. This program will provide to local city governments across the state the sum of \$5 million for the optimization of traffic signal timing plans and the replacement and/or installation of equipment necessary for the implementation of signal systems. These funds will help traffic engineers reduce unnecessary vehicle stops and delays through improved traffic signal timing. Significant fuel savings and a reduction in vehicle emissions should be realized.

The TLS funds will be expended through the SDHPT on projects proposed by local city governments. Projects will be selected to help assure an equitable distribution of funds to urban and rural areas of the state. There will be three major funding categories: large cities (cities with populations over 200,000), medium-sized cities (cities with populations ranging between 50,000 and 200,000), and small cities (cities with populations under 50,000). Populations will be based on final 1990 Census Bureau figures. Funds will be distributed as follows: 50% of available funds will be expended in large cities, with each of the eight cities presently over 200,000 populations eligible for an allotment proportional to its population provided viable projects are submitted; the remaining 50% of available funds will be evenly distributed (25%-25%) between medium-sized cities and small cities. Projects submitted by medium-sized cities and small cities will compete with each other for funds within their respective categories and the total amount proposed for reimbursement within an individual project in these two categories must not exceed \$120,000. Funds will be moved from one population category to another if they cannot be fully expended. Funding allotments for cities over 200,000 population can be obtained from local SDHPT district offices.

Up to 75% of project costs are eligible for reimbursement. However, not more than 20% of reimbursable costs can be earmarked for equipment. If a project is funded, the local government or the SDHPT must pay a minimum 25% of the total direct costs of the project in matching funds and/or in-kind services. The SDHPT will provide a local

match when a project contains traffic signals that are maintained and operated by the SDHPT, unless the local government and the SDHPT agree otherwise. However, the city must first obtain approval of the proposed project from the local SDHPT district office. The SDHPT local match will be proportional to project costs attributable to SDHPT traffic signals.

Costs eligible for reimbursement under the program include: training local staff and/or consultants in the use of computer technology for the retiming of traffic signals; data collection; development and implementation of timing plans; replacement and/or installation of equipment necessary for the implementation of signal systems (modernization of signal poles and mast arms are not eligible); and preparation of "Before" and "After" studies.

TLS program monies shall not be used to supplant or replace existing funds earmarked for specific signal projects. That is, if existing funds are authorized for signal expenditures, those funds may not be released and then replaced by TLS funds.

The TLS program will target traffic control systems currently coordinated and controlled in a manner that permits implementation of multiple timing plans (i.e., timing plans that match traffic needs at different times of day). By focusing on traffic signal systems that currently have coordination capabilities, maximum energy savings can be realized with the available funds. However, isolated signals are also eligible under this program. Projects which propose the installation of signals where none presently exist will not be eligible.

Additional information concerning the TLS program is included in the grant application manual which is available from local district offices.

Agency Contact: Additional information concerning the request for applications may be obtained by writing your local SDHPT district office, or by contacting the Maintenance and Operations Division, 11th and Brazos, Austin, (512) 465-6356.

Response Date: The completed grant application must be received by local SDHPT district offices on or before July 26, 1991. Applicants will be notified of selection or non-selection on or about October 31, 1991.

Selection Criteria: Projects will be ranked and recommended for funding using the following criteria: operational characteristics such as delay, average travel speed, average daily traffic, etc., will be considered to determine the amount of benefit improved signal timing can produce; availability of local staff to implement timing plans—having local staff available will allow the knowledge gained through the technical training to be retained and encourage future retiming efforts to be undertaken by local city governments; average signal spacing—the greater the concentration of signals, the more important synchronization and optimal signal timing become. A signal must be no further than one mile from an adjacent signal for it to be considered part of a signal system; other criteria such as recent growth in the project area, date of last retiming effort, level of expansion over current effort, and certification that TLS funds will supplement and not supplant existing funds—these criteria will aid in determining where the need for TLS funds is greatest and where maximum benefit can be achieved.

Issued in Austin, Texas, on April 16, 1991.

TRD-9104502 Diane L. Northam
Legal Administrative Assistant
State Department of Highways and Public
Transportation

Filed: April 16, 1991

For further information, please call: (512) 463-8630

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**State Board of Insurance
Company Licensing**

The following applications have been filed with the State Board of Insurance and are under consideration.

1. Application for admission to do business in Texas of United Employers Insurance Company, a foreign casualty insurance company. The home office is in Milwaukie, Oregon.
2. Application for name change by State Reserve Life Insurance Company, a domestic life insurance company. The home office is in Houston. The proposed new name is New Era Life Insurance Company.
3. Application for admission to do business in Texas of Guardian National Title Insurance, Inc., a foreign title insurance company. The home office is in Las Vegas, Nevada.
4. Application for name change by Fireman's Fund Insurance Company of Texas, a domestic casualty insurance company. The home office is in Dallas. The proposed new name is Anchor Insurance Company of Texas.
5. Application for admission to do business in Texas of Regent Insurance Company, a foreign casualty insurance company. The home office is in Sun Prairie, Wisconsin.
6. Application for admission to do business in Texas of General Casualty Company of Illinois, a foreign casualty insurance company. The home office is in Freeport, Illinois.
7. Application for admission to do business in Texas of General Casualty Company of Wisconsin, a foreign casualty insurance company. The home office is in Sun Prairie, Wisconsin.
8. Application for name change by General Electric Mortgage Reinsurance Corporation, a foreign casualty insurance company. The home office is in Raleigh, North Carolina. The proposed new name is FG Insurance Corporation.
9. Application for name change by General Electric Mortgage Insurance Corporation of California, a foreign casualty insurance company. The home office is in Raleigh, North Carolina. The proposed new name is Monogram Property and Casualty Insurance Corporation.
10. Application for name change by General Electric Equity Insurance Corporation, a foreign casualty insurance company. The home office is in Raleigh, North Carolina. The proposed new name is Pinnacle Property and Casualty Insurance Corporation.
11. Application for name change by General Electric Residential Mortgage Reinsurance Corporation, a foreign casualty insurance company. The home office is in Raleigh, North Carolina. The proposed new name is Summit Property and Casualty Insurance Corporation.
12. Application for name change by Partners National Health Plans, a domestic third party administrator. The home office is in Irving. The proposed new name is Aetna Health Management.
13. Application for admission to do business in Texas of Mutual Assurance Administrators, Inc., a foreign third party administrator. The home office is in Oklahoma City, Oklahoma.

Issued in Austin, Texas, on April 5, 1991.

TRD-9104230 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: April 10, 1991

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

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The following applications have been filed with the State Board of Insurance and are under consideration.

1. Application for name change by Family Laws Assurance Company, a foreign life insurance company. The home office is in Columbus, Georgia. The proposed new name is American Health and Security Insurance Company, Inc.
2. Application for admission to do businesses in Texas of First Environmental Review Insurance Company, a foreign casualty insurance company. The home office is in Long Beach, California.
3. Application for admission to do business in Texas of American International Insurance Company of Delaware, a foreign casualty insurance company. The home office is in Wilmington, Delaware.
4. Application for admission to do business in Texas of Professional Liability Insurance Company, a foreign casualty insurance company. The home office is in Nashville, Tennessee.
5. Application for admission to do business in Texas of First Indemnity of America Insurance Company, a foreign casualty insurance company. The home office is in Parispany, New Jersey.
6. Application for name change by Progress Life and Accident Insurance Company, a foreign life insurance company. The home office is in Tulsa, Oklahoma. The proposed new name is MOPhysicians Insurance Company.
7. Application for admission to do business in Texas of Massmark Administrative Services, Inc., a foreign third party administrator. The home office is in Concord, North Carolina.
8. Application for admission to do business in Texas of PCS, Inc., a foreign third party administrator. The home office is in Scottsdale, Arizona.
9. Application for incorporation in Texas of Donald R. Smith, a domestic third party administrator. The home office is in San Antonio.
10. Application for incorporation in Texas of United Life Services, Inc. a domestic third party administrator. The home office is in Carrollton.

Issued in Austin, Texas, on April 12, 1991.

TRD-9104543 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: April 17, 1991

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

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**Middle Rio Grande Development
Council**

Request For Proposals

The Middle Rio Grande Development Council is requesting proposals for annual audit of all program activities of

the council for a period of five years beginning July 1, 1990 to June 30, 1991, and including the fiscal years ending June 30, 1992, June 30, 1993, June 30, 1994, and June 30, 1995. This request is filed under the provisions of the Texas Civil Statutes, Article 6252-11c.

The audits must be conducted accordingly to generally accepted standards as included in statements on auditing standards, for financial and compliance audits contained in the United States General Accounting Office's Standards for Audit of Governmental Organizations, Program, Activities and Functions, the Office of Management Budgets Major Compliance Features of Program administered by state and local governments (the approved compliance supplement), the Single Audit Act of 1984 (Public Law 98-502), and the Office of Management and Budget's Circular A-128.

A contract to perform these services will be awarded on the basis of the firm's experience, competence, knowledge, and qualifications in auditing agencies receiving state and federal funds and on the reasonableness of the proposed fee for the services. Proposal request packages may be obtained by contacting: Ramon S. Johnston, Deputy Director at the Middle Rio Grande Development Council, P.O. box 1199, 1904 North First Street, Carrizo Springs, Texas 78834. All proposals must be received no later than 5 p.m., Friday, May 31, 1991.

Issued in Carrizo Springs, Texas, on April 12, 1991.

TRD-9104410 Ramon S. Johnston
Deputy Director
Middle Rio Grande Development Council

Filed: April 15, 1991

For further information, please call: (512) 876-3533

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Public Utility Commission of Texas
Notices of Intent to File Pursuant to
Public Utility Commission Substantive
Rule 23.37

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.37 for approval of customer-specific PLEXAR-Custom service for the University of Texas at Houston (UT-Houston) in Houston.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of PLEXAR-Custom Service for UT-Houston Pursuant to Public Utility Commission Substantive Rule 23.37(k). Tariff Control Number 10198.

The Application. Southwestern Bell Telephone Company is requesting approval of an addition to the existing PLEXAR-Custom service for UT-Houston. The geographic service market for this specific service is the Houston area.

Persons who wish to comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on April 11, 1991.

TRD-9104355 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: April 12, 1991

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

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.37 for approval of customer-specific PLEXAR-Custom service for TeamBank in Fort Worth.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of PLEXAR-Custom Service for TeamBank Pursuant to Public Utility Commission Substantive Rule 23.37(k). Tariff Control Number 10202.

The Application. Southwestern Bell Telephone Company is requesting approval of PLEXAR-Custom service for Teambank. The geographic service market for this specific service is the Fort Worth area.

Persons who wish to comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on April 12, 1991.

TRD-9104357 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: April 12, 1991

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

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**Notice of Petition for Waiver of
Substantive Rule 23.55(e)(1) and (2)**

Notice is given to the public of the filing with the Public Utility Commission of Texas of an amended petition on April 5, 1991, to waive PUC Substantive Rule 23.55(e)(1) and (2), which requires an operator service provider to identify itself to the caller upon answering calls and to identify itself to the billed party if the billed party is different from the caller. A summary of the application follows.

Docket Title and Number: Joint Petition of GTE Southwest, Inc., Hill Country Telephone Cooperative, Inc., Central Texas Telephone Cooperative Inc., Coleman County Telephone Cooperative, Inc., Comanche County Telephone Company, Inc., Contel of Texas, Panhandle Telephone Cooperative, Inc., and AT&T of the Southwest, Inc. for waiver of Substantive Rule 23.55(E)(1) and (2), Docket Number 10067 before the Public Utility Commission of Texas.

The Application: In Docket Number 10067, the telephone companies listed previously filed a joint petition seeking waiver of PUC Substantive Rule 23.55(e)(1) and (2).

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf before April 24, 1991.

Issued in Austin, Texas, on April 11, 1991.

TRD-9104298 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: April 11, 1991

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

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Texas Racing Commission
Notice of Public Hearing

Pursuant to Texas Civil Statutes, Article 179e, §18.02, a hearings examiner for the Texas Racing Commission, Horse Racing Section, will conduct an administrative hearing on TxRC Cause Number 90-R1-0030, the applications for the pari-mutuel Class 1 horse racetrack license for Harris County. The hearing will begin at 9 a.m. on Monday, May 20, 1991, at 9420 Research Boulevard, Echelon Building III, Austin, Texas 78759, in either Suite 260 or Suite 110. All interested persons are welcome to attend. The two applicants for the license are: Sam Houston Race Park, Limited, Houston Turf Club, Inc.

The two applicants assert that they are best qualified to receive the only license available for that geographic region under Texas Civil Statutes, Article 179e, §6.04, and 16 TAC §305.62. The two nonparty participants are: Cutten Green Homeowners' Association, American B/T/R., Inc.

The hearing will be conducted in accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and the Texas Racing Commission Rules, Chapter 307, 16 TAC §307.1 et seq.

Questions regarding this matter should be directed to Shannon Nunnolley, Legal Assistant, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711, (512) 794-8461.

Issued in Austin, Texas, on April 16, 1991.

TRD-9104438 Paula Cochran Carter
General Counsel
Texas Racing Commission

Filed: April 16, 1991

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

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Center for Rural Health Initiatives
Request for Proposal

The Center for Rural Health Initiatives (CRHI) requests for proposals for contract services. The purpose of this project is to identify, research, and compile a guidebook that contains information critical to the effective governance of Texas' public and private rural hospitals as well as to design a strategy to disseminate and enhance the developed materials. Individuals and public and private organizations are eligible to apply.

Description. The products to be provided include: a camera-ready version of the guidebook, suitable for printing as is; 20 bound hard copies of the guidebook, suitable for distribution; the complete guidebook on diskette, compatible with IBM-PC hardware and Wordperfect 5.1 software; a list of the names and mailing addresses of individuals and organizations in Texas that should receive the guidebook; a detailed, one-year follow-up for supporting, enhancing, updating, and evaluating the guidebook.

Budget Limitation. The CRHI will award one contract for the development of the rural hospital board of directors guidebook and the design of a one-year implementation and dissemination strategy. The total amount of funds available is \$30,000.

Contract Period. The contract period begins no later than June 15, 1991, and extends to August 31, 1991.

Evaluation. The criteria used to evaluate proposals includes: overall quality of the proposal and extent to which it meets specifications; experience in developing policy guidance, handbooks, and similar materials; experience and knowledge of governance issues and preparation or development of information and training materials for governing boards; understanding of the problems facing rural hospitals.

Due Date. Proposals are due by 5 p.m. on May 10, 1991. The proposed contractors are responsible for ensuring the delivery of proposals to the CRHI office at that time. Proposals received after this specified date and time will not be considered.

Selection. The CHRI makes the final selection. The CHRI is under no legal requirement to execute a contract on the basis of this advertisement, and reserves the right to reject any or all proposals submitted.

Contact. The complete request for proposal requirements and additional information may be obtained by contacting CHRI, 211 East Seventh Street, Suite 915, Austin, Texas 78701, (512) 479-8891. Proposal requirements may be obtained from Liberty Ogbonna, CHRI; for additional project information, contact Leslie Friedlander.

Issued in Austin, Texas, on April 11, 1991.

TRD-9104318 Liberty Ogbonna
Executive Assistant
Center for Rural Health Initiatives

Filed: April 12, 1991

For further information, please call: (512) 479-8891

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Texas Water Commission
Meeting Notice

A meeting of the Management Committee of the Galveston Bay National Estuary Program (GBNEP) is scheduled for: Wednesday, April 7, 1991, 9 a.m., Bayou Building, Forest Room, University of Houston-Clear Lake, Houston, Texas.

Following opening remarks and approval of minutes, a summary of GBNEP activities will be presented by the program staff. The committee will then consider approval of revised plans to develop a pollution reporting hotline forwarded by the Citizen's Advisory Steering Committee. The committee will then hear four proposals for action plan demonstration project funding. The committee will recommend one of these plans for forwarding to the Environmental Protection Agency Office of Marine and Estuarine Protection for grant competition. The committee will then revise and approve a statement of program goals, a draft action planning guidance document, and will consider an example draft action plan addressing toxic contamination. The committee will then be briefed concerning the President's Coastal America Joint Budget Initiative, and will consider for revision/approval a draft resolution in favor of increased coordination of this program and the Coastal America Initiative. The committee will then review and consider for approval a video production concerning user groups related to Galveston Bay. The committee will then consider for revision/approval two work scope for fiscal year 1992: bay-wide management evaluation, and funding source inventory. The committee will then consider any other business, a date for the next meeting, and will adjourn.

Issued in Houston, Texas, on April 5, 1991.

TRD-9104222 Frank S. Shipley
Director, Galveston Bay National Estuary
Program
Texas Water Commission

Filed: April 10, 1991

For further information, please call: (713) 283-3950

Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of April 8-April 12, 1991.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Bissonnet Municipal Utility District; Houston; wastewater treatment facilities; at 13026 Bissonnet, on the northeast corner of the intersection of Synott (FM 1876) and Old Richmond (Bissonnet) in Harris County; 11461-01; renewal.

City of Grandview; wastewater treatment facilities; are on the north side of County Road 102, approximately 1.5 miles southeast of Grandview in Johnson County; 10180-01; renewal.

Gulf Coast Portland Cement Company; Houston; a cement manufacturing plant; the plant site is at 6203 Industrial Way, 0.5 mile north of Navigation Boulevard and 0.5 mile east of McFarland Street at the termination of Industrial Way in the City of Houston; 01021; renewal.

City of Liberty; wastewater treatment facilities; approximately 0.5 mile west from the intersection of FM Road 2684 and FM Road 3361, south of the City of Liberty in Liberty County; 10108-01; renewal.

Royal Independent School District; Brookshire; wastewater treatment facilities; immediately southeast of the intersection of FM Road 359 and North Street in the City of Pattison in Waller County; 10873-02; renewal.

The Public Utilities Board; Brownsville; wastewater treatment facilities; approximately one mile north of the intersection of Robindale Road and FM Road 802 in Cameron County; 10397-05; renewal.

Issued in Austin, Texas, on April 12, 1991.

TRD-9104507 Laurie J. Lancaster
Deputy Chief Clerk
Texas Water Commission

Filed: April 16, 1991

For further information, please call (512) 463-7906

Request for Proposals

The Texas Water Commission (TWC) announces that it wishes to retain the services of a consultant to perform remedial investigation/feasibility study (RI/FS) at the Hall Street State Superfund site located in Galveston County. Contingent upon approval by the TWC, the consultants' services may be extended to include follow-on architectural/engineering activities at the site if and when funds become available. This project will be conducted by the TWC pursuant to the Texas Solid Waste Disposal Act, §361.193, the Texas Health and Safety Code Annotated, §§361.001 et seq (Vernons Supplement 1990); as well as any rules promulgated pursuant to this section by the TWC in Texas Administrative Code, Chapter 335, concerning the hazardous waste facility assessment and remediation program, commonly referred to as State Superfund.

The TWC may negotiate with potentially responsible parties (PRPs) to execute activities in this solicitation. Accordingly all future TWC activities are subject to the outcome of those negotiations with the PRPs.

Objective. The objectives of the investigation and feasibility study are to: characterize and identify the site in terms of wastes present; lateral and vertical extent of contamination in surface waters, ground waters, sediments, and soils; rate and direction of waste migration; target receptors (population at risk, threatened resources, sensitive ecosystems); site geology and hydrology; and develop and evaluate alternative remedial measures considering economic feasibility, technological feasibility, environmental impacts, and timeliness of completion, and offer recommendations regarding the most feasible remedial alternatives.

Budget and Schedule. The maximum budget allowable will be consistent with the specific scope of work as determined by the TWC. Budgeted funds for the remedial investigation and feasibility study are \$226,000.

Submittal Information. Mircorfische copies of relevant files are available through Sheldon Seibel, Records and Library Services Section, (512) 463-7831. A copy of the request for proposal (RFP) may be obtained in three ways: by sending a regular or certified letter requesting a copy of the RFP to: Debbra Mamula, Superfund and Emergency Response Section, Hazardous and Solid Waste Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087. Upon receipt, the TWC will transmit the RFP to the potential offeror by certified mail; by sending an overnight or expedited delivery letter requesting a copy of the RFP to Debbra Mamula, Superfund and Emergency Response Section, Hazardous and Solid Waste Division, Texas Water Commission, 1700 Congress, Suite 1157, Austin, Texas 78711, with a prepaid self-addressed overnight or expedited deliver return envelope to accommodate approximately five pounds of 8 1/2-inch by 11-inch material; or in person with a signed letter or receipt at Room 1157, Stephen F. Austin State Office Building, 17th Street and Congress Avenue, Austin.

Debbra Mamula is the designated person to who proposals may be made. Additional information may be obtained by calling (512) 463-7785. Five copies of each proposal must be received at the address listed previously before 5 p.m.,

May 28, 1991, which is the closing date for offers. All statements submitted in response of this request must address the items as described in the RFP. Any and all information submitted by an offeror in variance with the RFP instructions will not be reviewed or evaluated. All contracting procedures shall be conducted in accordance with all applicable state laws.

Upon submittal, the proposals shall be come the property of the State of Texas. The contents of the proposals shall be considered as part of the public record unless otherwise identified by the consultant. The submittal of confidential or proprietary information should be made under separate cover on or before the due date. Confidential submittals should be limited. TWC reserves the right to reject or return confidential information.

Issued in Austin, Texas, on April 17, 1991.

TRD-9104541 Jim Haley
Director, Legal Division
Texas Water Commission

Filed: April 17, 1991

For further information, please call: (512) 463-7785

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Texas Water Development Board
Applications Received

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the board.

Starr County WCID #2, 500 East Main Street, Rio Grande City, Texas 78582, received April 5, 1991, request to increase commitment from \$1,750,000 to \$2.1 million from the State Water Pollution Control Revolving Fund.

Five Way Water Supply Corporation, P.O. Box 343, Shelbyville, Texas 75973, received March 21, 1991, application for financial assistance in the amount of \$150,000 from the water supply account of the Texas Water Development Fund.

South Texas Water Authority-City of Bishop Project, P.O. Box 1701, Kingsville, Texas 78363, received March 21, 1991, application for financial assistance in the amount of \$1.1 million from the water supply account of the Texas Water Development Fund.

City of Arcola, 13222 Highway 6, Arcola, Texas 77583, received November 15, 1990, application for increase in existing commitment from \$325,000 to \$520,000 from the water quality enhancement account of the Texas Water Development Fund.

Town of Little Elm, 101 Hardwiche, Little Elm, Texas 75068, received February 21, 1991, application for financial assistance in the amount of \$510,000 from the water quality enhancement account of the Texas Water Development Fund.

City of Wells, P.O. Box 20, Wells, Texas 75976, received March 21, 1991, application for financial assistance in the amount of \$265,000 from the State Water Pollution Control Revolving Fund.

City of Lubbock, P.O. Box 2000, Lubbock, Texas 79457, received March 18, 1991 application for financial assistance in the amount of \$50,600,000 from the State Water Pollution Control Revolving Fund.

Additional information concerning this matter may be obtained from G.E. Kretzschmar, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

Issued in Austin, Texas, on April 10, 1991.

TRD-9104218 G. E. Kretzschmar
Executive Administrator
Texas Water Development Board

Filed: April 10, 1991

For further information, please call: (512) 463-7855

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Texas Workers' Compensation
Commission

Corrected Announcement of Public
Hearings on Proposed Rules

The Texas Workers' Compensation Commission submits a correction to the public hearing announcement which appeared in the April 16, 1991, issue of the *Texas Register* (16 TexReg 2247). The proposed rule which will be discussed should be "134.400" instead of "134.200." The hearing announcement should read as follows.

The Texas Workers' Compensation Commission will hold a public hearing on proposed old and new law rules on Wednesday, April 17, from 6 p.m. and continuing until oral testimony is completed. The hearing will be held in the Tippy Foster Meeting Room 910, in the Southfield Building at 4000 South IH-35, Austin, Texas 78704.

The hearing on April 17 will cover the Health Facility Fee Guidelines (old law §42.110) and the Hospital and Ambulatory Surgical Center Fee Guideline (new law §134.400.)

The texts of the proposed rules were published in the March 26, and March 29, 1991, issues of the *Texas Register*.

Depending upon attendance, a time limitation may be placed on oral testimony. Written summaries of testimony will be accepted and are encouraged.

Issued in Austin, Texas, on April 12, 1991.

TRD-9104330 Susan M. Kelley
General Counsel
Texas Workers' Compensation Commission

Filed: April 12, 1991

For further information, please call: (512) 440-3973

1991 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1991 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. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 *Tuesday, January 1	Friday, December 21	Thursday, December 27
Friday, January 4	NO ISSUE PUBLISHED	
2 Tuesday, January 8	Wednesday, January 2	Thursday, January 3
3 Friday, January 11	Monday, January 7	Tuesday, January
4 Tuesday, January 15	Wednesday, January 9	Thursday, January 10
5 Friday, January 18	Monday, January 14	Tuesday, January 15
6 Tuesday, January 22	Wednesday, January 16	Thursday, January 17
Friday, January 25	1990 ANNUAL INDEX	
7 Tuesday, January 29	Wednesday, January 23	Thursday, January 24
8 Friday, February 1	Monday, January 28	Tuesday, January 29
9 Tuesday, February 5	Wednesday, January 30	Thursday, January 31
10 Friday, February 8	Monday, February 4	Tuesday, February 5
11 Tuesday, February 12	Wednesday, February 6	Thursday, February 7
12 Friday, February 15	Monday, February 11	Tuesday, February 12
13 Tuesday, February 19	Wednesday, February 13	Thursday, February 14
14 *Friday, February 22	Friday, February 15	Tuesday, February 19
15 Tuesday, February 26	Wednesday, February 20	Thursday, February 21
16 Friday, March 1	Monday, February 25	Tuesday, February 26
17 Tuesday, March 5	Wednesday, February 27	Thursday, February 28
18 Friday, March 8	Monday, March 4	Tuesday, March 5
19 Tuesday, March 12	Wednesday, March 6	Thursday, March 7
20 Friday, March 15	Monday, March 11	Tuesday, March 12
21 Tuesday, March 19	Wednesday, March 13	Thursday, March 14
22 Friday, March 22	Monday, March 18	Tuesday, March 19
23 Tuesday, March 26	Wednesday, March 20	Thursday, March 21
24 Friday, March 29	Monday, March 25	Tuesday, March 26
25 Tuesday, April 2	Wednesday, March 27	Thursday, March 28
26 Friday, April 5	Monday, April 1	Tuesday, April 2
27 Tuesday, April 9	Wednesday, April 3	Thursday, April 4
28 Friday, April 12	Monday, April 8	Tuesday, April 9
29 Tuesday, April 16	Wednesday, April 10	Thursday, April 11
*Friday, April 19	FIRST QUARTERLY INDEX	

30 Tuesday, April 23	Wednesday, April 17	Thursday, April 18
31 Friday, April 26	Monday, April 22	Tuesday, April 23
32 Tuesday, April 30	Wednesday, April 24	Thursday, April 25
33 Friday, May 3	Monday, April 29	Tuesday, April 30
34 Tuesday, May 7	Wednesday, May 1	Thursday, May 2
35 Friday, May 10	Monday, May 6	Tuesday, May 7
36 Tuesday, May 14	Wednesday, May 8	Thursday, May 9
37 Friday, May 17	Monday, May 13	Tuesday, May 14
38 Tuesday, May 21	Wednesday, May 15	Thursday, May 16
39 Friday, May 24	Monday, May 20	Tuesday, May 21
40 Tuesday, May 28	Wednesday, May 22	Thursday, May 23
41 *Friday, May 31	Friday, May 24	Tuesday, May 28
42 Tuesday, June 4	Wednesday, May 29	Thursday, May 30
43 Friday, June 7	Monday, June 3	Tuesday, June 4
44 Tuesday, June 11	Wednesday, June 5	Thursday, June 6
45 Friday, June 14	Monday, June 10	Tuesday, June 11
46 Tuesday, June 18	Wednesday, June 12	Thursday, June 13
47 Friday, June 21	Monday, June 17	Tuesday, June 18
48 Tuesday, June 25	Wednesday, June 19	Thursday, June 20
49 Friday, June 28	Monday, June 24	Tuesday, June 25
50 Tuesday, July 2	Wednesday, June 26	Thursday, June 27
51 Friday, July 5	Monday, July 1	Tuesday, July 2
Tuesday, July 9	NO ISSUE PUBLISHED	
52 Friday, July 12	Monday, July 8	Tuesday, July 9
53 Tuesday, July 16	Wednesday, July 10	Thursday, July 11
54 Friday, July 19	Monday, July 15	Tuesday, July 16
Tuesday, July 23	SECOND QUARTERLY INDEX	
55 Friday, July 26	Monday, July 22	Tuesday, July 23
56 Tuesday, July 30	Wednesday, July 24	Thursday, July 25
57 Friday, August 2	Monday, July 29	Tuesday, July 30
58 Tuesday, August 6	Wednesday, July 31	Thursday, August 1
59 Friday, August 9	Monday, August 5	Tuesday, August 6
60 Tuesday, August 13	Wednesday, August 7	Thursday, August 8
61 Friday, August 16	Monday, August 12	Tuesday, August 13
62 Tuesday, August 20	Wednesday, August 14	Thursday, August 15
63 Friday, August 23	Monday, August 19	Tuesday, August 20
64 Tuesday, August 27	Wednesday, August 21	Thursday, August 22
65 Friday, August 30	Monday, August 26	Tuesday, August 27
66 Tuesday, September 3	Wednesday, August 28	Thursday, August 29
Friday, September 6	NO ISSUE PUBLISHED	

67 Tuesday, September 10	Wednesday, September 4	Thursday, September 5
68 Friday, September 13	Monday, September 9	Tuesday, September 10
69 Tuesday, September 17	Wednesday, September 11	Thursday, September 12
70 Friday, September 20	Monday, September 16	Tuesday, September 17
71 Tuesday, September 24	Wednesday, September 18	Thursday, September 19
72 Friday, September 27	Monday, September 23	Tuesday, September 24
73 Tuesday, October 1	Wednesday, September 25	Thursday, September 26
74 Friday, October 4	Monday, September 30	Tuesday, October 1
75 Tuesday, October 8	Wednesday, October 2	Thursday, October 3
76 Friday, October 11	Monday, October 7	Tuesday, October 8
Tuesday, October 15	THIRD QUARTERLY INDEX	
77 Friday, October 18	Monday, October 14	Tuesday, October 15
78 Tuesday, October 22	Wednesday, October 16	Thursday, October 17
79 Friday, October 25	Monday, October 21	Tuesday, October 22
80 Tuesday, October 29	Wednesday, October 23	Thursday, October 24
81 Friday, November 1	Monday, October 28	Tuesday, October 29
82 Tuesday, November 5	Wednesday, October 30	Thursday, October 31
83 Friday, November 8	Monday, November 4	Tuesday, November 5
84 Tuesday, November 12	Wednesday, November 6	Thursday, November 7
85 *Friday, November 15	Friday, November 8	Tuesday, November 12
86 Tuesday, November 19	Wednesday, November 13	Thursday, November 14
87 Friday, November 22	Monday, November 18	Tuesday, November 19
88 Tuesday, November 26	Wednesday, November 20	Thursday, November 21
89 Friday, November 29	Monday, November 25	Tuesday, November 26
Tuesday, December 3	NO ISSUE PUBLISHED	
90 Friday, December 6	Monday, December 2	Tuesday, December 3
91 Tuesday, December 10	Wednesday, December 4	Thursday, December 5
92 Friday, December 13	Monday, December 9	Tuesday, December 10
93 Tuesday, December 17	Wednesday, December 11	Thursday, December 12
94 Friday, December 20	Monday, December 16	Tuesday, December 17
95 Tuesday, December 24	Wednesday, December 18	Thursday, December 19
96 *Friday, December 27	Friday, December 20	Monday, December 23
Tuesday, December 31	NO ISSUE PUBLISHED	
1 *Friday, January 3	Friday, December 27	Tuesday, December 31
2 *Tuesday, January 7	Tuesday, December 31	Thursday, January 2
3 Friday, January 10	Monday, January 6	Tuesday, January 7
4 Tuesday, January 14	Wednesday, January 8	Thursday, January 9
5 Friday, January 17	Monday, January 13	Tuesday, January 14

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