

Texas Register

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Texas Register

The *Texas Register* (ISSN 362-4781) is published semi-weekly 100 times a year except January 4, July 9, September 6, December 3, December 31, 1991. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78711.

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Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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



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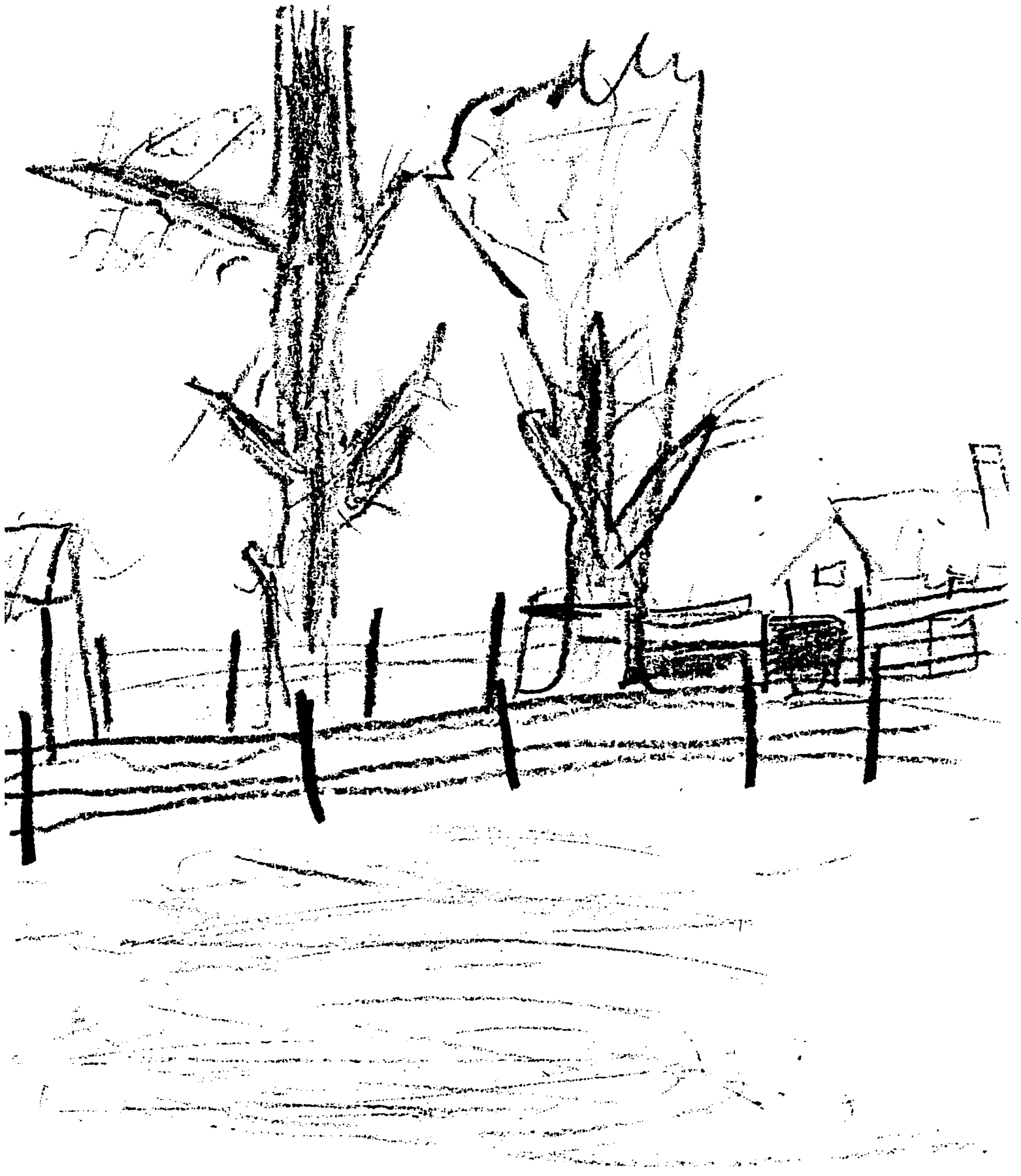
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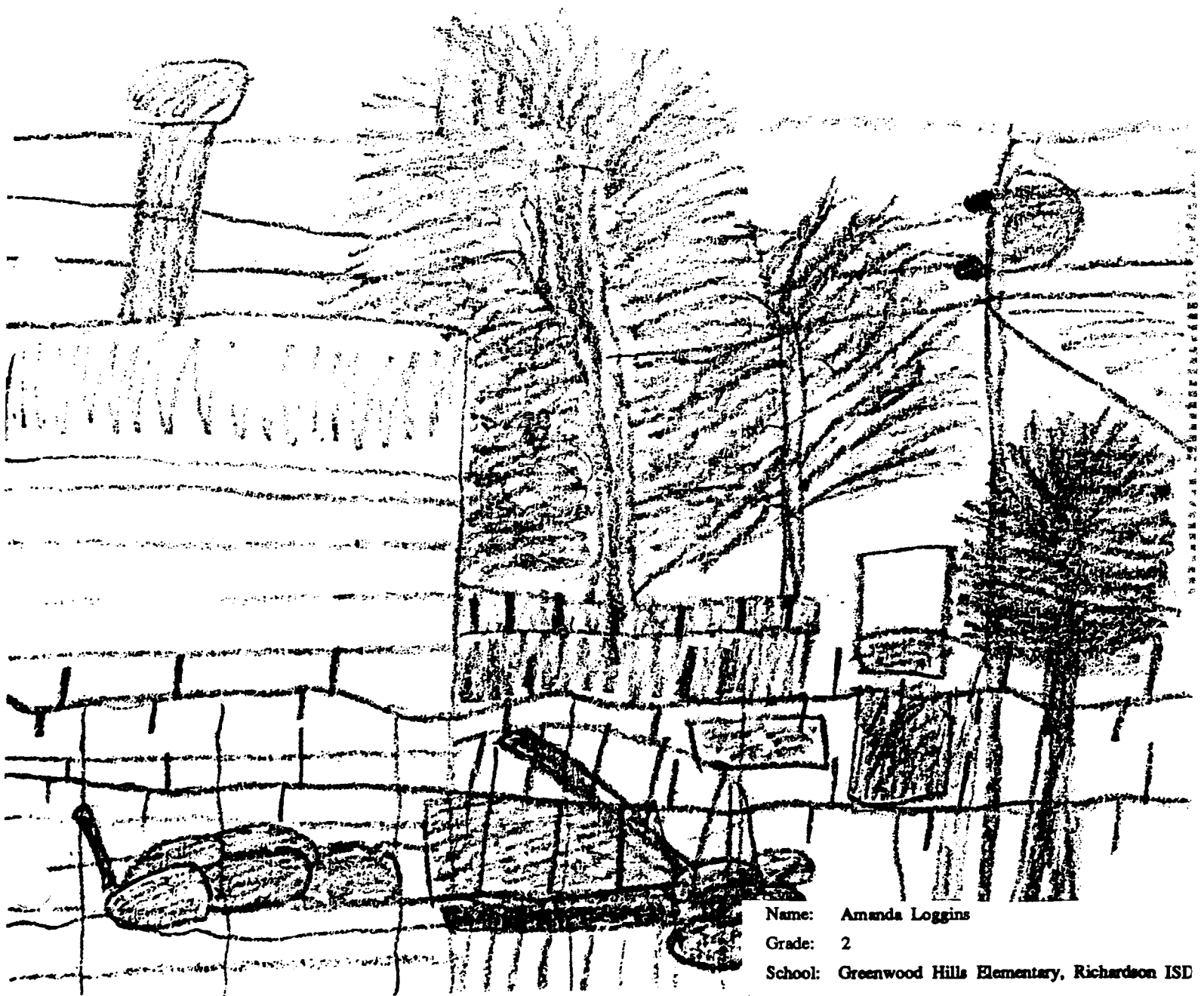
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Name: Krystoper Scroggins

Grade: 2

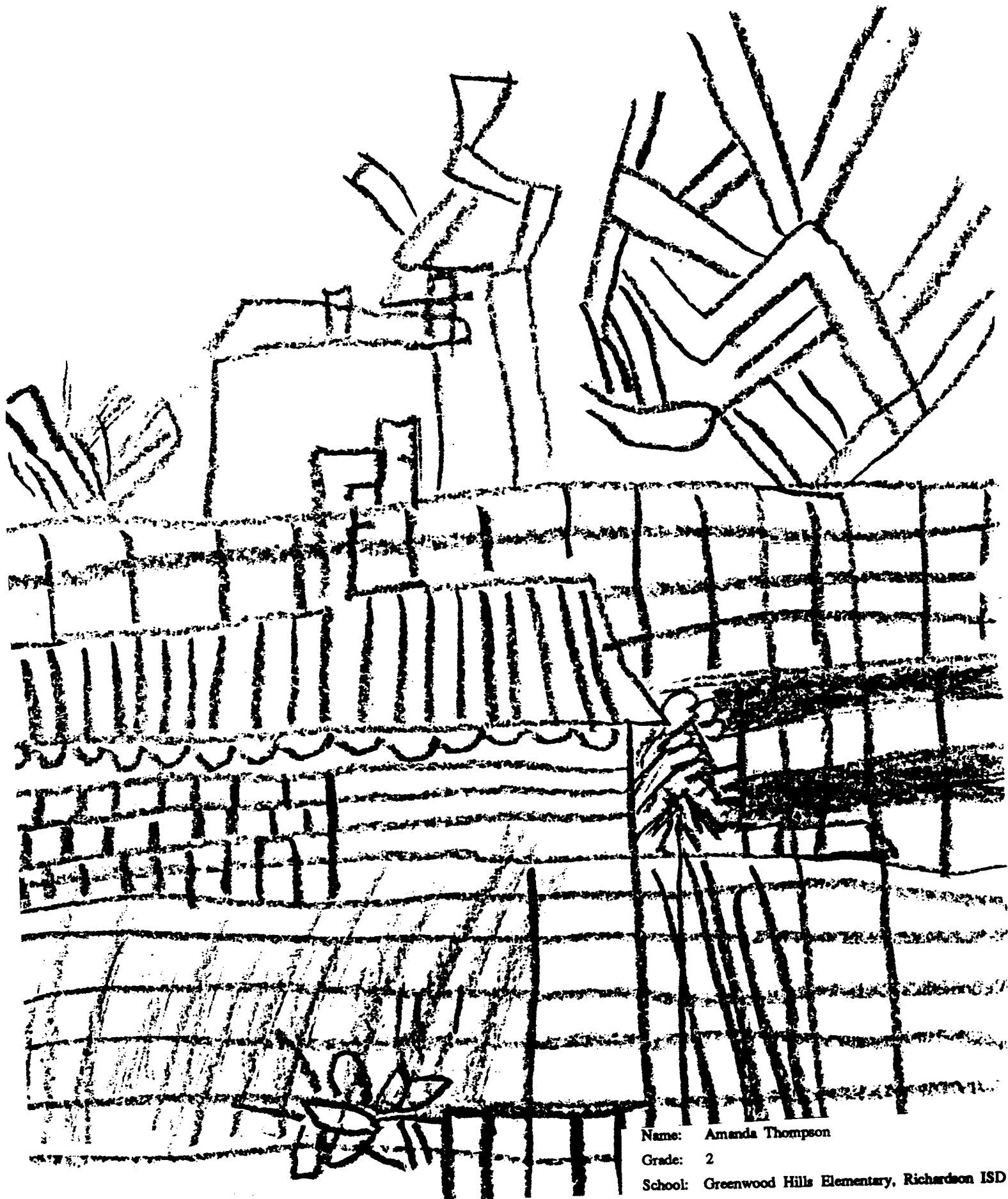
School: Greenwood Hills Elementary, Richardson ISD



Name: Amanda Loggins

Grade: 2

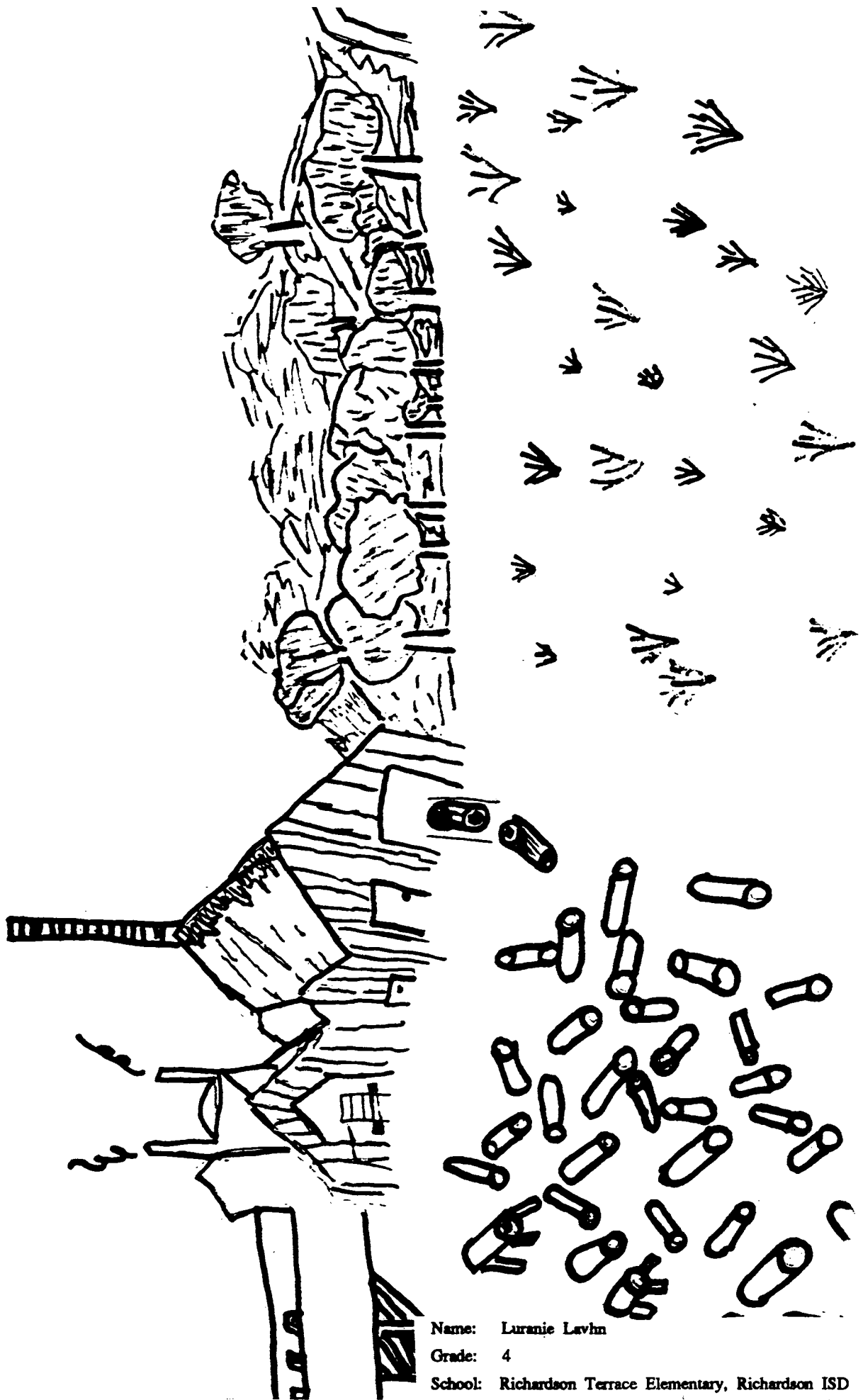
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School: Richardson Terrace Elementary, Richardson ISD

TAC Titles Affected

TAC Titles Affected—May

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Part VI. Texas State Board of Registration for Professional Engineers

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◆ ◆ ◆

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 I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regu- lations

• 16 TAC §3.13

The Railroad Commission of Texas adopts on an emergency basis an amendment to §3.13, concerning conservation rules and regulations. The amendment shall be effective on April 30, 1991, for an effective period of 120 days. The Railroad Commission finds that there exists an imminent peril to public safety or welfare as a result of the unforeseen scarcity of fire suppression devices required under subsection (b)(1)(E) of the rule. The commission finds that unless the rule is amended to require the installation of a wellbore-fluid diverter, rather than fire suppression devices on horizontal drainhole wells, drilling activity will cease or be severely curtailed in several major fields. Adoption of the amendment will both enhance safety to

rig personnel and prevent the waste of oil and gas through readily available means.

The amendment is adopted on an emergency basis under the Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.046, 85.202, 86.012, 86.041, and 86.042, which provides the Railroad Commission with the authority to adopt rules to govern and regulate persons and their operations under the jurisdiction of the Railroad Commission and to prevent waste of oil and gas in drilling operations.

§3.13. *Casing, Cementing, Drilling, and Completion Requirements.*

- (a) (No change.)
- (b) Onshore and inland waters.
 - (1) General.

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

(E) **Wells drilling to formations where the expected reservoir pressure exceeds the weight of the drilling fluid column shall be equipped to divert any wellbore fluids away from the rig floor. All diverter systems shall be maintained in an effective working condition.**

No well shall continue drilling operations if a test or other information indicates the diverter system is unable to function or operate as designed. [If oil and/or gas is produced during the drilling phase of a horizontal drainhole well, as such well is defined in Statewide Rule 86 (§3.86 of this title (relating to Horizontal Drainhole Wells)), then the well shall be equipped with a fire suppression device capable of allowing a margin of time for evacuating rig personnel in the event of a blowout and flash fire. This subparagraph only applies to horizontal drainhole wells spudded after May 31, 1991.]

(2)-(5) (No change.)

(c) (No change.)

Issued in Austin, Texas, on April 29, 1991.

TRD-9105028

Lena Guerrero
Chairman
Railroad Commission of
Texas

Effective date: April 30, 1991

Expiration date: August 28, 1991

For further information, please call: (512)
463-6864

◆ ◆ ◆



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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 1. ADMINISTRATION

Part XII. Advisory Commission on State Emergency Communications

Chapter 251. Regional Plans

• 1 TAC §251.2

The Advisory Commission on State Emergency Communications proposes new §251.2, concerning guidelines for regional plan amendments, in order to clarify and streamline the plan amendment process and allow more latitude for a council of governments to make 9-1-1 implementation decisions in its region. The proposed section also allows for enhancements to 9-1-1 systems where technically and financially feasible and clarifies that 9-1-1 equalization funding may be used to implement both regional and district plans. The commission will still examine the financial impact of plan amendments on the 9-1-1 fee funds, and will consider any funding requests from districts.

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

Ms. Boyd also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be improved effectiveness and reliability of 9-1-1 call delivery systems in a region and increased assurance of meeting scheduled local 9-1-1 emergency telephone service dates. No historical data is available, however, there appears to be no direct impact on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to the Advisory Commission on State Emergency Communications, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78711.

The new section is proposed under the Health and Safety Code, §§771.055, 771.056, 771.057, and 771.072, which provides the Advisory Commission on State Emergency Communications with the authority to develop and amend a regional plan for the establishment operation of 9-1-1 service throughout a 9-1-1 region that meets the standards established by the commission according to the procedures determined by the commission.

Authority also allows that money collected per §771.072 may be allocated to an emergency communication district regardless of whether the district is participating in the applicable regional plan.

§251.2. Guidelines for Regional Plan Amendments.

(a) In adopting a goals and philosophy statement on the 9-1-1 regional plan amendment process, the commission developed guidelines that will govern the amendment process. The guidelines clarify the process and allow more latitude by the councils of governments and the commission staff to make decisions regarding the implementation of 9-1-1 systems in their regions.

(b) Changes to approved regional plans can be classified into two general categories.

(1) Quantitative. Quantitative changes are described as changes in the number of circuits, positions, or other equipment items that have been previously approved in a plan. This category also includes moderate changes in the cost of approved items and changes in the schedule for service when they do not increase the need for equalization surcharge funds. Examples of quantitative changes could include the following types of items:

(A) increase answering positions in an approved PSAP from three to four due to increased estimates of traffic;

(B) increase trunks from central office to PSAP from two to three due to increased estimates of traffic;

(C) a small increase, or decrease, in the cost of a telephone set from a vendor;

(D) a three-month delay in service date to eliminate the payment of central office modification charges.

(2) Qualitative. Qualitative changes are those changes that change the nature of the service being provided. This category would include changes such as an increase in the number of PSAP locations and the rearrangement of trunking to serve them. The addition of ALI in a PSAP would

also fall in this category. A change from direct trunking to selective routing would also fall in this category. Qualitative changes would also include the expansion of facilities approved for one PSAP to other PSAPs. For example, if a printer had been approved for one of three PSAPs in a plan, the provision of printers for the other two PSAPs would not qualify as a quantitative change. This would be a qualitative change.

(c) Procedures for qualitative changes must always be submitted to the commission for approval.

(d) A council of government may make quantitative changes to its approved plan without submission to the commission staff, so long as: its total budget is not increased by more than 3.0%, or \$30,000, whichever is larger; and additional surcharge funds are not required. These changes must, however, be reported to the commission staff.

(e) Any change requiring additional surcharge funds must be submitted to the staff for approval.

(f) The commission staff may review and approve any quantitative changes to an approved plan so long as the increase to the total budget does not exceed 5.0%, or \$50,000, whichever is larger; this total increase includes both local fees and/or surcharge funds. All such approvals must be reported to the Planning and Implementation committee before the next regularly-scheduled committee meeting. The committee will review these changes and report them to the full commission at its next regularly-scheduled meeting.

(g) Any change to an approved plan which increases the total budget by more than 5.0%, or \$50,000, whichever is larger, must be submitted to the Planning and Implementation Committee for recommendation to the full commission.

(h) If an emergency situation requires that a change in plan that exceeds the limits in subsections (f) and (g) of this section, be approved in a timely manner, the ACSEC executive director shall contact the commission chairman. Emergency meetings of the Planning and Implementation Committee and the full commission will be considered.

(i) The descriptions of quantitative and qualitative changes in subsection (b) of

this section are not intended to be all inclusive, but are intended to serve as guidelines. If in doubt call the commission staff.

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

(1) 9-1-1 Call Delivery—Delivery of a 9-1-1 call to the agency responsible for providing the emergency service required.

(2) UPS (uninterrupted power source)—Equipment that is designed to provide a constant power source for electronic systems. Capable of operating independently, for a designated period of time, should public or emergency electrical power sources fail.

(3) Surge protection devices—Devices designed to protect sensitive electronic equipment by preventing excessive electrical power from reaching and damaging such equipment.

(4) Recorders—Devices that capture and retain sound.

(A) Voice or tape loggers. A device that records sound on a permanent source for later review.

(B) Instant recall recorder. A device that records and temporarily stores calls for immediate review.

(5) Paging systems—A radio system capable of transmitting tone, digital, and/or voice signals to small receiving devices designed to be carried by an individual.

(6) Security devices—Devices whose use is specific to the protection of 9-1-1 systems from intentional damage.

(7) Power backup—Power provided by a generator in the event regular utility services are interrupted.

(k) By statute, 9-1-1 equalization funding may be used to implement both regional and district plans. Funding requests from districts will receive consideration.

(l) The following are funding parameters.

(1) UPS (uninterrupted power source). Funding may be approved for UPS systems in areas where other emergency power systems are not available or have been provided from other than 9-1-1 funding sources. Generally, 9-1-1 funding will not be used to provide both emergency power and UPS. At least 75% of the capacity of any UPS system funded should directly support an existing (or planned) 9-1-1 system.

(2) Surge protection. Funding may be approved for surge protection de-

vices when they are used for protection of 9-1-1 specific electronic equipment.

(3) Recorders.

(A) Voice or tape loggers may be approved when the primary use of the equipment is in support of the 9-1-1 call-taking and call-delivery function. Extra capacity on such systems may be used for other public safety functions (such as dispatch), however, 9-1-1 funding will not be authorized for systems whose capacity clearly exceed actual or anticipated 9-1-1 requirements. Shared funding of larger systems to accommodate both a 9-1-1 PSAP and a PSAP operating agency's other needs will be considered.

(B) Instant recall recorders may be approved when their use is specific to the support of a 9-1-1 call-taking and call-delivery function.

(4) Paging systems. Funding for paging systems may be approved when such systems are the most effective means of 9-1-1 call delivery and they do not replace other paging or radio alerting systems. Funding for paging will be limited to systems, where alternative systems or the systems now in use cause significant delay in 9-1-1 call delivery and where existing radio systems can be modified to accommodate paging. Funding for pagers (receivers) will be limited to only those necessary to alert the core responders within an organization (i.e., in a 15-member volunteer emergency medical group, only the on-call ambulance driver and one or two attendants would be furnished pagers).

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 30, 1991.

TRD-9105060

Mary A. Boyd
Executive Director
Advisory Commission on
State Emergency
Communications

Earliest possible date of adoption: June 7, 1991

For further information, please call: (512) 327-1911

TITLE 7. BANKING AND SECURITIES

Part VI. Credit Union Department

Chapter 91. Chartering, Operations, Mergers, Liquidations

Direction of Affairs

• 7 TAC §91.506

The Credit Union Commission proposes amendment to §91.506, concerning direction

of affairs. The section is being amended to establish parity for state chartered credit unions with the National Credit Union Administration's bonding requirements for federally chartered credit unions.

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

Mr. Hale 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 State chartered credit unions will be able to obtain surety bonds at a cost that is more comparable and competitive as compared to current requirements. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Harry L. Elliott, Staff Services Officer, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under Texas Civil Statutes, Articles 2461-5.06(b) and 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§91.506. Director Meeting Fees and Bond Requirements.

(a) (No change.)

(b) Bond requirements. Each credit union shall provide a blanket fidelity bond issued by a corporate surety company authorized to do business in this state, and approved by the commissioner, covering the officials, employees, members of official committees, attorneys-at-law, and other agents of the credit union to protect the credit union against loss caused by persons outside of the credit union (protection for losses due to [dishonesty, burglary, robbery, larceny,] theft, hold-up, vandalism, etc.) [forgery or alteration of instruments, misplacement or mysterious disappearance, and for lack of faithful performance of duty]. Fidelity bonds must provide coverage for the fraud or dishonesty of all employees, directors, officers, and supervisory and credit committee members. The board of directors of each credit union shall, at least annually, carefully review the bond and insurance coverage in force in order to ascertain its adequacy in relation to risk exposure and to the minimum requirements. Each bond shall include a provision requiring written notification by the surety to the commissioner prior to cancellation of any or all coverages set out in the bond, and include a brief statement of cause for termination.

(1) The following schedule sets forth the minimum requirements for bonds:

<u>[Assets</u>	<u>Basic Minimum Coverage</u>	<u>Proof of Loss Rider</u>
\$ to \$ 500,000	Equal to Assets	\$ 5,000
\$ 500,000 to \$ 1,000,000	Equal to Assets	\$10,000
\$ 1,000,000 to \$ 5,000,000	\$1,000,000	\$15,000
\$ 5,000,000 to \$10,000,000	\$2,000,000	\$20,000
\$10,000,000 to \$20,000,000	\$3,000,000	\$20,000
\$20,000,000 to \$50,000,000	\$4,000,000	\$20,000
\$ OVER \$50,000,000	\$5,000,000	\$20,000]

<u>Assets</u>	<u>Basic Minimum Coverage</u>
\$ 0 to \$ 10,000	<u>Coverage equal to the credit union's assets.</u>
\$ 10,001 to \$ 1,000,000	<u>\$10,000 for each \$100,000 or fraction thereof.</u>
\$ 1,000,001 to \$ 50,000,000	<u>\$100,000 plus \$50,000 for each million or fraction over \$1,000,000.</u>
\$50,000,001 to \$295,000,000	<u>\$2,550,000 plus \$10,000 for each million or fraction thereof over \$50,000,000.</u>
\$ Over \$295,000,000	<u>\$5,000,000</u>

(2) The maximum amount of deductibles allowed are based on the credit union's total assets. A deductible may be applied separately to one of more insuring clauses in a blanket bond. No

deductible will exceed 10% of a credit union's unencumbered reserves and undivided earnings unless the credit union creates a segregated contingency reserve for the amount of the excess. Valuation allowance accounts, e.g., allowance for

loan losses, may not be considered part of the unencumbered reserves and undivided earnings when determining the maximum deductible. The following table sets out the maximum deductibles:

<u>Assets</u>	<u>Maximum Deductible</u>
\$ 0 to \$ 100,000	<u>No deductibles allowed</u>
\$ 100,001 to \$ 250,000	<u>\$1,000</u>
\$ 250,001 to \$1,000,001	<u>\$2,000</u>
<u>Over \$1,000,000</u>	<u>\$2,000 plus 1/1000 of total assets up to a maximum deductible of \$200,000</u>

(3)[(2)] Special riders shall be provided where change funds are kept in excess of \$1,000, if change funds are not covered in the bond.

[(3) Each credit union shall purchase a proof-of-loss rider according to the schedule shown in paragraph (1) of this subsection.]

(4)-(6) (No change.)

(c) (No change.)

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

Issued in Austin, Texas, on April 30, 1991.

TRD-9105033 John R. Hale
Commissioner
Credit Union Department

Earliest possible date of adoption: June 7, 1991

For further information, please call: (512) 837-9236

Chapter 97. Commission Policies and Administrative Rules

The Credit Union Commission proposes the repeals of §97.112 and §97.114, and new §97.113, concerning the payment of an annual supervision fee and examination fee by State chartered credit unions. The sections are being repealed and replaced in order to eliminate the supervision fee as a separate fee, and having it as a part of an annual operating fee.

John R. Hale, commissioner, has determined that for the first five-year period the sections

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

Mr. Hale 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 elimination of the supervision fee as a separate fee, and having it as a part of an annual operating fee as proposed by §97.113. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry L. Elliott, Staff Services Officer, 914 East Anderson Lane, Austin, Texas 78752-1699.

Fees

• 7 TAC §97.112

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

The repeal is proposed under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§97.112. Supervision Fees.

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

Issued in Austin, Texas, on April 30, 1991.

TRD-9105034 John R. Hale
Commissioner
Credit Union Department

Earliest possible date of adoption: June 7, 1991

For further information, please call: (512) 837-9236

• 7 TAC §97.113

The new section is proposed under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§97.113. Operating Fees.

(a) Remittance of fees. Effective September 1, 1991, each credit union authorized to do business under the Texas Credit Union Act shall remit to the Credit Union Department its annual operating fee prior to October 1, 1991, and prior to October 1 of each succeeding year. Such fees received after September 30, 1991, or September 30 of each succeeding year will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

(b) Calculation of operating fees. The schedule provided in this section shall serve as the basis for calculating operating fees. The base date shall be June 30 of the year in which operating fees are calculated. The commissioner is authorized to increase or decrease the fee schedule annually by amounts not to exceed 10% per year without prior approval of the commission, as needed to match revenue with appropriations. The asset base may be reduced by the amount of reverse-repurchase balances extant on the June 30 base date.

Operating Fee

Asset Categories

\$ 0	for credit unions less than \$199,999.99
\$ 446	plus \$2.23 per \$1,000 or assets \$200,000 and over, but not in excess of \$499,999.99
\$ 1,115	plus \$.85 per \$1,000 of assets \$500,000 and over, but not in excess of \$999,999.99
\$ 1,540	plus \$.35 per \$1,000 of assets \$1,000,000 and over, but not in excess of \$4,999,999.99
\$ 2,940	plus \$.30 per \$1,000 of assets \$5,000,000 and over, but not in excess of \$9,999,999.99
\$ 4,440	plus \$.12 per \$1,000 of assets \$10,000,000 and over, but not in excess of \$24,999,999.99

\$ 6,240 plus \$.14 per \$1,000 of assets \$25,000,000 and over, but not in excess of \$49,999,999.99

\$10,240 plus \$.16 per \$1,000 of assets \$50,000,000 and over, but not in excess of \$99,999,999.99

\$18,240 plus \$.06 per \$1,000 of assets of \$100,000,000 and over

(c) Supplemental examination. If the commissioner or deputy commissioner schedules a special examination in addition to the regular examination, the credit union shall pay a supplemental fee of \$36 for each hour of time expended on the examination. The commissioner may waive the supplemental fee or reduce the fee as he deems appropriate. Such waiver or reduction shall be in writing and signed by the commissioner. The examiner in charge shall fully explain the time and charges for each special examination to the president or designated official in charge of operations of a credit union.

(d) Liquidations. The fee for credit unions in liquidation shall be as prescribed in subsection (c) of this section.

(e) Out-of-state branches. Credit unions operating branch offices in Texas as authorized by §91.211 of this title (relating to Foreign State Credit Union Branch Of-

fices) shall pay no annual operating fee.

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

Issued in Austin, Texas, on April 30, 1991.

TRD-9105035 John R. Hale
Commissioner
Credit Union Department

Earliest possible date of adoption: June 7, 1991

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §97.114

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

The repeal is proposed under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

§97.114. Examination Fees.

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

Issued in Austin, Texas, on April 30, 1991.

TRD-9105036 John R. Hale
Commissioner
Credit Union Department

Earliest possible date of adoption: June 7, 1991

For further information, please call: (512) 837-9236

TITLE 16. ECONOMIC
REGULATION
Part I. Railroad
Commission of Texas
Chapter 3. Oil and Gas
Division

Conservation Rules and Regu-
lations

• 16 TAC §3.13

(Editor's Note: The Railroad Commission of Texas 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 Railroad Commission of Texas proposes an amendment to §3.13, concerning the casing, cementing, drilling, and completion requirements for oil and gas wells. The proposed amendment requires onshore wells drilling to formations where the expected reservoir pressure exceeds the weight of the drilling fluid column, to be equipped to divert any wellbore fluids away from the rig floor. Adoption of the proposed amendment will both increase rig safety and prevent the waste of hydrocarbons through readily available means.

Rita E. Percival, systems analyst for the Oil and Gas Division, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Jamie Nielson, hearings examiner, Legal Division, 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 increased prevention of both injury of rig personnel and waste of hydrocarbons through readily available means. 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.

The Railroad Commission encourages public comment on the proposed amendment. Please submit written comments to Jamie Nielson, Legal Division-Oil and Gas Section, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. The deadline for filing comments is 5 p.m. June 3, 1991. The docket number is 20-96,007.

The Railroad Commission proposes the amendment pursuant to the Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.046, 85.202, 86.012, 86.041, and 86.042 which provides the Railroad Commission with the authority to adopt rules to govern and regulate persons and their operations under the jurisdiction of the Railroad Commission and to prevent waste of oil and gas in drilling operations.

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 30, 1991.

TRD-9105027

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

Earliest possible date of adoption: June 7,
1991

For further information, please call: (512)
463-6864

◆ ◆ ◆
Conservation Rules and Regu-
lations

• 16 TAC §3.22

The Railroad Commission of Texas proposes an amendment to §3.22, concerning protection of birds. The proposed amendment requires open-top tanks that are eight feet or greater in diameter and have a frequent or continuous film of oil on top to be netted, screened, or otherwise rendered harmless. Adoption of the proposed amendment will protect birds from death or injury in most of the open-top storage tanks in the oil-field.

According to information provided to the commission by wildlife experts, birds are attracted to fluid in tanks 16 feet or less in diameter. The United States Fish and Wildlife Service has prosecuted 26 oil and gas operators for dead birds found in open-top tanks 16 feet or less in diameter, tanks that are currently exempted from the requirement that certain open-top tanks be rendered harmless to birds. Since even small amounts of oil in a tank may result in the death of birds, the commission believes that additional protective measures for open-top tanks that have a frequent or continuous film of oil may be warranted.

Rita E. Percival, systems analyst for the oil and gas division, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Nina Hutton, staff attorney, oil and gas division, 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 prevention of harm to birds from contact with oil in tanks associated with the production of oil and gas. The cost of compliance with the proposed amendment for small business will be approximately \$100 for each open-top storage tank falling within the provisions of the proposed amendment. The anticipated economic cost to persons who are required to comply with the section as proposed will be approximately \$100 for an open-top storage tank eight feet or greater in diameter that contains a frequent or continuous surface film or accumulation of oil.

Please submit written comments to Nina Hutton, Oil and Gas Division—Underground Injection Control, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. The deadline for filing comments is 5 p.m., June 3, 1991.

The amendment is proposed under the Texas Natural Resources Code, Title 3, particularly §85.042, which provides the Railroad Commission with the authority to adopt rules for the prevention of operations in the field dangerous to life or property.

§3.22. Protection of Birds.

(a) (No change.)

(b) An operator must screen, net, cover, or otherwise render harmless to birds the following categories of open-top tanks and pits associated with the exploration, development, and production of oil and gas, including transportation of oil and gas by pipeline:

(1) open-top tanks that are eight feet or greater in diameter [exceed 16 feet in diameter] and contain a continuous or frequent surface film or accumulation of oil; however, temporary, portable storage tanks that are used to hold fluids during drilling operations, workover, or well tests are exempt.

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

(c) (No change.)

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

Issued in Austin, Texas, on April 29, 1991.

TRD-9105051

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

Proposed date of adoption: September 1,
1991

For further information, please call: (512)
463-6977

◆ ◆ ◆
TITLE 22. EXAMINING
BOARDS

Part IX. Texas State
Board of Medical
Examiners

Chapter 193. Standing
Delegation Orders

• 22 TAC §193.7

The Texas State Board of Medical Examiners proposes an amendment to §193.7, concerning radiologic technologists. The amendment will further clarify the tests a radiologic technologist may not perform.

Ivan Hurwitz, director of administrative services, 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 will be no impact on local employment.

Pat Wood, administrative technician, has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be clarification of the rules in regard to tests which may not be performed by a radiologic technologist registered by the Texas State Board of Medical Examiners. 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 Pat Wood, P.O. Box 13562, Austin, Texas 78711. A public hearing will be held at a later time.

The amendment is proposed under Texas Civil Statutes, Article 4495b, which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

§193.7. Radiologic Technologists.

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

(d) A registrant may perform only chest, spine, extremities, abdomen, and skull studies utilizing standard film or film screen combinations and an x-ray tube that is stationary at the time of exposure. A registrant may not perform studies which require use of contrast agents unless the registrant's supervising physician is physically present.

(e)-(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 30, 1991.

TRD-9105020

Homer R. Goehrs, M.D.
Executive Director
Texas State Board of
Medical Examiners

Earliest possible date of adoption: June 7, 1991

For further information, please call: (512) 452-1078

TITLE 25. Health Services Part I. Texas Department of Health

Chapter 37. Maternal and Child Health Services

Special Senses and Communi- cation Disorders

- 25 TAC §§37.21, 37.22, 37.27,
37. 29, 37.30, 37.31, 37.38,
37.39, 37.42

The Texas Department of Health (department) proposes amendments to §§37.21, 37.22, 37.27, 37.29, 37.30, 37. 31, 37.38, 37.39, and 37.42 concerning special senses and communication disorders. The sections cover purpose; definitions; inspection of pre-school or school screening records; standards for screening tests and screener training courses in vision and hearing; termination of screener or instructor participation; standards for equipment; department approved providers; denial, modification, suspension, or termination of provider approval; and specific requirements for application by an impaired individual.

The amendments are primarily for the purpose of updating the sections to conform to legal citations in the new Health and Safety Code and other laws. In addition, in §37.38, the term "hearing aid loan program" will be changed to "children's amplification program" in order to more accurately reflect the program's purpose and operation. In §37.38(b)(6)-(7), the provider contract time period is being increased from one year to two years to make the program more efficient. In §37.42(g), the requirement that hearing aids be purchased through the State Purchasing and General Services Commission (commission) will be changed to require that hearing aids be purchased through the department's contract and bid invitation procedure and under commission rules. These changes will make the rule comport with current practice. Other editorial changes will be made for clarification.

Stephen Seale, Chief Accountant III, Budget Office, has determined that for the first five year period that the sections will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the sections as proposed.

Mr. Seale also has determined that for each year of the first five years that the sections will be in effect the public benefit will be to update and clarify the sections. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to

Comments on the proposal may be submitted to Linda G. Prentice, M.D., Director, Division Child Health, Bureau of Maternal and Child Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 77056, (512) 458- 7700. Comments will be accepted for 30 days after publication of the proposal in the *Texas Register*.

The amendments are proposed under the Health and Safety Code, Chapter 36, which provides the Board of Health with the authority to adopt rules concerning special senses and communication disorders; and Health and Safety Code, §12. 001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

§37.21. Purpose. The purpose of these rules is to implement the requirements of the Special Senses and Communication Disorders Act, Health and Safety Code, Chapter 36, [Texas Civil Statutes, Article 4419g], relating to the early identification of individuals from birth through 20 years of age who have special senses and communication disorders and who need remedial vision, hearing, speech, or language services.

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

Texas Civil Statutes, Article

4566-1.01-4566-1.20 [Article 4566]—The statutes establishing the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids and requiring the licensing of all persons fitting and dispensing hearing aids.

Health and Safety Code, Chapter 36, [Article 4419g]—The [Texas Civil Statutes] statute which these rules will implement.

Health and Safety Code, Chapter 401 [Article 4590f]—The [Texas Civil Statutes] statute, which provides the Texas Department of Health with the authority to protect occupational and public health and safety through programs to regulate and permit development and utilization of sources of radiation for peaceful purposes, including infrasonic, sonic, and ultrasonic radiation. Chapter 401 [Article 4590f] is the basis for rules relating to the use and maintenance of audiometric equipment and registration of audiometric equipment, users of audiometric equipment, and calibration firms.

§37.27. Inspection of Preschool or School Screening Records. The department may directly or through local health departments enter and inspect records maintained by a preschool or school as authorized by Health and Safety Code, Chapter 36 [relating to Texas Civil Statutes, Article 4419g].

§37.29. Standards for Screening Tests and Screener Training Courses in Vision and Hearing.

(a) The basic screening tests and referral criteria reviewed by the advisory committees and approved by the department are incorporated into the screener training manuals provided by the department and shall be adhered to by all individuals screening under the requirements of Health and Safety Code, Chapter 36 [Texas Civil Statutes, Article 4419g].

(b) Licensed professionals who screen under Health and Safety Code, Chapter 36 [Texas Civil Statutes, Article 4419g] shall adhere to the basic screening tests and referral criteria references in subsection (a) of this section.

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

§37.30. Termination of Screener or Instructor Participation.

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

(d) Before the department modifies, suspends, or terminates an individual's participation in the program, the department will give the individual the opportunity for a hearing in accordance with the board's formal hearing procedures in Chapter 1 of this title (relating to Board of Health) [§§1.21-1.32 of this title (relating to Formal Hearing Procedures)].

§37.31. Standards for Equipment.

(a) (No change.)

(b) Equipment which is found to be defective when checked by department personnel and which is a threat to the public health or safety constituting an emergency [and] will be tagged with a "DO NOT USE" tag. That equipment may not be used until repaired and recalibrated by a registered repair and calibration firm within 30 days after being tagged. Only registered firms will be authorized to remove the tag, and they must forward the tag along with a copy of the calibration form to the department. The authority for this action is the Health and Safety Code, Chapter 401 (Chapter 401) [Texas Civil Statutes, Article 4590f, §14] and §289.112 of this title (relating to Hearing and Enforcement Procedures) [Part 13 of Texas Regulations for Control of Radiation, in §289.1 of this title (relating to Control of Radiation Generally)]. Requests for hearing on an emergency order shall be made according to Part 13 of Texas Regulations for Control of Radiation.

(c) Each person using audiometric screening or testing equipment and the equipment itself must be registered with the department in accordance with Chapter 401 [Texas Civil Statutes, Article 4590f].

(d)-(k) (No change.)

(l) In addition to penalties set out in Chapter 401 [Texas Civil Statutes, Article 4590f] and [Texas Regulations for the Control of Infrasonic, Sonic, and Ultrasonic Radiation] in §289.3 of this title (relating to Control of Infrasonic, Sonic, and Ultrasonic Radiation), penalties for violations by calibration firms shall include:

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

(m) Before the department revokes registration of a calibration firm, the department will give the calibration firm the opportunity for a hearing in accordance with §289.112 of this title (relating to Hearing and Enforcement Procedures) [Part 13 of the Texas Regulations for Control of Radiation, in §289.1 of this title (relating to the Control of Radiation Generally)], and the formal hearing procedures in Chapter 1 of this title (relating to Board of Health) [§§1.21-1.32 of this title (relating to Formal Hearing Procedures)].

(n) (No change.)

§37.38. Department Approved Providers.

(a) Approval criteria. All providers who wish to furnish services through this program must be approved by the department and must meet the following criteria.

(1) Providers approved to cooperate and participate in the program shall comply with Health and Safety Code, Chapter 36 and 401, and Texas Civil Stat-

utes, Article 4566-1.01-4566-1.02, [Articles 4419g, 4566, and 4590f,] and [with] other laws which may apply to services provided through the program.

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

(4) A provider for the Children's Amplification [Hearing Aid Loan] Program must demonstrate that its staff and equipment available for testing are suitable and capable for evaluating the hearing loss of infants, children, and/or young adults.

(5)-(7) (No change.)

(8) The equipment and facility of all providers shall be subject to monitoring visits by personnel from the department in accordance with Health and Safety Code, Chapter 401 [Article 4590f].

(9) Providers who furnish services and/or hearing aids for the Children's Amplification [Hearing Aid Loan] Program alone shall be in compliance with the laws referenced in paragraph (1) of this subsection [Articles 4419g, 4512j, and 4566] as applicable and shall obtain the approval of an otologist for the hearing aid fitting.

(10) All providers specified in subsection (b)(4) of this section, except those in subparagraphs (C), (D), and (E) of subsection (b)(4), shall have a licensed audiologist and, when applicable, a licensed speech/language pathologist on staff or on contract who are in compliance with Health and Safety Code, Chapter 36 [Article 4419g].

(b) Method of obtaining approval as a provider.

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

(4) The contract applicant may apply for different levels of service delivery as indicated in subparagraphs (A)-(E) of this paragraph.

(A) The applicant may request to become a full provider under the program for all services (Children's Amplification [Hearing Aid Loan] Program and the Speech/Language Services Program) to all ages, birth through 20 years, if the provider's facility and personnel qualify under the standards set by the department.

(B) The applicant may request to become a full provider under the Children's Amplification Program [Hearing Aid Loan Program] only for all services to all ages, birth through 20 years, if the provider's facility and personnel qualify under the standards set by the department.

(C) The applicant may request approval as a full provider under the Children's Amplification [Hearing Aid Loan] Program only for all services to individuals from 10 years through 20 years of age, if the provider's facility and personnel qualify under the standards set by the department.

(D) The applicant may request approval under the Children's Amplification [Hearing Aid Loan] Program as a limited provider of hearing aid repair and/or earmold services for all individuals from birth through 20 years of age even though the provider does not qualify to provide evaluation services.

(E) Providers holding valid contracts with the Children's Amplification [Hearing Aid Loan] Program as of January 1, 1983, may continue to function as providers of services with the Texas Department of Health as contracted.

(5) (No change.)

(6) After the provider has been approved by the department, the two parties shall enter into a contract which shall:

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

(C) be, for a period of two years [one year], subject to annual renewal if the provider meets the renewal criteria.

(7) In order to renew a contract with the program, the provider shall submit a letter to the department requesting continuation for a period of two years [one year] of the existing contract or the contract as amended.

(8) (No change.)

§37.39. Denial, Modification, Suspension, or Termination of Provider Approval.

(a) Reasons for denial, modification, suspension, or termination of provider approval. A provider will have its privilege to participate in the program denied, modified, suspended, or terminated if:

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

(4) the provider fails or refuses to submit in a manner prescribed by the department, information which is:

(A) requested by the department for the purpose of determining the provider's compliance with the provisions of Health and Safety Code, Chapter 36, and Texas Civil Statutes, Article [Article 4419g and] 4512j, or the [these] program rules in this chapter concerning special senses and communication disorders;

(B)-(C) (No change.)

(5) the provider submits false or misleading information to the department and the information is material to the department's determination the the provider is:

(A) (No change.)

(B) in compliance with the provisions of Health and Safety Code, Chapter 36; Education Code, §51.901; Texas Civil Statutes, Articles 4566-1.20-4566-1.21; [Articles 4419g, 4590g, 4566] Article 4512j; and these sections; or

(C) (No change.)

(6) -(9) (No change.)

(b) Procedures for denial, modification, suspension, or termination of approval:

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

(4) A provider aggrieved by the program's decision is entitled to appeal the decision to the Texas Department of Health. The appeal procedure, at a minimum, will include the following.

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

(C) The administrative hearings will be conducted in accordance with the applicable provisions of the Texas Administrative Procedures and Texas Register Act, [(Texas Civil Statutes, Article 6252-13a)], and the formal hearing procedures in Chapter 1 of this title (relating to Board of Health). [§§1.21-1.32 of this title (relating to Formal Hearing Procedures)]. A copy of the hearing rules will be provided to the facility.

(D) (No change.)

(5) (No change.)

§37.42. Specific Requirements for Application by an Impaired Individual.

(a)-(f) (No change.)

(g) The recipient returns to the provider to have the hearing aid(s) issued after:

(1) the hearing aid(s) has been purchased through the Texas Department of Health's contracts and bid invitation procedures under the rules and regulations of the Texas State Purchasing and General Services Commission;

(2) -(4) (No change.)

• (h)-(i) (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 30, 1991.

TRD-9105024

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

Proposed date of adoption: July 20, 1991

For further information, please call: (512) 458-7700

Chapter 133. Hospital Licensing

Standards

• 25 TAC §133.21

The Texas Department of Health (department) proposes an amendment to §133.21, concerning the department's hospital licensing standards (standards) which the section adopts by reference. The amendment to the text of §133.21, reflects the effective date of this amendment to the standards. The amendment to Chapter 1 of the standards covers existing facilities/operational requirements, changes existing §1-2.4, and establishes new §§1-2.10 and 1-2.11.

The amendment to existing §1-2.4, concerning special service requirements (rehabilitation), adds definitions; changes the requirements for organization, staffing, and delivery of services to parallel Medicare certification requirements; deletes the requirements for rehabilitation hospitals to maintain an emergency room or execute a patient transfer agreement with other hospitals that requires acceptance of patients that need emergency care or acute care; establishes specific exceptions to the standards that a rehabilitation hospital must meet; authorizes the hospital licensing director to grant variances from the standards if the variances do not threaten the health and safety of the rehabilitation hospital's patients, employees, or medical staff; and establishes a requirement that rehabilitation hospitals report any emergency medical conditions which occur among its patient population.

New §1-2.10 and §1-2.11 establish two new categories of special hospitals, essential access community hospitals (EACHs), and rural primary care hospitals (PCHs). Section 1.2.10 covers hospital location, inpatient beds, and agreements on emergency/medical backup services and patient transfers. Section 1-2.11 covers hospital location, Medicare participation agreements, inpatient care agreements with other hospitals on communication systems, emergency care, inpatient beds, hospital, and other health care services.

New §1-2.10 and §1-2.11 constitute a step toward meeting the federal criteria for a grant under the State Rural Health Network Development Grant Program which was authorized by Public Law 101-239, §6003(g), as amended by Public Law 101-508, §4008(d) and (m). Under this grant program, up to seven states will be awarded grant funding to develop and implement rural health care plans and rural health networks, designate hospitals as EACHs and PCHs, and support communications and emergency transportation systems. Grant funding will also be available for hospitals in the seven states to finance the costs of conversion to an EACH or PCH. States which submit grant applications must have developed, or be in the process of developing a state rural health care plan, and must have designated or be in the process of designating hospitals as EACHs or PCHs. The new sections will accomplish the latter.

Stephen Seale, Chief Accountant III, Budget office, Texas Department of Health, has determined that for the first five-year period the

proposed section as proposed is in effect there will be fiscal implications for state and local government as a result of enforcing or administering the section. The effect on state government for the first five year period will be a grant award totaling approximately \$300,000 if the state's State Rural Health Network Development Grant application is approved. The effect on local government for the first five-year period will be an opportunity to apply for a grant totaling up to \$200,000 per facility for those local governments who operate hospitals that are (or will be) designated as EACHs and PCHs.

Stephen Seale 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 assure that rehabilitation hospitals are constructed and operated according to standards that are more appropriate to the type of services offered and to assure access to health care services in rural areas if grants are approved. 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. There may be a minimal effect on local employment if a hospital ceases to provide inpatient care in order to qualify as a PCH.

Comments on the proposal may be submitted to Maurice B. Shaw, Chief, Bureau of Licensing and Certification, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7538. Comments will be accepted for 30 days after publication of the rules in the *Texas Register*.

The amendment is proposed under the Health and Safety Code, §241.026, which provides the Texas Board of Health with the authority to adopt and enforce rules and minimum standards for hospitals relating to staffing by physicians and nurses; hospital services relating to patient care; and fire prevention, safety, and sanitary provisions of hospitals; and §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§133.21 Adoption by Reference.

(a) The Texas Department of Health adopts by reference the rules contained in the department publication effective September 1, 1985, entitled, "Hospital Licensing Standards," as amended through August [June] 1991.

(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 29, 1991.

TRD-9104961

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

Proposed date of adoption: July 20, 1991

For further information, please call: (512) 458-7538

Chapter 143. Medical Radiologic Technologists

• 25 TAC §§143.6-143.8, 143.10, 143.11

The Texas Department of Health (department) proposes amendments to §§143.6-143.8, §143.10, and §143.11. The sections cover application requirements and procedures; types of certificates and applicant eligibility; examinations; certificate issuance, renewals, and late renewals; and continuing education requirements.

Proposed amendments to §§143.6-143.8 allow the department to issue a general certificate in medical radiologic technology to persons recognized as registered technologists by the American Registry of Clinical Radiography Technologists. Proposed amendments to §143.10 and §143.11 set out reapplication requirements that pertain to technologists who fail to complete the continuing education required for renewal, and special renewal procedures for technologists who are called to active military duty. Also in §143.11, the amendments will clarify the procedures for continuing education and allow the department to expand the list of agencies and organizations which offer or approve continuing education activities without having to request a rule change.

Stephen Seale, Chief Accountant III, TDH, has determined that for the first five-year period the sections are in effect there will be no fiscal implications to state or local government as a result of enforcing or administering these sections.

Mr. Seale also has determined that for each year of the first five years the sections are in effect the public benefits anticipated as a result of enforcing the sections will be to assure that the certification and regulation of medical radiologic technologists continues to identify competent technologists by updating and clarifying the rules. There will be no cost to small businesses as a result of enforcing the sections as proposed. The anticipated economic cost to persons who are affected by the sections which set out procedures for reapplying after failing to renew due to deficient continuing education is the expense of resubmitting their application materials and submitting the \$20 application fee and the examination fee; however it is important to note here that the individuals could have met the qualifications for renewal and paid the \$30 renewal fee instead of having to reapply and be re-examined. Individuals who retake the examination of the American Registry of Clinical Radiography Technologists, the American Registry of Radiologic Technologists, or the Nuclear Medicine Technologist Certification Board must pay the examination fees in effect at the time of reapplication for certification. The examination fees must be paid directly to the examining agency. The current fees for re-examinations are \$100, \$25, and \$40, respectively. In addition, there will be an economic impact on technologists who elect to wait one year to reapply rather than retake an examination. During the delay the technologist may not perform radiologic procedures in violation of the Medical Radiologic Technologist Certification Act (Act). A person may perform radiologic procedures when in compliance with the provisions of the

Act, §2.07. There will be no effect on local employment.

Comments on the proposal may be submitted to Donna S. Hardin, Administrator, Medical Radiologic Technologist Certification Program, Professional Licensing and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756-3183 (512) 459-2961. A public hearing on the proposed amendments has been scheduled for 10 a.m., Tuesday, June 4, 1991, at the Texas Department of Health Auditorium, 1100 West 49th Street, Austin.

The amendments are proposed under Texas Civil Statutes, Article 4512m, §2. 05, which provide the Texas Board of Health with the authority to adopt rules establishing the minimum standards for the certification of medical radiologic technologists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§143.6. Application Requirements and Procedures.

(a) (No change.)

(b) General.

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

(5) A certificate may be reinstated only in accordance with §143.10(1) of this title (relating to Certificate Issuance, Renewals, and Late Renewals).

(c) Required application materials.

(1) The application form shall contain the following items:

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

(D) a statement that the applicant, if issued a [general] certificate [, limited certificate or temporary certificate (general or limited)] shall return the certificate and identification card(s) to the department upon the expiration, revocation, or suspension of the certificate;

(E)-(J) (No change.)

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

(d) Application approval.

(1) (No change.)

(2) The administrator shall approve any application which is in compliance with [subsections (b) and (c) of] this chapter [section] and which properly documents applicant eligibility, unless the application is disapproved under the provisions of subsection (e) of this section.

(3) (No change.)

(e) Disapproved applications.

(1) The department shall disapprove the application if the applicant:

(A)-(F) (No change.)

(G) is under restriction in another state, country, District of Columbia, or territory; or

(H) (No change.)

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

(f) (No change.)

§143.7. Types of Certificates and Applicant Eligibility.

(a) General. The purpose of this section is to set out the types of certificates issued and the qualifications of applicants for certification as a medical radiologic technologist or limited medical radiologic technologist.

(1) The department shall issue [prepare and provide a] general certificates [certificate], limited certificates [certificate], or temporary certificates [certificate] (general or limited)[, with an identification card(s) which contain the applicant's name, certificate number, and date of certificate issue].

(2)-(6) (No change.)

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

(e) Medical radiologic technologist. To qualify for a general certificate an applicant shall meet at least one of the following requirements in addition to those listed in subsection (d) of this section:

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

(4) have successfully completed the NMTCB's examination in nuclear medicine technology; [or]

(5) possess current national certification as a clinical radiographic technologist by the ARCRT in which the technologist qualified for the ARCRT examination on the basis of completion of a two-year training program or a military training program (ARCRT examination eligibility categories A, B, or C as of March 1990); or

(6)[(5)] be currently licensed or otherwise registered as a medical radiologic technologist by another state, District of Columbia, or territory of the United States whose requirements are more stringent than or are substantially equal to the requirements for Texas certification.

(f)-(h) (No change.)

(I) Special provisions for technologists on active military duty. An MRT or LMRT whose certificate has expired and was not renewed under §143.10(h) of this title (relating to Certificate Issuance, Renewals, and Late Renewals) may file a complete application for another certificate of the same type as that which expired.

(1) The application shall be on official department forms and be filed with the application processing fee.

(2) An applicant shall be entitled to a certificate of the same type as that which expired based upon the applicant's previously accepted qualifications and no further qualifications or examination shall be required except payment of the certification fee.

(3) The application must include a copy of the official orders or other official military documentation showing that the holder was on active duty during any portion of the period for which the applicant was last certified.

(4) An application is subject to disapproval in accordance with §143.6(e) of this title (relating to Application Requirements and Procedures).

(5) An applicant for a different type of certificate than that which expired must meet the requirements of this chapter generally applicable to that type of certificate.

§143.8. Examinations.

(a) (No change.)

(b) Examination eligibility.

(1) Holders of temporary certificates, limited or general, and persons approved by the department under the provisions of §143.15 of this title (relating to Alternate Eligibility Requirements) may take the appropriate examination provided the person complies with the requirements of the Medical Radiologic Technologist Certification Act and this chapter. [Persons who qualify under §143.7(e) of this title (relating to Types of Certificates and Applicant Eligibility) are not required to be re-examined for state certification.]

(2) Persons who qualify under §143.7(b), [and] (c), (e) or (f) of this title (relating to Types of Certificates and Applicant Eligibility) are not required to be re-examined for state certification.

(c) (No change.)

(d) Approved examination for the limited certificate. A limited certificate shall be issued upon successful completion of the appropriate examination, as follows:

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

(7) podiatric-the ARRT examination for the limited scope of practice in radiography (lower extremities/podiatry)[:].

(e)-(i) (No change.)

§143.10. Certificate Issuance, Renewals, and Late Renewals.

(a) (No change.)

(b) Issuance of certificates.

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

(3) The department shall replace a lost, damaged, or destroyed certificate [, limited certificate, temporary certificate,] or identification card(s) upon a written request and payment of the replacement fee. Requests shall include detailing of the loss or destruction of the original certificate and/or identification card(s), or be accompanied by the damaged certificate or card(s).

(c) (No change.)

(d) Certificates. The initial general or limited certificate is valid through the MRT's or LMRT's next birth month; however, when the next birth month occurs within six months, the certificate shall be issued for that period plus the next full year in order to establish a staggered renewal system. Fees shall be prorated and must be paid before a certificate will be issued by the department.

(e) Certificate renewal. Each MRT or LMRT shall renew the certificate biennially on or before the last day of the MRT's or LMRT's birth month.

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

(7) The department shall issue renewal identification cards for the current renewal period to an MRT or LMRT who has met all the requirements for renewal. The cards shall be sent to the preferred mailing address provided on the renewal application form. The renewal cards shall be issued for a two-year period except when a certificate is renewed in accordance with paragraph (8) of this subsection or subsection (f) of this section.

(8) The department shall issue renewal identification cards to an MRT or LMRT who complies with paragraph (5) of this subsection but who fails to complete the continuing education requirements for recertification as set out in §143.11 of this title (relating to Continuing Education Requirements). The renewal identification cards shall expire 120-days after the last day of the MRT's or LMRT's birth month. If the deficiency is corrected and proof of completion of the continuing education requirements is sent to the department within the 120 day period, the department shall issue a renewal identification card which expires on the last day of the MRT's or LMRT's next birth month plus one year. An MRT or LMRT who does not correct the deficiency within 120 days shall not be allowed to extend or renew the certificate.

(f) Late renewals.

(1) A person whose certificate has expired for not more than 60 days may renew the certificate by submitting to the department the renewal form, continuing education report forms (if required), and the renewal fee. This subsection shall not apply to a person whose certificate expired due to failure to complete the continuing education requirements.

(2) (No change.)

(3) A person whose certificate has expired may not administer a radiologic procedure during the 60-day period in violation of the Act.

(g) Expired certificates. The department, by certified mail using the last address known, shall attempt to inform each MRT or LMRT who has not timely renewed a certificate, [after a period of more than 60 days after the expiration of the certificate] that the certificate has automatically expired. A person whose certificate automatically expires is required to surrender the certificate and identification cards to the department.

(h) Active duty. If an MRT or LMRT is called to or on active duty with the armed forces of the United States and so long as the MRT or LMRT does not administer a radiologic procedure in a setting outside of the active duty responsibilities during the time the MRT or LMRT is on active duty, the MRT or LMRT shall not be required to complete any continuing education activities during the renewal period in which the MRT or LMRT was on active duty.

(1) Renewal of the certificate may be requested by the MRT or LMRT, the spouse, or an individual having power of attorney from the MRT or LMRT. The renewal form shall include a current address and telephone number for the individual requesting the renewal.

(2) A copy of the official orders or other official military documentation showing that the MRT or LMRT was on active duty for any portion of the renewal period shall be filed with the department along with the renewal form.

(3) An affidavit stating that the MRT or LMRT has not administered a radiologic procedure in a setting outside of the MRT or LMRT's active duty responsibilities during the time of active duty shall be filed with the department along with the renewal form. The affidavit may be executed by the the MRT or LMRT, spouse, or an individual having power of attorney from the MRT or LMRT.

(4) A copy of the power of attorney from the MRT or LMRT shall be filed with the department along with the renewal form if the individual having power of attorney executes any of the documents required by this subsection.

(5) A certificate covered by this subsection may be renewed in accordance with subsection (f) of this section. The 60-day late fee shall be waived for a renewal under this subsection.

(6) An MRT or LMRT whose certificate has expired and was not renewed under subsection (f) of this section may file a complete application for another certificate in accordance with §143.7(i) of this title (relating to Types of Certificate and Applicant Eligibility).

(l) Reinstatement or reapplication.

(1) If a person fails to renew his certificate or fails to complete and send proof of the completion of the continuing education requirements on or before the expiration of the certificate, the person may reinstate or reapply for a certificate only in accordance with this subsection.

(2) On or before one year after the expiration of the person's biennial certificate, the person may file an application for reinstatement of the certificate on official department forms and pay the application processing fee.

(A) The applicant shall be entitled to a certificate of the same type as that which expired based upon the applicant's previously accepted qualifications except as provided otherwise in this subsection.

(B) The applicant shall pay the prorated certification fee determined by the department.

(C) Applicants under this subsection shall be required to successfully complete the NMTCB examination, the appropriate examination of the ARRT, or the ARCRT examination after the department has received a complete application.

(i) The applicant shall comply with §143.8(g) of this title (relating to Examinations).

(ii) The examination requirement of this subsection shall not be waived for persons who:

(I) were nationally certified on September 1, 1987;

(II) are nationally certified by ARRT, NMTCB, or ARCRT;

(III) have previously completed the required examination;

(IV) qualified by reciprocity; or

(V) qualified under any other provision of this chapter.

(D) From the time of expiration of a person's certificate until reinstatement of the certificate, the person may not administer a radiologic procedure in violation of the Act.

(3) A person whose biennial certificate has been expired for at least

one year may apply for another certificate by meeting the then-current requirements of the Act and this chapter which apply to all new applicants.

§143.11. Continuing Education Requirements.

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

(c) Types of acceptable continuing education. Continuing education shall be acceptable if the experience or activity:

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

(3) is an educational activity which meets the following criteria:

(A) (No change.)

(B) is approved, recognized, accepted, or assigned continuing education credits by professional organizations or associations, or offered by a federal, state, or local governmental entity. A list is available from the department upon request [such as the American Society of Radiologic Technologists, the ARCRT, the American Healthcare Radiology Administrators, the American Society of Podiatric Assistants, the Society of Nuclear Medicine, the CCE, the Texas Society for Radiologic Technologists, the Texas Society of the ARCRT, the American Podiatric Medical Association, the American Dental Hygiene Association, the American Medical Association (Category I Continuing Medical Education only), the American Osteopathic Association (Category I Continuing Medical Education only), or the American Dental Association].

(d)-(g) (No change.)

(h) Failure to complete the required continuing education.

(1) An MRT or LMRT who has failed to complete the requirements for continuing education may be granted [up to] a 120-day certificate as described in §143.10(e)(8) of this title (relating to Certificates, Renewals and Late Renewals) [extension to the continuing education period]. The 120-day extension is the maximum that shall be granted and there will be no exceptions, nor may an additional extension period be granted.

(2) (No change.)

(3) An MRT or LMRT who has not corrected the deficiency by the expiration date of the 120-day certificate [end of the extension period] shall be considered as noncompliant with the renewal requirements.

(i) Waiver. The continuing education requirements shall be waived only in accordance with §143.10(h).

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 29, 1991.

TRD-9104960

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

Proposed date of adoption: July 20, 1991

For further information, please call: (512) 459-2961

◆ ◆ ◆
Chapter 151. Nurse Aides

The Texas Department of Health proposes amendments to §§151.2, 151.4, 151.5, 151.6, 151.7, 151.9 and 151.12; proposes the repeal of §151.3; and proposes new §151.3, concerning nurse aides. The amendments cover definitions; requirements for retraining; registry, findings, inquiries; training and competency evaluation program application and approval; training and competency evaluation program requirements; approval of program coordinator, primary instructor, and skills examiner; and withdrawal of approval of program, instructional certification program, program coordinator, primary instructor, or skills examiner. The repeal and new section cover requirements for placement on registry. These changes are necessary to update the rules to reflect recent amendments to federal law and to clarify language in the sections.

Stephen L. Seale, Chief Accountant III, has determined that for the first five-year period the sections as proposed are in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the sections as proposed.

Mr. Seale also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing or administering the sections will be to update and clarify the requirements for training and competency evaluation of nurse aides. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed. There is no effect on local employment.

Comments on the proposal may be submitted to Gerald W. Guthrie, Director, Professional Licensing and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 458-7539. Comments will be accepted for 30 days from the date of publication of the proposed rules in the *Texas Register*.

• 25 TAC §§151.2, 151.4-151.7, 151.9, 151.12

The amendments are proposed under the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health; and the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, §§4201-4214, as amended, which requires the State of Texas, through an appropriate state agency, to adopt rules that specify the training and competency evaluation programs it approves and to establish and maintain a nurse aide registry.

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

Abuse—The willful, knowing, or reckless act of mistreatment of a resident through words or physical action. This includes verbal, sexual, mental/psychological, or physical abuse, including corporal punishment, involuntary seclusion, or any other mistreatment within this definition [which results in physical, emotional, or mental injury to a resident].

Examination—A competency evaluation which includes manual (clinical) skills and written or oral evaluations.

Involuntary seclusion—The separation of a resident from others or from his or her room against the resident's will or the will of the resident's legal representative. Temporary monitored separation from other residents will not be considered involuntary seclusion and may be permitted if used as a therapeutic intervention to reduce agitation as determined by professional staff and consistent with the resident's plan of care.

Mental/psychological abuse—The mistreatment within the definition of abuse not resulting in physical harm and includes, but is not limited to humiliation, harassment, threats of punishment, deprivation, or intimidation.

Neglect—

(A) The deprivation of a resident's life's necessities; or

(B) The failure to reasonably accommodate a resident's individual needs or preferences [An act or omission of an act without due care] which causes physical or emotional harm to the resident or adversely affects or could adversely affect the resident's health, safety, or welfare in any way.

Nurse aide—An individual providing nursing or nursing-related services to residents in a facility under the supervision of a licensed nurse. This definition does not include an individual who is a licensed health professional or a registered dietitian, or who volunteers such services without monetary compensation[, or who is exempt under §151.3(a) of this title (relating to Requirements for Placement on Registry)]. A nurse aide is not authorized to provide nursing and/or nursing-related services for which a license, certification, or registration is required under state or federal law.

Physical abuse—Physical action within the definition of abuse and includes hitting, slapping, pinching, and kicking. It also includes controlling behavior through corporal punishment.

Sexual abuse—Any touching of the anus, breast, or any part of the genitals of a resident with the intent to arouse or gratify the sexual desire of any person and includes, but is not limited to, sexual harassment, sexual coercion, or sexual assault.

Verbal abuse—The use of any oral, written, or gestured language that includes disparaging or derogatory terms to a resident or his or her family, or within either one's hearing distance, to describe a resident, regardless of the resident's age, ability to comprehend, or disability.

§151.4. Requirements for Retraining. If there has been a continuous period of 24 consecutive months after completion of a program during none of which a person performed nursing or nursing-related services or acted as a nurse aide for monetary compensation, the person shall complete a new program or a new competency evaluation program [and examination in accordance with §151.3(d) of this title (relating to Requirements for Placement on Registry)].

§151.5. Registry, Findings, and Inquiries.

(a) The department shall establish and maintain a registry of all individuals who qualify under §151.3(j) of this title (relating to Requirements for Placement on Registry) [have satisfactorily completed a training and competency evaluation program or a competency evaluation program]. Each individual listed on the registry shall keep the department informed of his or her current address and telephone number.

(b) The department shall review and investigate allegations of neglect, abuse, or misappropriation of resident property by a nurse aide. A nurse aide shall be given written notice by the department of a proposed finding on an allegation and must request, in writing, a formal hearing within 20 days of the date the notice is mailed or personally delivered to the nurse aide [10 days of receipt of the notice] or the right to a hearing shall be waived, and the department may reach a finding on the allegation without a formal hearing. Any hearing shall be in accordance with Chapter 1 of this title (relating to Board of Health) [§§1.21-1.34 of this title (relating to Formal Hearing Procedures)] and the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. The registry, the nurse aide, and the administrator of the facility where the event occurred shall be notified of the findings. The registry shall include the documented findings involving an individual listed in the registry, as well as any brief statement of the individual disputing the findings.

(c) A [On or after October 1, 1990, a] facility shall not use an individual, other than a trainee, as a nurse aide or to provide services of a type for which the individual has not demonstrated competency until inquiry of any state [the] registry established under the Act that the facility believes will include [is made and documented as to] information [in the registry concerning the individual].

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

(f) A state shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.

§151.6. Training and Competency Evaluation Program Application and Approval.

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

(c) An application shall be submitted to the department prior to the proposed starting date of a program. An application must be signed by the person or authorized representative of the entity desiring to offer a program.

(1) (No change.)

(2) The [An original of the] entire application and supporting documentation must be typed or printed in ink [submitted] with all pages clearly legible.

(3)-(5) (No change.)

(6) The application shall include:

(A) the name of the school or facility [the proposed starting and ending date of the initial program and, if known, subsequent programs];

(B) (No change.)

(C) the total number of classroom and clinical hours and a schedule of the daily hours of the initial classroom and clinical program [and, if known, subsequent programs];

(D) (No change.)

(E) a list of clinical facilities, and letters of agreement from clinical facilities signed by the chief executive officer or administrator of the facility, if cooperative agreements are made between the facility and the program;

(F) (No change.)

[(G) the projected number of trainees in the initial program;]

(G)[(H)] a description of the classroom and skills training facilities including temperature controls, clean and safe conditions, adequate space to accommodate all students, and adequate lighting;

(H)[(I)] a list of the equipment to be used in the program, including audiovisual equipment and any equipment for simulating resident care; and

(I) [(J)] a list of the textbooks to be used in the program.

(7) (No change.)

(8) If an entity or person desires to offer more than one program for which the location of the classroom course [information required by paragraph (6) of this subsection] differs from program to program, the entity or person shall file a separate application for each of these separate programs.

(d) Each program shall follow the curricula established by the department.

(1) The program shall include, but shall not be limited to, the following instruction and training:

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

[and] (D) personal care skills;

(E) basic nursing skills; and

(F) care of cognitively impaired residents.

(2) The program shall consist of 75 total clock [60 academic] hours of [classroom instruction and] training, of which 24 clock hours will be clinical training [and 20 clock hours of clinical experience training in a facility. A classroom hour shall constitute 50 clock minutes of actual classroom time].

(A) Clinical training is training which includes direct, hands-on care of residents by trainees under the supervision of the primary instructor.

(B) Classroom training is training which occurs in the classroom, skills laboratory, or other setting and does not involve direct care of residents by trainees.

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

(g) A program or a competency evaluation program offered by or in a facility shall not be approved by the department if: [A facility-based program or a facility to be used for the clinical experience in a program shall not be approved by the department if, in the prior two years, the facility's participation in the Medicare and/or Medicaid program(s) has been terminated under the Social Security Act.]

(1) within the previous two years, the facility:

(A) has operated under a waiver under 42 United States Code, §13951-3(b)(4) or §1396r(b)(4) relating to 24 hour licensed nursing service and use of the services of a registered profes-

sional nurse for a specific number of hours;

(B) has been subject to an extended (or partial extended) survey under 42 United States Code, §13951-3(g) or §1396r(g);

(C) has been assessed a civil money penalty described in 42 United States Code, §13951-3(h) or §1396r(h) of not less than \$5,000; or

(D) has been subject to:

(i) denial of payment under 42 United States Code, §13951-3(h) or §1396r(h);

(ii) appointment of temporary management under 42 United States Code, §13951-3(h) or §1396r(h);

(iii) termination of participation under 42 United States Code, §13951-3(h)(4) or §1396r(h)(1) (B)(i); or

(iv) closure of the facility under 42 United States Code, §1396r(h)(2); or

(2) pursuant to any federal or state law and within the period from October 1, 1988, to September 31, 1990, the facility:

(A) had its participation terminated under the Social Security Act, Title XVIII, or under the state plan under the Social Security Act, Title XIX;

(B) was subject to a denial of payment under either such title;

(C) was assessed a civil money penalty not less than \$5,000 for deficiencies in facility standards;

(D) operated under a temporary management appointed to oversee the operation of the facility and to ensure the health and safety of the facility's residents; or

(E) pursuant to state action, was closed or had its residents transferred.

(h) An applicant may request a hearing on a proposed disapproval in writing within 20 days of the date the notice [10 days of receipt of the notice] of the proposed disapproval is mailed or personally delivered to the applicant. The hearing shall be scheduled to commence within 30 days of the department's receipt of the applicant's request for a hearing and shall be in accordance with Chapter 1 of this title (relating to Board of Health) [§§1.21-1.34 of this title (relating to Formal Hearing Procedures)] and the Administra-

tive Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. If no request is made, the entity is deemed to have waived the opportunity for a hearing, and the proposed action may be taken.

(i) (No change.)

§151.7. Training and Competency Evaluation Program Requirements.

(a) The program shall maintain records which shall be available to the department or its designees at any reasonable time and which shall include for each new session of the program at least: [At least seven days prior to the commencement of each individual program, the program coordinator shall notify the department in writing of the starting date, the ending date, the daily hours of the program, and the projected number of trainees.]

(1) the dates and times of all classroom and clinical hours;

(2) the full name and social security number of each trainee;

(3) the attendance record of each trainee; and

(4) the final course grade indicating pass or fail for each trainee.

(b) At the request of a trainee who has successfully completed the training portion of a program, the program shall issue a signed certificate of completion or a letter on letterhead stationery stating that the trainee has completed the program. The document shall include the date of completion, the total hours of training, and the official program name and number on file with the department [The facility used for the clinical experience shall cease to be utilized by a program if the facility is terminated by the department or other appropriate federal or state agency from participation in the Medicare and/or Medicaid program(s) under the Social Security Act].

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

(g) A program must notify the department of a [A] change in any information presented by a program in an approved application related to [including, but not limited to,] ownership, classroom location, clinical training site, instructorship, and content. Such changes shall be approved by the department prior to the program's effective date of the change. If, due to special circumstances, a program cannot notify the department of a change prior to the effective date of the change, the department shall be notified immediately and shall approve the change if the change complies with the Act and this chapter.

(h)-(k) (No change.)

(l) A program or competency evaluation program shall not be offered by or in a facility if the facility fails

within any of the provisions of §151.6(g)(1) or (2) of this title (relating to Training and Competency Evaluation Program Application and Approval).

(m) No charges (relating to programs, competency evaluation programs, textbooks, other required course material, or establishment or maintenance of the registry) shall be imposed against any nurse aide who is employed by (or who has received an offer of employment from) a facility on the date on which the aide begins a program or a competency evaluation program.

§151.9. Approval of Program Coordinator, Primary Instructor, and Skills Examiner.

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

(e) Deficiency in application.

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

(3) An applicant may request a hearing on a proposed disapproval in writing within 20 days of the date the notice is mailed or personally delivered to the applicant [10 days of receipt of the notice]. The hearing shall be scheduled to commence within 30 days of the department's receipt of the applicant's request for a hearing and shall be in accordance with Chapter 1 of this title (relating to Board of Health) [§§1.21-1.34 of this title (relating to Formal Hearing Procedures)] and the Administrative Procedure and the Texas Register Act, Texas Civil Statutes, Article 6252-13a. If no request is made, the applicant is deemed to have waived the opportunity for a hearing and the proposed action may be taken.

§151.12. Withdrawal of Approval of Program, Instructional Certification Program, Program Coordinator, Primary Instructor, or Skills Examiner.

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

(c) The individual notified may request a hearing within 20 days of the date the notice is mailed or personally delivered to the individual [10 days after receipt of the notice]. This request shall be in writing and submitted to the Program Administrator, Nurse Aide Training and Registry Program at the department. A hearing shall be scheduled to commence within 30 days from the department's receipt of the request for a hearing and shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and Chapter 1 of this title (relating to Board of Health) [§§1.21-1.34 of this title (relating to Formal Hearing Procedures).]

(d) (No change.)

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

Issued in Austin, Texas, on April 29, 1991.

TRD-9104962

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

Proposed date of adoption: July 20, 1991

For further information, please call: (512) 458-7539

◆ ◆ ◆
• 25 TAC §151.3

The repeal is proposed under the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health and the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, §§4201-4214, as amended, which requires the State of Texas, through an appropriate state agency, to adopt rules that specify the training and competency evaluation programs it approves and to establish and maintain a nurse aide registry.

§151.3. Requirements for Placement on Registry.

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 29, 1991.

TRD-9104963

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

Proposed date of adoption: July 20, 1991

For further information, please call: (512) 458-7539

◆ ◆ ◆
The new section is proposed under the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health and the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, §§4201-4214, as amended, which requires the State of Texas, through an appropriate state agency, to adopt rules that specify the training and competency evaluation programs it approves and to establish and maintain a nurse aide registry.

§151.3. Requirements for Placement on Registry.

(a) A person may not act as a nurse aide unless the person complies with the Act and this chapter.

(b) A facility must not use on a full-time basis any individual as a nurse aide in the facility on or after October 1, 1990, for more than four months unless the individual:

(1) has completed an approved training and competency evaluation pro-

gram or competency evaluation program; and

(2) is competent to provide nursing or nursing-related services.

(c) A facility must not use on a temporary, per diem, leased, or on any basis other than as a permanent employee any individual as a nurse aide in the facility on or after January 1, 1991, unless the individual meets the requirements in subsection (b) of this section.

(d) An individual used by a facility as a nurse aide for four months or less shall be subject to this chapter if the person is enrolled in or has completed a program or a competency evaluation program.

(e) In order to complete the competency evaluation program or the competency evaluation portion of a program, a person must:

(1) complete and submit to the department or its designee the application for examination on forms prescribed by the department or its designee;

(2) achieve a passing grade on the skills examination as determined by the department;

(3) achieve a passing grade on the written or oral examination as determined by the department; and

(4) successfully complete the written or oral examination after successful completion of the skills examination.

(f) At a nurse aide's option, the nurse aide may establish competency under subsection (e) of this section by successful completion of:

(1) one of the following:

(A) a skills examination; or

(B) an examination for a handicapped or disabled individual equivalent to the skills examination; and

(2) one of the following:

(A) a written examination in English;

(B) an oral examination in Spanish;

(C) an oral examination in English; or

(D) an examination for a handicapped or disabled individual equivalent to the written or oral examination.

(g) A person who fails the skills examination or the written or oral examination may retest twice on the failed examination. The department is not required to set special examination schedules for those who request reexamination.

(h) All examinations shall be administered by the department or its designee(s) and shall be:

(1) a demonstration by the trainee of a minimum of five tasks, all of which are included in the performance record;

(2) selected for each trainee from a pool of evaluation items (tasks) which have been ranked by the department according to degree of difficulty; and

(3) a random selection of tasks with at least one from each degree of difficulty.

(i) It is the responsibility of each program to schedule examinations for its trainees with the department or its designee(s) and to provide the facility where the skills examination and the location where the written or oral examination will be given.

(1) It is the responsibility of a trainee to verify that a program makes the arrangements required under this subsection.

(2) If a trainee fails the written or oral examination, it is the trainee's responsibility to notify the program that a retest is necessary.

(j) A person shall be placed on the registry if the person meets one of the following requirements:

(1) successful completion of an approved program;

(2) successful completion of an approved competency evaluation program;

(3) presentation to the department of written documentation that the person successfully completed a program or a competency evaluation program conducted in another state pursuant to the requirements of the Act and is currently on the registry in that state;

(4) the individual has served as a nurse aide at one or more facilities of the same employer in Texas for at least 24 consecutive months prior to December 19, 1989, and has completed documentation required by the department; or

(5) the nurse aide was found competent (whether or not by the State of Texas) before July 1, 1989, after completion of a nurse aide training course of at least 100 hours duration and has completed documentation required by the department.

(k) A copy of the nurse aide registry certificate shall be kept on file by a facility employing the person listed on the certificate.

(l) A certificate is not transferable.

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 29, 1991.

TRD-9104964

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

Proposed date of adoption: July 20, 1991

For further information, please call: (512) 458-7539

Chapter 157. Emergency Medical Care

EMS Personnel Certification

• 25 TAC §157.45

The Texas Department of Health (department) proposes an amendment to §157.45, concerning emergency medical services (EMS) personnel recertification.

The amendment will allow EMS personnel whose certification expires to have a 90-day period in which they may recertify using the continuing education credits accumulated over the certification period. The present rule requires EMS personnel to take a formal refresher course and then lose the credits they have earned. This amendment is also being adopted on an emergency basis in this issue of the *Texas Register*.

Stephen Seale, Chief Accountant III, has determined that for each year of the first five years the section will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the section as proposed.

Mr. Seale has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section as proposed is the assurance of adequately certified EMS personnel. There is no anticipated economic cost to individuals who are required to comply with the section as proposed; no effect on small businesses; and no effect on local employment.

Comments on the proposal may be submitted to Eugene Weatherall, Chief, Bureau of Emergency Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7550. Comments will be accepted for 90 days after publication of this amendment in the *Texas Register*.

The amendment is proposed under the Health and Safety Code, Chapter 773, which provides the Texas Board of Health with the authority to adopt rules to implement the Emergency Medical Services Act; §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§157.45. Recertification.

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

(d) Late recertification.

(1) If the application and the non-refundable fee for recertification are

[is] received prior to the expiration date of the certificate, the certification shall continue for a period not to exceed 90 days from the expiration date. The applicant shall qualify for recertification by [During the 90-day period, the certificant shall]:

(A) completing the continuing education requirements for recertification as required in §157.76 of this title (relating to Continuing Education) or completing a department approved refresher course [complete the requirements of subsection (b)(1)(A) of this section]; and

(B) successfully passing [pass] the department's written and skills certification examinations for the recertification level requested as described in subsection (b)(1)(C) of this section. However, a candidate who fails either the skills certification examination or the written certification examination may retest on each examination one time provided a fee of \$25, if applicable, accompanies the request for written retest. [All retests shall be completed within the 90-day period.]

(C) All requirements of this paragraph, including certification examinations and retests, shall be completed no later than 90 days from the expiration date.

(2) If an application and the non-refundable fee for recertification are received after the expiration date but within 90 days following the expiration date, the applicant shall qualify for recertification by:

(A) completing the continuing education requirements for recertification as required in §157.76 of this title (relating to Continuing Education) or completing a department approved refresher course; and

(B) successfully passing the department's written and skills certification examinations as described in subsection (b)(1)(C) of this section. However, a candidate who fails either the skills certification examination or the written certification examination may retest on each examination one time provided a fee of \$25, if applicable, accompanies the request for written retest.

(C) all requirements of this paragraph, including certification examinations and retests, shall be completed no later than 90 days from the expiration date. Certification shall not continue during the 90-day period.

(3)[(2)] If an application for recertification is received after the 90-day period beyond the expiration date of the certificate but within two years following

the expiration date, the applicant shall submit in addition to the recertification fee, a late fee of \$25. The applicant is not certified during this period. If he represents himself as a certified EMS person, the applicant may be denied recertification and may be subject to the civil and criminal penalties under the Health and Safety Code, §773.063 and §773.064.

(A) All requirements of this paragraph including certification examinations and retests shall be completed no later than two years from the expiration date of the most recent certificate or within 90 days of the completion date of the EMS refresher course, whichever is sooner.

(B) The applicant shall qualify for recertification by:

(i) completing a department approved EMS refresher course for the level of recertification requested; and

(ii) achieving a passing grade on the department's written and skills certification examinations for the recertification level requested as described in subsection (b)(1)(C) of this section. However, a candidate who fails either the skills certification examination or the written certification examination may retest on each examination one time provided a fee of \$25, if applicable, accompanies the request for written retest.

(4)[(3)] A candidate as described in paragraphs (1),(2) or [(2)] (3) of this subsection who fails a retest may be eligible to apply for recertification by:

(A) completing a department approved EMS refresher course for the certification level within two years of the expiration date of the most recent certificate; and

(B) submitting an application for recertification with the applicable fee as described in subsection (b)(1)(B) of this section and meeting the certification examination requirements for the level of recertification requested as described in subsection (b)(1)(C) of this section, and subsection (b)(2) of this section, if applicable; or

(C) submitting an application for a lower level of certification with the applicable fee as described in subsection (b)(1)(B) of this section and meeting the certification examination requirements for the level of certification requested as described in subsection (b)(1)(C) of this section, and subsection (b)(2) of this section, if applicable.

(5)[(4)] A candidate who does not successfully complete the recertification requirements under paragraph (4) [(3)] of

this subsection shall meet the requirements of §157.41 of this title (relating to Certification) prior to being eligible for certification.

(6)[(5)] After verification by the department of the information submitted by the certificant, a certificant who meets requirements in paragraphs [paragraph] (1) and (2) of this subsection shall be recertified for four years commencing on the day following the expiration date of the most recent certificate. A certificant who meets requirements in paragraph (3) [(2)] of this subsection shall be recertified commencing on the issuance of a new certificate and wallet-size certificate signed by department officials.

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 29, 1991.

TRD-9104980

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

Proposed date of adoption: August 24, 1991

For further information, please call: (512) 458-7550

◆ ◆ ◆
**TITLE 34. PUBLIC FI-
NANCE**
**Part III. Teacher
Retirement System of
Texas**

**Chapter 29. Benefits
Service Retirement**

• **34 TAC §29.11**

The Teacher Retirement System of Texas (TRS) proposes an amendment to §29.11, concerning actuarial tables adopted by reference and used for early age retirement and for retirement options. These new tables are proposed as a result of the latest actuarial study completed by the TRS consulting actuary.

Wayne Fickel, TRS controller, 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. Fickel 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 have tables that more accurately reflect the mortality, service, and compensation experience of the system's members and beneficiaries. Also, benefits will improve slightly under the new tables for most members or beneficiaries. 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. The section will not have an impact on local economies.

Comments on the proposal may be submitted to Ronald Douglas, Acting Executive Secre-

tary, 1000 Red River Street, Austin, Texas 78701-2698.

The amendment is proposed under the Texas Government Code, §825.102, which provides the Board of Trustees of the Teacher Retirement System with the authority to adopt rules for membership eligibility, the administration of the funds of the retirement system, and the transaction of its business; §825.105, which authorize the board to adopt actuarial tables for benefit calculations; and §824.202(d) and (e), which authorizes the board to adopt tables for early age retirement reduction factors.

§29.11. *Actuarial Tables.* Actuarial tables furnished by the Wyatt Company, Consulting Actuaries, will be used for computation of benefits. Factors for ages or types of annuities not included in the tables will be computed from the same data by the same general formulas. The Teacher Retirement System adopts by reference the Wyatt Company's February 20, 1991 [June 18, 1986], factors for retirement options [Options 3 and 4 and the June 14, 1989, factors for retirement Options 1 and 2] and [for] the early age reduction factors based on 8.0% interest. These actuarial tables shall be effective beginning [October 1, 1986, except for the tables containing the factors for retirement Options 1 and 2 and for early age reduction, which shall be effective] September 1, 1991 [1989]. Information regarding and/or copies of these tables may be obtained by contacting the Teacher Retirement System of Texas, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

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 30, 1991.

TRD-91005055

Ronald Douglas
Acting Executive Secretary
Teacher Retirement
System of Texas

Proposed date of adoption: June 14, 1991

For further information, please call: (512) 397-6400

◆ ◆ ◆
**Part IV. Employees
Retirement System of
Texas**

Chapter 81. Insurance

• **34 TAC §81.1**

The Employees Retirement System of Texas proposes an amendment to §81.1, concerning definitions. The definition of dependent is modified.

William S. Nail, 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. Nail 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 allowance of some dependents to be covered under the

Uniform Group Insurance Program who are excluded at the present time. 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 William S. Nail, General Counsel, P.O. Box 13207, Austin, Texas 78711-3207.

The amendment is proposed under the Texas Insurance Code, 3.50-2, §4, which provides the Employees Retirement System of Texas with the authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and carry out the purposes and provisions of the Texas Employees Group Insurance Benefits Act.

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

Dependent—The spouse of an employee or retiree and unmarried children under 25 years of age, including:

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

(E) a foster child or other child who is in a parent-child relationship to the employee/retiree, provided the child's primary place of residence is the household of the employee/retiree, and the employee/retiree provides the necessary care and support for the child[, and the natural parent of the child does not reside in the same household]; and

(F) (No change.)

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

Issued in Austin, Texas, on April 30, 1991.

TRD-9105032

Charles D. Travis
Executive Director
Employees Retirement
System of Texas

Earliest possible date of adoption: June 7, 1991

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

◆ ◆ ◆
TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part VI. Texas Commission on Human Rights

Chapter 327. Administrative Review

• **40 TAC §327.1**

The Texas Commission on Human Rights proposes an amendment to §327.1, concerning a procedure clarifying that the commission has the authority to amend complaints after 180 days from the date of an alleged violation of the Texas Commission on Human Rights Act based on an initial timely filed complaint. Such an amendment is for the purpose of curing technical defects or omissions including verification of the complaint and to clarify and amplify allegations made therein.

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

Mr. Hale also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section as proposed will be to preserve complainants's rights to file a timely cause of action with the commission alleging employment discrimination.

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 William M. Hale, Executive Director, Texas Commission on Human Rights, P.O. Box 13493, Austin, Texas 78711.

The amendment is proposed under the Texas Commission on Human Rights Act, Article 5221(k), Texas Civil Statutes, Article 3, §3.02(10) which provides the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

§327.1. Filing Complaint.

(a)-(j) (No change.)

(k) If a complaint as referenced in subsection (c) of this section is within 180 days after the date the alleged unlawful employment practice occurred, it may be amended in accordance with subsection (g) of this section to comply with the definition of a complaint as referenced in §321.1 of this title (relating to Definitions). If the complaint is not amended within 180 days after the date the alleged unlawful employment practice occurred, the amended complaint shall relate back to the date the original complaint was filed as required by subsection (e) 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 26, 1991.

TRD-9104952

William M. Hale
Executive Director
Texas Commission on
Human Rights

Earliest possible date of adoption: June 7, 1991

For further information, please call: (512) 837-8534

◆ ◆ ◆

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 7. BANKING AND SECURITIES

Part VI. Credit Union Department

Chapter 95. Texas Share Guaranty Credit Union

General

• 7 TAC §95.2

The Credit Union Department adopts an amendment to §95.2, without changes to the proposed text as published in the March 29, 1991, issue of the *Texas Register* (16 TexReg 1863).

Two definitions were added and one definition was amended to clarify terms which will be used during the insurance conversion program.

This section will define those terms that are frequently used, and must be recognized by state chartered credit unions that are converting from private to federal share insurance; thereby, making the conversion process more meaningful.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 30, 1991

TRD-9105037 John R. Hale
Commissioner
Credit Union Department

Effective date: May 22, 1991

Proposal publication date: March 29, 1991

For further information, please call: (512) 837-9236

• 7 TAC §95.3

The Credit Union Department adopts the repeal of §95.3, without changes to the proposed text as published in the February 8, 1991, issue of the *Texas Register* (16 TexReg 709).

Texas Share Guaranty Credit Union is transferring its member credit unions' guaranty to the federal share insurance program.

Repeal of this rule establishes the requirement that the share insurance program for state chartered credit unions must be with the federal government's share insurance program.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 30, 1991

TRD-9105038 John R. Hale
Commissioner
Credit Union Department

Effective date: May 22, 1991

Proposal publication date: February 8, 1991

For further information, please call: (512) 837-9236

General

• 7 TAC §95.3

The Credit Union Department adopts new §95.3, without changes to the proposed text as published in the March 29, 1991, issue to the *Texas Register* (16 TexReg 1864).

The State of Texas is converting the share insurance program of state chartered credit unions that have private share and deposit insurance to the federal share insurance program administered by the National Credit Union Administration.

The new section will provide notice of this required conversion and establish suspense dates for specific actions to be completed.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 30, 1991

TRD-9105039 John R. Hale
Commissioner
Credit Union Department

Effective date: May 22, 1991

Proposal publication date: March 29, 1991

For further information, please call: (512) 837-9236

Powers

• 7 TAC §95.102

The Credit Union Department adopts an amendment to §95.102, without changes to the proposed text as published in the March 29, 1991, issue to the *Texas Register* (16 TexReg 1864).

The section authorizes Texas Share Guaranty Credit Union (TSGCU) to assist member credit unions financially in converting from the TSGCU share and deposit insurance program to the federal government's share insurance program.

If financial assistance is needed by a member credit union to secure acceptance in the federal share insurance program, TSGCU may assist.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 30, 1991.

TRD-9105040 John R. Hale
Commissioner
Credit Union Department

Effective date: May 22, 1991

Proposal publication date: March 29, 1991

For further information, please call: (512) 837-9236

Direction of Affairs

• 7 TAC §95.201

The Credit Union Department adopts an amendment to §95.201, without changes to the proposed text as published in the March 29, 1991, issue to the *Texas Register* (16 TexReg 1864).

The section permits the retention of converted credit union membership on Texas Share Guaranty Credit Union's (TSGCU) board of directors.

By retaining converted credit union membership on the TSGCU board of directors, it is believed that transition from TSGCU's private share and deposit insurance program to the federal government's share insurance program will flow more smoothly and efficiently.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 30, 1991.

TRD-9105041 John R. Hale
 Commissioner
 Credit Union Department

Effective date: May 22, 1991

Proposal publication date: March 29, 1991

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §95.306

The Credit Union Commission adopts the repeal of §95.306, without changes to the proposed text as published in the March 29, 1991, issue of the *Texas Register* (16 TexReg 1864).

The repeal of this section enables state chartered credit unions an expeditious and orderly conversion from private to federal share insurance.

The newly adopted §95.306 prescribes the method to be used for refunding a membership investment share since all State chartered credit unions having Texas Share Guaranty Credit Union's share and deposit insurance will be converted to federal share insurance.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 30, 1991

TRD-9105042 John R. Hale
 Commissioner
 Credit Union Department

Effective date: May 22, 1991

Proposal publication date: March 29, 1991

For further information, please call: (512) 837-9236

◆ ◆ ◆
The Credit Union Commission adopts new §95.306, without changes to the proposed

text as published in the March 29, 1991, issue of the *Texas Register* (16 TexReg 1864).

The new section clarifies the refund of membership investment shares in Texas Share Guaranty Credit Union (TSGCU) to provide for an expeditious and orderly conversion from TSGCU's share and deposit insurance to federal share insurance program.

This section delineates the method to be used by TSGCU when paying a refund to a member credit union.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 30, 1991

TRD-9105043 John R. Hale
 Commissioner
 Credit Union Department

Effective date: May 22, 1991

Proposal publication date: March 29, 1991

For further information, please call: (512) 837-9236

◆ ◆ ◆
Finance and Accounts

• 7 TAC §95.307

The Credit Union Commission adopts the repeal of §95.307, without changes to the proposed text as published in the March 29, 1991, issue to the *Texas Register* (16 TexReg 1864).

The repeal is necessary to provide for the expeditious and orderly conversion, by state chartered credit unions, from the private share and deposit insurance program of Texas Share Guaranty Credit Union to the federal share insurance program.

The section has been replaced by §95.306.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 30, 1991.

TRD-9105044 John R. Hale
 Commissioner
 Credit Union Department

Effective date: May 22, 1991

Proposal publication date: March 29, 1991

For further information, please call: (512) 837-9236

The Credit Union Commission adopts new §95.307, without changes to the proposed text as published in the March 29, 1991, issue to the *Texas Register* (16 TexReg 1864).

The new section establishes those procedures that are to be followed by a member credit union when converting from the share and deposit insurance provided by Texas Share Guaranty Credit Union (TSGCU) to the federal share insurance provided by the National Credit Union Administration (NCUA) through the National Credit Union Share Insurance Fund (NCUSIF).

The new section outlines the procedures that are to be followed through the insurance conversion process, and establishes TSGCU's and the converted credit union's reminding liability to the program. Such procedures clarify any remaining questions concerning obligations and liability.

No Comments were received regarding adoption of the new section.

The new section is adopted under the Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 30, 1991.

TRD-9105045 John R. Hale
 Commissioner
 Credit Union Department

Effective date: May 22, 1991

Proposal publication date: March 29, 1991

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §95.308

The Credit Union Commission adopts the repeal of §95.308, without changes to the proposed text as published in the March 29, 1991, issue to the *Texas Register* (16 TexReg 1865).

The section was repealed due to state chartered credit unions having Texas Share Guaranty Credit Union's share and deposit insurance converting to federal share insurance.

The section has been replaced by §95.306.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 30, 1991.

TRD-9105046 John R. Hale
 Commissioner
 Credit Union Department

Effective date: May 22, 1991

Proposal publication date: March 29, 1991

For further information, please call: (512) 837-9236

◆ ◆ ◆
• 7 TAC §95.309

The Credit Union Commission adopts an amendment to §95.309, without changes to the proposed text as published in the March 29, 1991, issue to the *Texas Register* (16 TexReg 1865).

The amendment will provide for an expeditious and orderly conversion, by State chartered credit unions, from the private share and deposit insurance provided by Texas Share Guaranty Credit Union to that share insurance program administered by the federal government.

The amendment establishes investment shares of member credit unions, to include converted credit unions, as pledged assets to help provide for any financial assistance needed by member credit unions during conversion, and the accounting notes to be used on books and records.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 30, 1991.

TRD-9105047

John R. Hale
Commissioner
Credit Union Department

Effective date: May 22, 1991

Proposal publication date: March 29, 1991

For further information, please call: (512) 837-9236

◆ ◆ ◆
**TITLE 16. ECONOMIC
REGULATION**
Part I. Railroad
Commission of Texas

Chapter 3. Oil and Gas
Division

Conservation Rules and Regulations

• 16 TAC §3.22

The Railroad Commission of Texas (commission) adopts new §3.22 (Statewide Rule 22), with changes to the proposed text as published in the February 19, 1991, issue of the *Texas Register* (16 TexReg 1023).

Adoption of §3.22 will complement existing sections that prohibit the storage or accumulation of oil in pits by requiring additional

measures necessary to protect birds at tanks and pits where conditions harmful to birds exist or are likely to occur. According to wildlife authorities, even small amounts of oil in a tank or pit may result in the death of birds. The section requires operators to screen, net, cover, or otherwise render harmless certain open-top tanks and pits that are likely to collect some oil. It also allows the commission to require protective measures at other pits under specified circumstances.

In subsection (a), the phrase "If an oil and gas operator who maintains" has been deleted and replaced with the phrase "If an operator who maintains." The phrase "associated with the production of oil and gas" in subsection (b) has been replaced with the phrase "associated with the exploration, development, or production of oil and gas, including transportation of oil and gas by pipeline." Subsection (b)(1) was amended by adding a sentence that reads: "however, temporary, portable storage tanks that are used to hold fluids during drilling operations, workovers, or well tests are exempt."

Several commenters stated that the cost estimates for screening or netting a 100-foot by 100-foot pit were unrealistically low. Based on information provided by commenters, the commission agrees. The cost of compliance with the section will be approximately \$2,000, instead of the previous estimate of \$500, for a 100-foot by 100-foot pit. The cost may be higher where corrosion from salt water or damage from wind present serious problems.

In response to the commission's request for information on the types of tanks that should be required to be rendered harmless, several commenters urged that the exemption for open-top tanks 16 feet or less in diameter be narrowed or deleted to include the large number of smaller diameter tanks that present a hazard to birds. The United States Fish and Wildlife Service stated that 26 oil companies have been criminally prosecuted for dead birds that were found in tanks smaller than 16 feet in diameter. The commission is considering these recommendations, but believes that further public comment is necessary before making a change. Consequently, pending further inquiry, tanks 16 feet or less in diameter will continue to be exempted.

One commenter was uncertain about whether the section was intended to cover temporary, portable tanks that are often used to hold fluids during drilling operations, well tests, or workovers. In response to this request for clarification, the commission has added a sentence exempting such temporary storage tanks.

Several commenters were uncertain about the applicability of the section to reserve pits used in drilling operations. Reserve pits are covered by subsection (c)(3). The commission believes that during drilling, the noise and human activity around a reserve pit should prevent birds from landing in it. Once a well has been drilled, the operator has a limited period of time to dewater and backfill the pit. If, during that limited period of time, field inspections result in two citations for violations of rules that prohibit accumulation or storage of oil in pits, then the reserve pit will have to be rendered harmless or closed immediately.

One commenter suggested that the section did not clearly include pits associated with oil and gas pipelines. Although the commission interprets the term oil and gas operator to include pipeline operators and the term "production" to include the transportation of oil and gas by pipeline, the section has been modified to make it clear that pits associated with transportation of oil and gas by pipeline are included in the scope of this new section.

Two commenters suggested that subsection (c) be changed to require an operator to net any pit the first time dangerous conditions are found to exist. One of the same commenters also urged that all pits be required to be netted. The commission disagrees. The information that has been provided to the commission indicates that it is pits with frequent or continuous films of oil that present a significant threat to birds. The first time oil is found in a pit is often an isolated occurrence caused by upset conditions. If a pit is found with oil in it, the operator will be required to remove the oil immediately. If the operator fails to remove the oil immediately or the commission discovers oil in the same pit again within a 12 month period, the pit will be deemed to present a chronic dangerous condition, and the operator will be required to net, screen, or otherwise render the pit harmless.

One commenter suggested that the section should spell out the penalty provisions more clearly. The commission does not believe it is necessary to specify penalties in the rule. The commission has a variety of enforcement options provided by statute, and can use its discretion to evaluate the egregiousness of the conduct in any given incident and select the appropriate action.

Wildlife experts commented that screening pits and tanks with one-inch mesh material is the most effective way to render them harmless. The commission acknowledges this recommendation from recognized experts in the field.

Two commenters suggested that the requirement to render pits harmless was onerous to operators and, in their experience, was not supported by evidence that birds were dying in pits in their geographical areas. One commenter suggested that the mandatory netting or screening of certain pits be limited to geographical areas in which birds have been found to mistake pits for fresh water. The commission disagrees. Evidence supplied by wildlife experts indicates that operators are often unaware of a problem with birds dying in pits because the carcasses frequently sink quickly to the bottom of the pit where they disintegrate with time. Moreover, most of the State of Texas is in the migratory flyway of ducks and other protected species of birds.

The following commenters expressed general support for the new section: Conoco Inc., Permian Basin Petroleum Association, Sue-Ann Production Company, Texas Independent Producers & Royalty Owners Association, Transcontinental Pipe Line Corporation, United States Fish & Wildlife Service, and two individual commenters.

Three individual commenters requested the commission to promulgate a regulation to protect birds, but did not specifically comment on the proposed section.

The following commenters requested clarification of the section, but did not offer any specific indication whether they supported the section or not: Alice Specialty Company, East Texas Salt Water Disposal Company, and Roosth & Genecov Production Company.

The following commenters stated that they did not support the section as written: "Fed Up," and the Texas Parks and Wildlife Department.

The new section is adopted under the Texas Natural Resources Code, Title 3, §85.042, which provides the Railroad Commission of Texas with the authority to adopt rules for the prevention of operations in the field dangerous to life or property.

§3.22. Protection of Birds.

(a) If an operator who maintains a tank or pit does not take protective measures necessary to prevent harm to birds, the operator may incur liability under federal and state wildlife protection laws. Federal statutes, such as the Migratory Bird Treaty Act, provide substantial penalties for the death of certain species of birds due to contact with oil in a tank or pit. These penalties may include imprisonment. State statutes also protect certain species of birds. The Railroad Commission of Texas (commission) is cooperating with federal and state wildlife authorities in their efforts to protect birds.

(b) An operator must screen, net, cover, or otherwise render harmless to birds the following categories of open-top tanks and pits associated with the exploration, development, and production of oil and gas, including transportation of oil and gas by pipeline

(1) open-top storage tanks that exceed 16 feet in diameter and contain a continuous or frequent surface film or accumulation of oil; however, temporary, portable storage tanks that are used to hold fluids during drilling operations, workovers, or well tests are exempt;

(2) skimming pits as defined in §3.8 of this title (relating to Water Protection) (Statewide Rule 8); and

(3) collecting pits as defined in §3.8 that are used as skimming pits.

(c) If the commission finds a surface film or accumulation of oil in any other pit regulated under §3.8, the commission will instruct the operator to remove the oil. If the operator fails to remove the oil from the pit in accordance with the commission's instructions or if the commission finds a surface film or accumulation of oil in the pit again within a 12-month period, the commission will require the operator to screen, net, cover, or otherwise render the pit harmless to birds. Before complying with this requirement, the operator will have a right to a hearing upon request. In addition to the enforcement actions specified by this subsection, the commission may take any other appropriate enforcement actions within its authority.

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 29, 1991.

TRD-9105052 Lena Guerrero
Chairman
Railroad Commission of
Texas

Effective date: September 1, 1991

Proposal publication date: February 19, 1991

For further information, please call: (512) 463-6977

TITLE 22. EXAMINING BOARDS

Part VI. Texas State Board of Registration for Professional Engineers

Chapter 131. Practice and Procedure

Bylaws and Definitions

• 22 TAC §131.17, §131.18

The Texas State Board of Registration for Professional Engineers adopts amendments to §131.17 and §131.18. Section 131.18 is adopted with changes to the proposed text as published in the February 15, 1991, issue of the *Texas Register* (16 TexReg 937). Section 171.17 is adopted without changes and will not be republished.

The amendment to §131.17 was necessary to correct the reference to the National Council of Examiners for Engineering and Surveying (NCEES) formerly the National Council of Engineering Examiners. The amendment to the definition of professional engineering in §131.18 was necessary to clarify engineering services provided by the profession and those items that are subject to competitive bidding prohibitions under the board's rules regarding the Professional Services Procurement Act and the Federal Brooks Act.

The amendments will provide the correct references to NCEES and strengthen the public's knowledge of the services provided by the engineering profession.

The board received comments from the State Department of Highways and Public Transportation, the Texas Board of Architectural Examiners and the Railroad Commission of Texas expressing concern that in their opinion some of the terminology contained in the proposed definition for "professional engineering services" was too broad and evasive. The Highway Department rescinded its comments after discussing the matter with representatives of the board. The board agreed with several of the suggestions received from the Architects' Board and incorporated them in the text as adopted. The board disagreed with the comments received from the Railroad Commission and advised the commission that the language defining engineering services was taken directly from the Federal Property and Administrative Services Act of

1949 (commonly known as the Brooks Act), as amended in 1988.

The amendments are adopted under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§131.18. Definitions. In applying the Texas Engineering Practice Act and the board rules, the following definitions shall prevail unless the word or phrase is defined in the text for a particular usage. The singular shall be construed to include the plural and vice versa, and the masculine shall be construed to include the feminine or neuter and vice versa.

Professional engineering services—Services which must be performed by or under the direct supervision of a registered engineer and which require the application of engineering principles, or the interpretation of engineering data. These engineering services may be in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works or projects including: consultation; planning; designing; construction; alteration or repair of real property; or other engineering or incidental services which engineering professionals (and individuals in their employ) may logically or justifiably perform, such as studies, investigations, mapping, testing, evaluations, program management, conceptual designs, plans and specifications, value engineering, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

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 29, 1991.

TRD-9105016 Charles E. Nemir, P.E.
Executive Director
Texas State Board of
Registration for
Professional Engineers

Effective date: May 21, 1991

Proposal publication date: February 15, 1991

For further information, please call: (512) 440-7723

Engineering Experience

• 22 TAC §131.81

The Texas State Board of Registration for Professional Engineers adopts an amendment to §131.81, without changes to the proposed text as published in the February 15, 1991, issue of the *Texas Register* (16 TexReg 938).

The amendment was necessary to correct the references to ECPD/ABET-approved degrees in the section as the ECPD name was changed to the Accreditation Board for Engineering and Technology, Inc. (ABET), and also to distinguish the Engineering Accredita-

tion Commission (EAC), which reviews the engineering programs for accreditation purposes, from the Technology Accreditation Commission (TAC).

The amendment provides clarification that acceptable engineering degrees must be accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology, Inc. (ABET) and corrects the additional references to EAC and ABET.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

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 29, 1991.

TRD-9105013 Charles E. Nemir, P.E.
Executive Director
Texas State Board of
Registration for
Professional Engineers

Effective date: May 21, 1991

Proposal publication date: February 15, 1991

For further information, please call: (512) 440-7723

Education

• 22 TAC §131.91

The Texas State Board of Registration for Professional Engineers adopts an amendment to §131.91, without changes to the proposed text as published in the February 15, 1991, issue of the *Texas Register* (16 TexReg 939).

The amendment was necessary to correct the references to ECPD/ABET-approved degrees in the section as the ECPD name was changed to the Accreditation Board for Engineering and Technology, Inc. (ABET), and also to distinguish the Engineering Accreditation Commission (EAC), which reviews the engineering programs for accreditation purposes, from the Technology Accreditation Commission (TAC).

The amendment provides clarification that acceptable engineering degrees must be accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology, Inc. (ABET) and corrects the additional references to EAC and ABET.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

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 29, 1991.

TRD-9105014 Charles E. Nemir, P.E.
Executive Director
Texas State Board of
Registration for
Professional Engineers

Effective date: May 21, 1991

Proposal publication date: February 15, 1991

For further information, please call: (512) 440-7723

Examinations

• 22 TAC §131.102

The Texas State Board of Registration for Professional Engineers adopts an amendment to §131.102, with changes to the proposed text as published in the February 15, 1991, issue of the *Texas Register* (16 TexReg 939).

The amendment was necessary to broaden the examination for record purposes policy to allow individuals who are either enrolled in or a graduate from a four-year engineering related science curriculum to take the fundamentals examination and defines the engineering related science curriculum as construed by the board.

The amendment permits individuals with four-year engineering related science degrees to take the fundamental examination for record purposes.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§131.102. Examination for Record Purposes.

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

(d) Students who are classified as a senior in college and within one year of graduating and who are enrolled in a four-year engineering or a four-year engineering related science curriculum recognized by the Texas Higher Education Coordinating Board may apply to the board to take the fundamentals of engineering examination at their school provided the school will administer the examination as prescribed by the board. An engineering or related science curriculum is construed by the board to be a bachelor of science degree of four years or more in an engineering or related science program accredited by a regional or national accrediting agency, or a program formally approved by a state authority recognized by the Council on Postsecondary Accreditation (COPA) and/or the United States Department of Education. These programs will include the following:

(1) an engineering technology program of four years or more that is accredited by the Technology Accreditation

Commission (TAC) of the Accreditation Board for Engineering and Technology, Inc. (ABET), referred to as TAC/ABET;

(2) an engineering-related program of four years or more that is accredited by the Related Accreditation Commission (RAC) of ABET (RAC/ABET);

(3) other four-year degree programs in the mathematical, physical, or engineering science field approved by the board.

(e) Individuals who have not passed nor taken the fundamentals of engineering examination while in college and who are graduates from a four-year curriculum in engineering or a four-year curriculum in an engineering related science may apply to the board to take the examination in Austin, other sites designated by the board, or at engineering colleges provided the school will administer the examination for such graduates. The fundamentals of engineering examination may be taken any time after graduation provided that the rules for scheduling are followed and the appropriate fee for each examination is paid.

(f) The principles and practice of engineering examination may not be taken for record purposes unless an individual is registered as a professional engineer or has been given permission by the board to take the examination for registration purposes.

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 29, 1991.

TRD-9105015 Charles E. Nemir, P.E.
Executive Director
Texas State Board of
Registration for
Professional Engineers

Effective date: May 21, 1991

Proposal publication date: February 15, 1991

For further information, please call: (512) 440-7723

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 465. Rules of Practice

• 22 TAC §465.18

The Texas State Board of Examiners of Psychologists adopts an amendment to §465.18, without changes to the proposed text as published in the March 29, 1991, issue of the *Texas Register* (16 TexReg 1866).

The adopted amendment recognizes the Psychologists Certification and Licensing Act, §22, which exempts persons working in those exempt agencies.

Any person employed by an agency exempt under the Act, §22, will not have to adhere to the board supervision guidelines.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on April 29, 1991.

TRD-9105008 Patricia S. Bizzell
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: May 21, 1991

Proposal publication date: March 29, 1991

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

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• 22 TAC §465.25

The Texas State Board of Examiners of Psychologists adopts new §465.25, without changes to the proposed text as published in the March 29, 1991, issue of the *Texas Register* (16 TexReg 1866).

The board has determined that they will not consider complaints dealing with the authorization for psychological services by the courts to minors.

Complaints will be returned to complainants giving them direction to return to the courts to determine if the court order has been violated.

No comments were received regarding adoption of the new section.

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

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

Issued in Austin, Texas, on April 29, 1991.

TRD-9105007 Patricia S. Bizzell
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: May 21, 1991

Proposal publication date: March 29, 1991

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

◆ ◆ ◆
• 22 TAC §465.26

The Texas State Board of Examiners of Psychologists adopts new §465.26, without

changes to the proposed text as published in the March 29, 1991, issue of the *Texas Register* (16 TexReg 1867).

This rule permits psychologists licensed in other jurisdictions to practice in Texas while going through the application process in Texas.

A licensed psychologist from another jurisdiction can apply for temporary privileges at the same time he/she applies for certification and licensure in Texas.

No comments were received regarding adoption of the new section.

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

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

Issued in Austin, Texas, on April 29, 1991.

TRD-9105006 Patricia S. Bizzell
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: May 21, 1991

Proposal publication date: March 29, 1991

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

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 1. Board of Health

Procedures and Policies

• 25 TAC §1.4, §1.9

The Texas Department of Health adopts amendments to §1.4 and §1.9, without changes to the proposed text as published in the December 18, 1990, issue of the *Texas Register* (15 TexReg 7244).

Section 1.4 concerns board committees and §1.9 concerns actions requiring board approval. The amendments transfer the provisions concerning advisory committees from §1.9 to §1.4 in order to combine into one section all board requirements on committees, and adds new language to §1.4, concerning attendance requirements for committee members. In addition, the amendment to §1.9 adds new subsection (c) concerning the approval by the board of the appointment or removal by the commissioner of health of the director of the Internal Audit Division. These amendments update and clarify the sections and implement the provisions of the Texas Internal Auditing Act, Senate Bill 2728, 71st Legislature, 1989, concerning the governing board of a state agency appointing an internal auditor.

No comments were received regarding adoption of the amendments.

The amendments are adopted under House Bill 2728, 71st Legislature, 1989 (Texas Civil Statutes, Article 6252-5d, §5), which provides the Board of Health with the authority to appoint an internal auditor; and Health and Safety Code, §11.016 and §12.001, which provides the Board of Health with the authority to adopt rules concerning board procedures and board appointed advisory committees.

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 29, 1991.

TRD-9104955 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: May 20, 1991

Proposal publication date: December 18, 1990

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

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Chapter 37. Maternal and Child Health Services

Maternal and Child Health Advisory Committee

• 25 TAC §37.281

The Texas Department of Health (department) adopts new §37.281, concerning Maternal and Child Health Advisory Committee. The new section is adopted with changes to the proposed text as published in the November 6, 1990, issue of the *Texas Register* (15 TexReg 6372).

New §37.281 establishes the composition, duties, and procedures of the Maternal and Child Health Advisory Committee. Specifically this covers the committee's name and place of business; purpose; membership and participation; meetings and voting; responsibilities of members; officers; public participation; and compensation of members.

No comments were received regarding adoption of the new section; however, the Board of Health made an editorial change to the final section for clarification.

The new section is adopted under the Health and Safety Code, §11.016, which provides the Board of Health with the authority to establish advisory committees; and §12.001, which provides the board with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

§37.281. *Procedures of the Maternal and Child Health Advisory Committee.*

(a) Name and place of business.

(1) Name. The committee shall be known as the Maternal and Child Health Advisory Committee (committee), created

by Senate Bill 1678, §3, 71st Legislature, 1989, which amended the Human Resources Code, §131.0042.

(2) Office. The committee is administratively attached to the Bureau of Maternal and Child Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700.

(b) Purpose. The committee is created for the purpose of advising and assisting the Texas Department of Human Services (TDHS), the Texas Department of Health (department), and the legislature on issues concerning services to pregnant women and children in order to maximize a coordinated system of services to eligible pregnant women and children throughout the state. Committee responsibilities will include:

(1) monitoring the delivery of maternal and child health services through programs including Medicaid; the Maternal and Infant Health Improvement Act (Health and Safety Code, Chapter 32); the Early and Periodic Screening, Diagnosis and Treatment Program; the Chronically Ill and Disabled Children's Program; and the Women, Infant and Children's Program;

(2) monitoring the coordination of programs delivered by the department and TDHS to avoid unnecessary duplication of services;

(3) recommending improvements in programs to the department, TDHS, and the legislature as appropriate;

(4) reviewing related proposed legislation and regulations to determine their impact on access, delivery, and coordination of services; and

(5) reporting to the department, TDHS, and the Legislature annually concerning the these services, including the population served, gaps in coverage and services to each population, and the efficiency of the coordination of these services throughout the state.

(c) Membership and participation.

(1) Membership. The committee shall consist of 18 members, which include:

(A) one member of the Texas Board of Health or it's designated representative, selected by the board;

(B) one member of the Texas Board of Human Services, selected by the board;

(C) one member of the Texas Health and Human Services Coordinating Council, selected by the council;

(D) five health professional members, a family practice physician, an obstetrician, a pediatrician, a registered

nurse (RN) with expertise in neonatal care, and a RN with expertise in maternal and child health, appointed by the Governor;

(E) five public members, one of whom shall be a consumer of a program for pregnant women and children, appointed by the Lieutenant Governor; and

(F) five public members, one of whom shall be a consumer of a program for pregnant women and children, appointed by the Speaker of the House of Representatives.

(2) Vacancies. A vacancy on the committee shall be filled in the same manner as other appointments to the committee.

(3) Terms. Committee members shall serve staggered six-year terms, with the terms of five members expiring August 31 of each odd-numbered year. Members originally appointed to the committee shall draw lots to determine their initial terms so that five committee members are appointed every odd-numbered year.

(4) Policies governing membership. The subcommittees of the committee shall be ad hoc and shall be appointed by the chairperson with such powers and responsibilities as shall be delegated to them by the chairperson. The appointed ad hoc committee can be made up of participants other than the Maternal and Child Health Advisory Committee members.

(5) Staff participation. The department and TDHS shall cooperate with the committee by making resource staff available to the committee and subcommittee when information relating to the agencies' programs is needed. Minutes of all committee meetings will be prepared and transmitted to the membership for their review prior to subsequent meetings.

(d) Meetings and voting.

(1) Meetings. The full committee shall meet at least four times per year. Notice of the time, date, place, and purpose of regular meetings shall be provided to the members, by mail, telephone, or FAX at least 30 days in advance of each meeting.

(2) Special meetings. Special meetings of the committee shall be held as needed and called by the chairperson. Notice of the time, date, place, and purpose of special meetings shall be provided to the members, by mail, telephone, or FAX at least seven days in advance of each meeting.

(3) Quorum. A majority of the committee's members constitutes a quorum (10 members) for the transaction of business at any meeting. A majority is defined as more than one-half of the committee's membership. The committee may act only by majority vote of its members present and voting. Each member shall be entitled to one vote. Proxy votes shall not be allowed.

(4) Parliamentary procedure. Parliamentary procedures for all committee or subcommittee meetings shall be conducted in accordance with the latest edition of *Roberts Rules of Order*, except that the Chairperson may vote on any action as does any other member of the committee.

(e) Responsibilities of members.

(1) Attendance. Members accepting appointment shall be expected to attend all committee meetings, and subcommittee meetings to which they are appointed, except in the case of an emergency.

(2) Absences. A record of attendance at each meeting shall be made. If a member misses two consecutive regular meetings, written notice shall be given to the member. A third consecutive absence from a regular meeting may be sufficient grounds for requesting replacement of a member.

(f) Officers and duties.

(1) Officers. The officers of the committee shall consist of a chairperson and a vice-chairperson. The officers shall be selected at the committee's third regular meeting in odd numbered years and then as terms expire or vacancies are otherwise created. Officers shall serve two-year terms and shall be eligible for reelection of one additional term. The chairperson will be the presiding officer of the committee. The vice-chairperson shall assume the authority and duties of the chairperson in his/her absence.

(2) Duties. Each officer shall be expected to fulfill his/her assigned duties and other appropriate duties requested by the committee.

(A) The chairperson shall:

(i) preside at meetings;

(ii) plan with liaison staff for the agenda of the meetings and other committee activities;

(iii) handle administrative matters of the committee;

(iv) act as spokesperson of the committee;

(v) appoint members to membership of subcommittees and ad hoc committees as needed; and

(vi) perform other duties as requested by the committee, the department's commissioner, TDHS's commissioner, or the legislature.

(B) The vice-chairperson shall:

(i) preside at meetings in the absence of the chairperson;

(ii) cooperate with the chairperson in the administration of the committee;

(iii) assume all duties and responsibilities in the absence of the chairperson; and

(iv) assume additional duties as requested by the committee, the department's commissioner, TDHS's commissioner, or the legislature.

(g) Public participation. All requests from the public to participate in committee meetings shall be submitted in advance to the committee chairperson. The agenda for each committee meeting shall include one or more items providing for public participation. The chairperson may limit, as necessary, the time for each spokesperson appearing before the committee. Written comments are encouraged and may be submitted to the committee for their consideration.

(h) Compensation. Members of the committee and ad hoc committees will receive no compensation for their services. A member of the committee is entitled to reimbursement for expenses incurred in performing duties for this committee. The reimbursement may not exceed the amount specified in the General Appropriations Act for travel and per diem allowances for state employees.

(i) Amendments. This section may be amended by a vote of the quorum. There will be at least a 30 day written notice in the *Texas Register* prior to the final adoption of any changes to this section.

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 29, 1991.

TRD-9104979 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: May 20, 1991

Proposal publication date: November 6, 1990

For further information, please call: (512) 458-7700

◆ ◆ ◆
**Chapter 289. Occupational
Health and Radiation
Control**

**Texas Regulations for Control
of Radiation**

• 25 TAC §289.115

The Texas Department of Health (department) adopts an amendment to §289.115, without changes to the proposed text as published in the February 12, 1991, issue of the *Texas Register* (16 TexReg 826); however, there are minor changes to the regulations which are adopted by reference in this section.

Section 289.115 adopts by reference Part 31 of the Texas Regulations for Control of Radi-

ation (TRCR) entitled "Radiation Safety Requirements and Licensing and Registration Procedures for Industrial Radiography." The amendment is to Part 31 and concerns quarterly audits of industrial radiographic personnel. In April 1990, the United States Nuclear Regulatory Commission (NRC) found the TRCR to be incompatible regarding the quarterly audit requirement. In accordance with the agreement between the department and the NRC, the department must adopt a compatible rule. Presently, Part 31 requires each licensee/registrant to conduct audits of the performance of radiographers it employs at least quarterly, with each radiographer's performance to be audited at least annually. The amendment will require quarterly audits of each member of radiographic personnel.

The amendment allows for increased supervision of radiographers' techniques of safely handling sources of radiation. Such increased supervision can result in earlier identification and correction of unsafe work practices.

No comments were received from the public regarding the proposed rule; however department staff members made minor grammatical changes to the regulations.

The amendment is adopted under the Health and Safety Code, Chapter 401, as amended by Chapters 172, 840, 913, and 930, Acts of the 71st Legislature, 1989, which provides the Board of Health with the authority to adopt rules and guidelines relating to the control of radiation.

§289.115. Radiation Safety Requirements and Licensing and Registration Procedures for Industrial Radiography.

(a) The Texas Department of Health adopts by reference Part 31, "Radiation Safety Requirements and Licensing and Registration Procedures for Industrial Radiography" of the Department's document titled "Texas Regulations for Control of Radiation", as amended in May 1991.

(b) (No change.)

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

Issued in Austin, Texas, on April 29, 1991.

TRD-9104959 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: May 20, 1991

Proposal publication date: February 12, 1991

For further information, please call: (512) 835-7000

◆ ◆ ◆
**Chapter 325. Solid Waste
Management**

**Subchapter P. Fees and Re-
ports**

Transporters of Medical Waste

The Texas Department of Health (department) adopts new §§325.641-325.643 and

325.1005-325.1009. New §§325.1005, 325.1006, and 325.1008 are adopted with changes to the proposed text as published in the February 12, 1991, issue of the *Texas Register* (16 TexReg 826). New §§325.641-325.643, 325.1007, and 325.1009 are adopted without changes and will not be republished. The effective date for §§325.641-325.643, 325.1005, and 325.1008 is July 1, 1991; and the effective date for §§325.1006, 325.1007, and 325.1009 is June 1, 1991.

The sections specify the requirements for collection, transportation, and storage of untreated medical waste; and require transporters to register with the department and specify the annual fee required for registration. The program will be funded from fees collected.

In addition, the sections require persons who transport untreated medical waste to register with the department prior to engaging in such activities, and require adherence to the sections in order to maintain the registration. The sections prescribe the requirements for registration, the requirements for vehicles used to transport the waste, the requirements for record keeping, and the responsibility for proper disposal of collected waste. Fees are to cover the expense of operating the regulatory program and appropriate reporting requirements are established. The transfer of untreated medical waste is restricted to permitted facilities except under specified conditions. The sections allow the department to register licensed hospitals in sparsely populated areas as medical waste collection stations which may accept untreated medical waste from small quantity generators (less than 50 pounds of waste per month) for storage and consolidation of waste for shipment. Treatment of the collected waste is not authorized. The requirements for storage of medical waste are specified.

The department is concerned with the increasing costs for health care and the availability of health care in rural areas of the state. The department has sought to develop a set of regulations for medical waste collection, transportation, and storage which are based on an analysis of the actual disease transmission risk factors, the possibility of physical injury to refuse workers, and certain aesthetic factors associated with some types of medical waste. The department has sought to limit the cost effect of regulation so as not to add to the growing costs associated with health care delivery unless there is a scientific or medical reason to adopt procedures and requirements which will undoubtedly increase the costs.

These new sections were originally proposed in the September 21, 1990, issue of the *Texas Register* (15 TexReg 5471), but were withdrawn due to substantive changes.

A summary of comments received during the comment period are as follows.

Two individuals made verbal comments at a public hearing held in Austin at the Department of Health on February 26, 1991. The department also received written comments from 10 sources within the period allowed for public comment.

Concerning §325.1005(b), one responder suggested including as a requirement the estimated amount of waste to be transported. The department acknowledges the intent of

the comment; however, since the application must be accompanied by a registration fee as established in §325.1005(q), the department does not believe the information is necessary. Section 325.1005(b) is adopted as proposed.

Concerning §325.1005(e), one responder expressed the opinion that the requirement for notification of changes to a registration should be activated when a significant increase in transport volume occurs and recommended replacing the 20% figure with 50% as had been proposed in the September 20, 1990, *Texas Register*. The responder also felt that reporting the hiring of each employee would be overly burdensome to both the department and the transporter. A periodic reporting period was recommended. The department accepts the suggestion and has added additional language.

Concerning §325.1005(f), a number of comments were made concerning the revocation or denial of registration in relation to when the revocation or denial would be instituted. The Texas Solid Waste Disposal Act, Health and Safety Code, Chapter 361, authorizes the department to assess administrative penalties of not less than \$100 per violation but not more than \$10,000 per violation. Civil penalties may be imposed by a court up to \$25,000 per violation per day of violation. The department may, depending upon the nature and severity or degree of the violation(s), elect to seek administrative penalties, bring suit in civil court, or seek revocation of a transporter's registration. The general enforcement policy is described in Chapter 325, Subchapter H (§§325.221-325.223) of the department's "Municipal Solid Waste Management Regulations" (MSWMR). In §325.1005(f)(2), the department has added additional language concerning requests for a formal hearing.

Concerning §325.1005(g), several comments were received concerning requirements for vehicles used to collect or transport untreated medical waste. One responder objected to the allowed use of a fully enclosed, leak-proof roll-off box because roll-off boxes would not meet the requirements. The department agrees that some types of roll-off boxes would not be satisfactory, but some types are. Roll-off boxes with only canvas tops would not, in the department's opinion, be considered to be fully enclosed containers. A point was raised about the combining of multiple roll-off containers on a single truck for shipment. The department addressed this concern by adding new language in §325.1005(i).

A number of comments were received concerning the subject of refrigeration of medical waste. These comments were directed at different subsections by different responders. On the issue of requiring refrigeration for all shipments of medical waste, the department has decided that this would prove to be very costly, but would not be necessary in many cases. Comments received concerning the sections proposed in September 1990, pointed out the difficulty in maintaining the proposed 45 degrees Fahrenheit temperature in a vehicle which would be opened several times during the day for the purpose of adding uncooled boxes of waste. To maintain the specified temperature would effectively require units capable of reaching subfreezing temperatures in order to hold an average temperature of 45 degrees Fahrenheit. This

would make the vehicles very expensive and could cause problems in loading/unloading large trailers. Refrigerated vehicles which are opened and closed frequently would also have internal condensation problems in areas of high humidity. Condensate could cause deterioration over time of the waste containers within the vehicle. Refrigeration is unnecessary for some categories of medical waste. In fact, some pathogenic agents present in the waste would, unless subjected to several freeze-thaw cycles, remain active and potentially harmful for a longer time under moderate refrigeration. Refrigeration is one method on controlling certain problems, but it is not the only method and is probably not the least costly. Concerning §325.1005, one responder requested more specific specifications of the clean-up equipment to be added. The department agrees and has added additional language in §325.1005(g)(1)(C) and (h). One responder suggested a wording change in §325.1005(g)(2)(A). The department accepts the suggestion and has added the wording change.

Concerning §325.1005(h), a request for clarification concerning the disinfection of the cargo compartment rather than the entire vehicle was made. The department agrees and has added additional language. A comment was made that the department should restrict vehicles used to transport medical waste to only that usage. The department will take this request under advisement for review. The department is opposed to the practice of "backhauling." The department may address this concern in future amendments.

Concerning §325.1005(i), two specific comments were received. One commenter requested additional language to clarify the limitation which applies to transport and storage. The department, in response to this and to the comments received concerning §325.1005(g), has added additional language. A request for exclusion of deregulated radioactive material from the list of prohibited items was made. The department's response is that if a material has been determined not to be subject to control under Chapter 289 (relating to Occupational Health and Radiation Control), it should be handled as appropriate for the material itself. Therefore, the department does not believe additional language is needed.

Concerning §325.1005(j), a number of comments were received concerning the cost and availability of the coverage specified. Consultation with the State Board of Insurance leads the department to believe that transporters operating from fixed, permitted facilities may be able to obtain the pollution liability insurance, but those transporters which operate independently of a permitted facility may not be able to obtain coverage. The intent of this subsection was to ensure that a transporter was financially responsible and would have the resources to cleanup or remediate spills, etc. An additional option has been added to satisfy the intent. The department is aware of the costs involved; however, since the transporter will be held responsible for any and all waste collected, the department feels obliged to ensure that neither the state nor the generators must pay for remedial activities made necessary by transporter carelessness or inappropriate activities.

Concerning §325.1005(k), in response to a comment, the department has added additional language which specifically states that the receipt must be provided at the time the waste is collected.

Concerning §325.1005(k), (l), and (m), one group of responders insisted the department adopt a multicopy document and that a copy of each document be filed with and reviewed by the department's staff. The department's response is that this proposal goes beyond what is currently required for shipments of hazardous waste. The personnel and space requirements necessary to accomplish this type of program effectively would be substantial, to say the least. The ineffectiveness of a manifest system has been demonstrated by events within the last year in North Texas. The cost burden which would be imposed on small clinics and physicians, dentists, and veterinarians in private practice would significantly increase health care costs. Industrial firms conduct compliance audits of transporters and disposal sites which handle their waste in the hazardous waste management system. Transporters are sometimes "shadowed" by representatives of the generator to ensure shipments reach prescribed destinations. Disposal operations are monitored because "signed" manifests have not provided acceptable proof of disposal for some regulatory agencies. The cost of such an environmental audit system is beyond the capability of most, if not all, private practitioners and of all but the largest hospitals. The department, after examination of the issue, has elected to assign the responsibility for waste collected by a transporter to that transporter. As part of that program, transporters must provide evidence of financial responsibility and must report all waste shipments in summary form to the department annually. All records are subject to inspection by department representatives. Therefore, the department declines to accept the system requested.

Concerning §325.1005(p), two comments in opposition were received. One responder objected to this entire subsection. One responder wanted generators transporting their own waste to pay the fees specified in §325.1005(q). A third responder requested clarification of §325.1005(p)(3). In response, the department feels that small generators should be allowed to transport their own waste as needed, if they desire to do so. In rural areas, collection services have not always been available at a reasonable cost. The department and local health departments operate mobile clinics and provide some clinical services at various locations on a rotating basis. In many cases these services may be the only non-emergency medical care available to some segments of the population. In addition, some home health care providers have expressed the intent of bringing wastes associated with home health care to their own offices for aggregation and shipment. A large generator has expressed concern over potential liability problems associated with the use of a third party vendor for transport, and has indicated a strong desire to maintain control of its waste up to the disposal facility. The department believes the exemptions allowed in §325.1005(p)(1) and (2) will best serve the public in the broad area of health care and adopts the paragraphs as proposed. In order to clarify the intent of §325.1005(p)(3), "structures contiguous to" has been changed to "facilities contiguous to."

Concerning §325.1005(q), one comment was offered concerning the complexity of the fee structure. The 71st Legislature amended the Solid Waste Disposal Act to require the department to impose fees, within specified limits, according to the amount of waste transported. In addition, the fees collected must reflect the department's operational costs. It is anticipated that the fee schedule will change after the program costs have stabilized. The subsection is adopted as proposed.

Concerning §325.1005(r), one comment in strong support of the proposed rule was received. The department adopted the subsection as proposed.

Concerning §325.1006, several comments were received. One comment was essentially a complaint concerning an unauthorized site. In response, the department has referred this matter to the appropriate regional office for investigation. Two responders objected to the requirement for permitting a transfer station because of the time and cost. The department's response is that the term "transfer station" is defined in §325.5 of the MSWMR. The activities involved in transferring waste from a small vehicle to a large vehicle are specifically covered in this definition. Therefore, a permit will be required. One of the responders stated that transfer of waste between two vehicles parked tail-gate to tail-gate should be allowed. A number of complaints have been received by the department concerning trucks operating from private residences or on public streets and parking of trucks loaded with waste in residential neighborhoods. The department does not accept these suggestions, and the requirement for a permit for transfer operations by commercial transporters, as called for in §325.5, and reinforced in §325.1006 is retained.

Concerning §325.1006, a comment was received requesting additional guidance and rules concerning reporting requirements for traffic accidents in which vehicles transporting untreated medical waste are involved. The department has added additional language addressing this concern.

Concerning §325.1007, one group stated that the department must regulate interstate shipments of medical waste. The department's response is the State of Texas does not have regulatory authority with respect to interstate shipments. That authority is reserved for the United States Congress by the United States Constitution. The department may, and has in these sections, addressed shipments which originate and/or end in the state. That is the limit of the state's authority. The section is adopted as proposed.

Concerning §325.1008, several comments were received concerning allowing licensed hospitals in less populated areas to serve as collection stations by registering with the department. This section was proposed to provide small generators in less populated areas with a means to consolidate small amounts of waste with those from a larger facility. The department hoped the provisions would minimize the costs for transporters who would be able to have a single collection point in the less populated area. This section would also provide a more convenient method for collection of waste from mobile clinics and from clinics which operate from several non-permanent or semi-permanent sites on a

tating basis. The section was intended to serve less populated areas, but not suburban hospitals in a metroplex area. To fulfill the intent, the department added language requiring that the facilities eligible to register will be restricted to those in counties of less than one million population. These facilities must be licensed by the department in accordance with the Texas Hospital Licensing Law, Health and Safety Code, Chapter 241, and will have infection control programs in effect. One responder requested that hospitals be allowed to accept waste and to treat that waste along with their own hospital waste. The department does not accept this request. A facility which accepts waste generated off-site for the purposes of incineration becomes a commercial infectious waste incinerator and is subject to the permitting requirements as such. Any other treatment process, if used by the hospitals for off-site generated waste, would make the hospital a processing facility requiring a solid waste permit. A request to delete the section is not accepted because the department believes this will provide a means of minimizing health care waste disposal costs in the less populated areas. This rule would allow only small generators to take their own waste, properly packaged, to a regulated, licensed hospital for the purpose of collection for aggregation to a larger single shipment.

Concerning §325.1009, several comments were received concerning requirements for storage of medical waste. The department agrees that refrigeration is one method of handling waste storage. However, it is not the only effective method and it is not the most cost effective in every situation. It would be regulatory overkill to require every generator to refrigerate everything. The department believes that the requirements for storage of waste generated on site allow the generator, particularly small generators, some flexibility in managing their own waste. An individual generator will also be knowledgeable of the type of waste he/she produced and associated problems. On the other hand, a commercial storage facility will not have detailed knowledge of the contents of each shipment received at the facility. In this case more specific controls are called for. Collection stations authorized in §325.1008 will be required to meet conditions called for in §325.1009(d) (refer to §325.1008(c)(3)). A question was raised as to what type of permit would be required for a storage facility. The department responded that inquiries concerning the permitting process should be directed to the Director, Permits and Registrations Division, Bureau of Solid Waste Management, at 1100 West 49th, Austin, Texas 78756-3199.

Written comments concerning the regulations were received from Waste Management of North America, Inc.; Groups Allied to Stop Pollution; Medwaste Disposal Service, Inc.; 3CI Complete Compliance Corporation; Ecorr Medical Waste Management; Med Compliance Services; Medical Environmental Disposal, Inc.; US Med-Disposal, Inc.; The Texas Hospital Association; and the Department of Health staff. In general the commenters were supportive of the proposed sections, but offered suggestions and recommendations as previously discussed.

• 25 TAC §§325.641-325.643

The new sections are adopted under the Health and Safety Code, §361.011 and

§361.024, which establishes the department's jurisdiction for municipal solid waste management and to adopt sections to manage municipal solid waste, and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt sections for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

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

Issued in Austin, Texas, on April 29, 1991.

TRD-9104958

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

Effective date: July 1, 1991

Proposal publication date: February 12, 1991

For further information, please call: (512) 458-7271

Subchapter Y. Medical Waste Management

• 25 TAC §325.1005, 325.1008

The new sections are adopted under the Health and Safety Code, §361.011 and §361.024, which establishes the department's jurisdiction for municipal solid waste management and to adopt sections to manage municipal solid waste; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt sections for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§325.1005. Transporters of Medical Waste.

(a) The requirements of this section are applicable to any person who collects for transport or who transports untreated medical waste which is designated as a special waste from health care related facilities unless that person is exempt under the provisions of subsection (p) of this section.

(b) Transporters shall register their operations with the department no later than the effective date of these sections. Persons who plan to transport untreated special waste from health care related facilities after the effective date of this section shall register with the department prior to commencing operations. Registration forms will be provided by the department upon request. The following information must be provided for registration:

(1) name, address, and telephone number of registrant;

(2) name, address, and telephone number of partners, corporate officers, and directors;

(3) description of vehicles to be registered, including:

(A) make, model, and year of vehicle;

(B) motor vehicle identification number;

(C) vehicle license plate (tag) number including state and year; and

(D) name of vehicle owner; and

(4) name and driver's license number (including the state issuing the license) for all vehicle operators.

(c) Persons who apply to the department for registration and receive said registration shall maintain a copy of the registration form, as annotated by the department with an assigned registration number, at their designated place of business and in each vehicle used to transport untreated special waste from health care related facilities.

(d) Registrations shall expire 12 months after the date of issuance. Registrations are required to be renewed annually prior to the expiration date. Applications for renewal must contain the same information as the initial registration and shall be submitted to the department at least 60 days prior to the expiration date. An application for renewal may be obtained from the Bureau of Solid Waste Management.

(e) Transporters shall notify the department, by letter, within 15 days of any changes to their registration if:

(1) the amount of untreated special waste from health care related facilities or total operation is expanded by 50% over that originally registered;

(2) the office or place of business is moved;

(3) the name of registrant or owner of the operation is changed;

(4) the name of the partners, corporate directors, or corporate officers change; or

(5) additional drivers are employed. The notification for additional drivers may be done at six-month intervals.

(f) Revocation or denial of registration procedures are as follows.

(1) The department may revoke a registration or refuse to issue a registration for:

(A) failure to maintain a complete and accurate record of shipments of waste;

(B) failure to maintain vehicles in safe working order as evidenced by citations from the Texas Department of Public Safety or local traffic law enforcement agencies;

(C) falsification of waste shipping documents or shipment records;

(D) delivery of untreated special waste from health care related facilities to a facility not authorized to handle the waste;

(E) failure to comply with any rule or order issued by the department pursuant to the requirements of this chapter;

(F) failure to submit required annual reports or pay registration fees;

(G) failure to maintain insurance or provide proof of insurance as required in subsection (j) of this section;

(H) illegal disposal of untreated or treated medical waste; or

(I) collection or transportation of medical waste without registration as required in this section.

(2) Appeal of revocation or denial procedures are as follows.

(A) An opportunity for a formal hearing on the revocation of registration may be requested in writing by the registrant by certified mail, return receipt requested, provided the request is post-

marked within 20 days after a notice of revocation has been sent from the department to the last known address of the registrant. If the registration is revoked, a transporter shall not transport untreated special waste from health care related facilities regulated under this subchapter. The period of revocation shall be not less than one year nor more than five years.

(B) An opportunity for a formal hearing on the denial of registration or renewal of registration may be requested, in writing by the applicant by certified mail, return receipt requested provided the request is postmarked by the applicant within 20 days after a notice of denial has been sent from the department to the address listed on the application. If the registration is denied, a person shall not collect or transport untreated special waste from health care related facilities regulated under this subchapter.

(C) The formal hearing shall be in accordance with Chapter 1 of this title (relating to Texas Board of Health).

(g) Requirements for vehicles used to collect or transport untreated medical waste are as follows.

(1) Vehicles used to collect and or transport medical waste shall:

(A) have a fully enclosed, leak-proof, cargo-carrying body, such as a cargo compartment, box trailer, or roll-off box;

(B) protect the waste from mechanical stress or compaction;

(C) carry spill cleanup equipment including, but not limited to, disinfectants, absorbent materials, personal protective equipment, such as gloves, coveralls, and eye protection, and leakproof containers or packaging materials; and

(D) have the following identification on the two sides and back of the cargo-carrying compartment in letters at least three inches high:

(the name of the transporter)
TDH: (the TDH-assigned registration number)
Caution: Medical Waste.

(2) The cargo compartment of the vehicle shall:

(A) be maintained in a sanitary condition;

(B) be locked when the vehicle is in motion;

(C) be locked when waste is present in the compartment except during loading or unloading of waste;

(D) have a floor and sides made of an impervious, nonporous material; and

(E) have all discharge openings securely closed during operation of the vehicle.

(h) Vehicles used to transport medical waste shall not be used to transport any other material until the vehicle has been cleaned and the cargo compartment disinfected. A written record of the date and the process used to clean and disinfect the vehicle shall be maintained for three years unless the department shall direct a longer holding period. The record must identify the vehicle by motor vehicle identification number or license tag number. The owner of the vehicle, if not the registrant, shall be notified in writing that the vehicle has been used to transport medical waste and when and how the vehicle was disinfected.

(i) Shipments of untreated special waste from health care related facilities shall not be commingled or mixed during transport or storage with trash, rubbish, garbage, hazardous waste, asbestos, or radioactive waste regulated under Chapter 289 of this title (relating to Occupational Health and Radiation Control).

(j) Each transporter shall provide evidence of financial responsibility as indicated in paragraphs (1)-(4) of this subsection.

(1) a general liability policy with \$1 million per occurrence and \$2 million aggregate limits;

(2) a combined, single limit automobile liability insurance policy with limits of at least \$1 million per accident; and

(3) a pollution liability policy with a flat limit of \$1 million; or

(4) a performance bond, a letter of credit from a recognized financial institution, or a trust fund in the amount of \$500,000.

(k) The transporter shall furnish the generator a signed receipt for each shipment at the time of collection of the waste. The receipt shall include the name, address, telephone number, and registration number of the transporter. The receipt shall also identify the generator by name and address, and shall list the weight of waste collected and date of collection. If certified scales are not available, the number of containers shall be listed, and the transporter must provide the generator with a written statement of the total weight of the containers within 30 days.

(l) The transporter shall initiate and maintain a record of each waste shipment

collection and deposition. Such record shall be in the form of a waste shipping document or other similar documentation approved by the department. Forms will be provided by, or may be approved by, the department. The transporter shall retain a copy of all waste shipping documents showing the collection and disposition of the medical waste. Copies of waste shipping documents shall be retained by the transporters for three years in the main transporter office and made available to the department upon request. The waste shipping document shall include the:

(1) transporter's name, address, telephone number, and department's assigned transporter registration number;

(2) name and address of the person who generated the untreated special waste from health care related facilities and the date collected;

(3) number of containers of untreated special waste from health care related facilities collected for transportation and the total weight of the containers from each generator which must be added when certified scales are available;

(4) name of persons collecting, transporting, and unloading the medical waste;

(5) date and place where the untreated special waste from health care related facilities was deposited or unloaded;

(6) identification (permit or registration number, location, and operator) of the facility where the untreated special waste from health care related facilities was deposited; and

(7) name and signature of facility representative acknowledging receipt of the untreated special waste from health care related facilities and the weight of waste received.

(m) The transporter must be able to provide documentation of each waste shipment from the point of collection through and including the unloading of the waste at a facility permitted to accept the waste. The transporter is responsible for the proper collection and deposition of untreated medical waste accepted for transport.

(n) Shipments of untreated special waste from health care related facilities shall be deposited only at a facility which has been permitted by the department to accept untreated special waste from health care related facilities. Untreated special waste from health care related facilities may be deposited at facilities permitted by the Texas Water Commission (commission) only with the written authorization of the commission and the written concurrence of the department. Untreated special waste from health care related facilities which is transported out of the state must be deposited at a facility which is permitted by the appropriate state agency having jurisdiction to accept such waste.

(o) Transporters shall not accept untreated medical waste which is not packaged in accordance with the provisions of §325.1004(i) of this title (relating to Generators of Medical Waste). Transporters shall not accept containers of medical waste which are leaking or damaged unless or until the shipment has been repackaged.

(p) Exemptions are as follows.

(1) Generators who generate less than 50 pounds per month of special waste from health care related facilities may transport their own untreated waste to a registered medical waste collection station, a transfer station, a storage facility, or a processing facility without complying with the requirements of this section. Untreated waste may be transported to a landfill only in accordance with the provisions of §325.136 of this title (relating to Disposal of Special Wastes).

(2) Generators who generate more than 50 pounds per month of special waste from health care related facilities may transport their own waste to a registered medical waste collection station, a transfer station, a storage facility, or a processing facility and shall comply with subsections (g)-(o) of this section; they shall be exempt from subsections (a)-(f) of this section. These generators must notify the department that they are transporting their own waste and must submit an annual summary report. Untreated waste may be transported to a landfill only in accordance with the provisions of §325.136 of this title (relating to Disposal of Special Wastes).

(3) Generators who are located in facilities contiguous to a permitted processing facility may transport their untreated waste to the processing facility without complying with the requirements of §325.1004(i) of this title (relating to Generators of Medical Waste) provided the waste is identified as untreated waste, and provided the waste is not transported along a public roadway or right-of-way.

(q) Transporter fees are as follows.

(1) Transporters are required to pay an annual registration fee to the department based upon the total weight of untreated medical waste transported.

(2) The amount of the annual registration fee shall be based upon the total weight of untreated medical waste transported under each registration. The fee for the first year of operation under a registration shall be based upon an estimate of the total weight of untreated medical waste to be transported. The fee paid for the first year of operation will be adjusted after submission of at least one annual report and one registration renewal, indicating the actual weight of untreated medical waste transported. An overpayment will be credited to the next year's registration fee or will be refunded. A billing notice for underpayment of the registration fee will be

sent and payment will be due within 30 days after the date of the notice.

(3) The fees shall be determined as follows.

(A) For a total annual weight transported of 1,000 pounds of medical waste or less, the fee is \$100.

(B) For a total annual weight transported greater than 1,000 pounds of medical waste but equal to or less than 10,000 pounds of medical waste, the fee is \$250.

(C) For a total annual weight transported greater than 10,000 pounds of medical waste but equal to or less than 50,000 pounds of medical waste, the fee is \$400.

(D) For a total annual weight transported greater than 50,000 pounds of medical waste, the fee is \$500.

(4) The transporter's annual registration fee shall accompany the applicant's original or renewal registration application and shall be submitted in the form of a check or money order made payable to the Texas Department of Health and delivered or mailed to: the Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199.

(r) Transporters shall submit to the department's Bureau of Solid Waste Management an annual summary report of their activities through December 31 of each year. The report shall be submitted no later than March 1 of the year following the end of the report period. The report shall include the name(s) and address(es) of the facilities where the waste was deposited/unloaded, the registration/permit number of the facilities, and the amount of waste deposited/unloaded at each facility. The report shall indicate the amount of waste shipped out of state, the amount of waste shipped into the state, and the amount of waste generated and unloaded in the state. Forms for use in submitting the annual report may be obtained from the department's Bureau of Solid Waste Management.

§325.1008. Medical Waste Collection Stations.

(a) Certain health care related facilities, licensed by the department, and located in less populated areas, may register with the department as a collection station for untreated medical waste from generators of medical waste who generate less than 50 pounds per month of waste and who transport their own waste. Facilities which may request registration to function as a medical waste collection station include:

(1) a licensed hospital located in an incorporated area with a population of less than 25,000 and in a county with a population of less than one million; and

(2) a licensed hospital located in an unincorporated area which is not within the extraterritorial jurisdiction (ETJ) of a city with a population of more than 25,000 or within a county with a population of more than one million.

(b) To register with the department as a medical waste collection station, the following information must be submitted to the department's Bureau of Solid Waste Management:

(1) the name and address of the facility;

(2) the name of the individual responsible for the operation of the facility;

(3) the license number of the facility; and

(4) the area to be served by the facility.

(c) A facility which has been registered by the department as a medical waste collection station shall comply with the following provisions.

(1) A registered medical waste collection station may accept untreated medical waste only from those generators who generate less than 50 pounds per month of special waste from health care related facilities and who transport their own waste to the collection station.

(2) Waste delivered to a medical waste collection station must be packaged in accordance with the provisions of §325.1004(i) of this title (relating to Generators of Medical Waste) by the generator.

(3) A medical waste collection station must comply with the requirements for storage of medical waste which are applicable to permitted medical waste transfer and/or medical waste storage facilities.

(4) A facility registered as a medical waste collection station must release the waste only to a registered medical waste transporter. The collection station must provide the transporter with a list of the waste collected at the station including the identity of the waste generator.

(5) A facility registered as a medical waste collection station may not otherwise treat the waste unless permitted as a treatment facility.

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 29, 1991.

TRD-9104957

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

Effective date: July 1, 1991

Proposal publication date: February 12, 1991

For further information, please call: (512) 458-7271

◆ ◆ ◆
• 25 TAC §§325.1006, 325.1007,
325.1009

The new sections are adopted under the Health and Safety Code, §361.011 and §361.024, which establishes the department's jurisdiction for municipal solid waste management and to adopt sections to manage municipal solid waste; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt sections for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§325.1006. Transfer of Shipments of Medical Waste. Packages of medical waste shall not be transferred between vehicles unless the transfer occurs at and on the premises of, a facility permitted as a transfer station, as a storage facility, or as a treatment/processing facility which has been approved to function as a transfer station except as provided in §325.1008 of this title (relating to Medical Waste Collection Stations).

(a) In case of transport vehicle malfunction, the waste shipment may be transferred to an operational vehicle and the department shall be notified of the incident in writing within five working days. The incident report shall list all vehicles involved in transporting the medical waste and the cause, if known, of the vehicle malfunction.

(b) In case of an traffic accident, the waste shipment may be transferred to an operating vehicle if necessary. Any containers of waste which were damaged in the accident shall be repackaged as soon as possible. The nearest regional office shall be notified of the incident no later than the end of the next working day. The incident report shall list all vehicles involved in transporting the medical waste.

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 29, 1991.

TRD-9104958

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

Effective date: June 1, 1991

Proposal publication date: February 12, 1991

For further information, please call: (512) 458-7271

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TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 9. Title Insurance

Subchapter A. Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas

• 28 TAC §9.1

The State Board of Insurance adopts amendment to §9.1 with changes to the proposed text as published in the October 30, 1990, issue of the *Texas Register* (15 TexReg 6239).

Section 9.1 concerns adoption by reference of the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas* (the manual). The amendment to the section itself is necessary to reflect amendments which the board is adopting to the manual, which the section adopts by reference. The amendments to the manual are necessary to facilitate the administration of regulation of title insurance in this state and to add new coverage provisions by modifying or replacing current rules and forms. This adoption includes a correction of the address of the State Board of Insurance. The adoption also includes some changes to the forms as proposed for adoption by reference. The amended Mortgages Title Insurance Policy was adopted with a change to paragraph 4 of the Exceptions from Coverage in Schedule B, by replacing the word "Matters" with the words "Liens and leases" and by replacing the word "which" with the word "that," and a change to paragraph 7(a)(iii) of the Conditions and Stipulations in Schedule B, by adding the phrase "at the date the insured claimant is required to furnish to company a proof of loss or damage in accordance with Section 5 of these Conditions and Stipulations". The amended Owner Policy of Title Insurance was adopted with a change to paragraph 7(a)(ii) of the Conditions and Stipulations in Schedule B, by adding the phrase "at the date the insured claimant is required to furnish the company a proof of loss or damage in accordance with Section 5 of these Conditions and Stipulation." The amended Commitment for Title Insurance was adopted with a change to paragraph 7 of the Exceptions from Coverage in Schedule B, by renumbering current paragraph 7 as paragraph 8, by adding new paragraph 7 as follows, "7. Liens and leases that affect title to the estate or interest, but that are subordinate to the lien of the insured mortgage. (Mortgagee Policy only)." Amended Procedural Rule P-11b(8) was adopted with changes that replaced the phrase "or other matters" with the phrase "and leases that affect the title to the estate or interest," in the second line; by replacing the phrase "other matter(s)" with the phrase "leases(s)" in the sixth line; by replacing the phrase "a statement may be made therein that such lien(s) or other matter(s) is subordinate" with the phrase "the company may insure herein that such lien(s) and lease(s) are subordinate", in the seventh line; and by adding the phrase, "When insuring that a lien or lease is subordinate to the lien of the insured mortgage, the company shall state: 'Company insures the insured against loss, if any, sustained by the insured under the terms of the policy if this item

is not subordinate to the lien of the insured mortgage." The State Board of Insurance has filed copies of these forms as adopted with changes in the Office of the Secretary of State, Texas Register Division. Copies may be obtained from the Title Insurance Section, Mail Code 012-7.

The amendment to §9.1 incorporates by reference certain amendments to the Manual. The amendments to the manual replace the current owner and mortgagee policies by creating a new owner policy of title insurance Form T-1 and a new mortgagee policy of title insurance Form T-2. The amendments to the manual also amend the commitment for title insurance, leasehold owner policy endorsement, leasehold mortgagee policy endorsement, mortgagee title policy binder on interim construction loan, manufactured housing endorsement form T-31, adjustable mortgage loan endorsement Form T-33, increased value endorsement Form T-34, and endorsement instructions Numbers III, V, VII, and VIII, Rate Rule R-9, and Procedural Rules, P-11(b)(8), and P-16, and adds new Procedural Rules P-36 Arbitration Provisions and P-37 Lack of a Right of Access.

Comments were made or received from the Texas Land Title Association (TLTA) that there was no necessity for change in the current forms; however, if a change is adopted, TLTA would support with changes, including no marketability coverage. Comment from the Greater Houston Land Title Association endorsed the TLTA position. The Title Underwriters of Texas Advisory Organization, Inc. (TUT) comments that the current forms were not inadequate; but that, if the forms were changed, TUT would support adoption with modifications to exclude coverage for defects arising from operation of certain creditors' rights laws, and that the forms should not insure against unmarketability of title. Richard E. Weinberg stated support for the marketability coverage provisions. Harry M. Roberts, Jr. recommended adoption of the ALTA forms with Texas endorsements. The Prudential Insurance Company of America supported adoption of the ALTA forms with Texas endorsements. Guadalupe County Abstract Company stated concerns over the lack of right of access coverage in the new forms. William W. Gibson, Jr., favored adoption of the new Texas forms as originally proposed with Texas endorsements, because of the additional coverages for consumers and the clarification of rights and duties of the consumer and insured, and opposed the merged forms. Barton R. Bentley, Roland Chamberlain, and Jack Fields supported the proposed ALTA forms with access coverage. Comments by Consumers Union supported the new proposed forms with Texas endorsements providing marketability coverage and right of access coverage. The Texas Association of Abstractors and Title Agents (TAATA) and The Brown County Abstract Company contended that there is no reason for radical changes to the current insuring forms, and objected to right of access and marketability coverages. Comment was also received from Stewart Title Guaranty Company in favor of the proposed forms, as, amended. In response, the State Board of Insurance has made some modifications to forms adopted by reference.

The amendment is adopted under the Insurance Code, Articles 1.04, 9.07, and 9.21, and

Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 1.04, authorizes the State Board of Insurance to determine policy and rules. The Insurance Code, Article 9.07, authorizes and requires the board to fix and promulgate the premium rates to be charged by title insurance companies and title insurance agents, to promulgate or approve forms for policies of title insurance, and to require title insurance companies and agents to submit information material for the board's consideration, and otherwise to provide for the regulation of the business of title insurance. The Insurance Code, Article 9.21, authorizes the board to promulgate and enforce rules and regulations prescribing underwriting standards and practices and to promulgate and enforce all other rules and regulations necessary to accomplish the purpose of the Insurance Code, Chapter 9, concerning regulation of title insurance. Texas Civil Statutes, Article 6252-13a, §4, authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirements of available procedures, and §5 prescribes the procedure for adoption of rules by a state administrative agency.

§9.1. Basic Manual of Rules, and Forms for the Writing of Title Insurance in the State of Texas. The State Board of Insurance adopts by reference the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas* as amended effective October 1, 1991. The document is published by and is available from Hart Forms and Services, 11500 Metric Boulevard, Austin, Texas 78758, and is available from and on file at the Title Insurance Section, Mail Code 012-7, State Board of Insurance, 333 Guadalupe Street, Austin, Texas 78701-1998.

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 30, 1991.

TRD-9105031

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: May 21, 1991

Proposal publication date: October 30, 1990

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

Part II. Texas Workers' Compensation Commission

Chapter 168. Workers' Health and Safety-Back Injury Prevention Training Program

Subchapter A. Standards For Programs

• 28 TAC §168.1, §168.2

The Texas Workers' Compensation Commission adopts new §168.1 and §168.2. Section

168.2 is adopted with changes to the proposed text as published in the February 26, 1991, issue of the *Texas Register* (16 TexReg 1274). Section 168.1 is adopted without changes and will not be re-published.

New §168.1 lists the minimum standards that an agency, public or private, must comply with to participate in the pilot program. The section provides that an application for participation must be submitted on a Form TWCC-110, that the course must be limited to a maximum of 35 participants (including managers, supervisors, and non-supervisory personnel), and shall include four hours of instruction, divided among eight different topics set out in the section. The section requires the program to simulate the participants' workplace, as appropriate. The new section requires that each program participant must be given a study guide that contains at least four different important elements that are described in subsection (e) of the section. Finally, the section requires the division of health and safety of the commission to assess applications that are received from agencies that wish to sponsor a back injury prevention training program, and to send a written response, within 45 days, back to the applicant.

Several comments were received to the proposed section. The commenter stated that, because back injury prevention involves more than workplace alteration of habits, environment, and attitude, the section should add a requirement for instructional elements involving lifestyle changes. The commenter presented a booklet that included a suggested plan. The commission disagrees with changing the proposed section, noting that lifestyle changes have already been addressed to some extent in the proposed section with regard to physical fitness and nutritional elements of programs. The commission also notes that the statutory program applies to occupational back injury prevention. The commission points out that individual programs and instructors are free to address other lifestyle changes as they prefer.

Another commenter stated that the \$35 maximum fee per participant was too low to cover travel and room rental fees; the commenter stated that the employer or carrier should bear the expense of compensation in line with state guidelines. The commission disagrees with changing the rule, noting that the comment appears to take issue with the statute, rather than the rule. The Texas Workers' Compensation Act (the Act), §7.07(b)(4), expressly limits the cost of training to \$35 per participant, to be paid by the insurance carrier.

Another commenter stated that §168.1 (and §168.2) should be qualified by additional language only to the pilot programs established by the Act, Article 8308-7.07. The commission disagrees with the suggestion, because this is already self-evident in the sections, the statutory authority for the sections, and the preamble to the proposed sections.

Texas Eastman Company, O'Dell Physical Therapy, and an individual representing some, but not all, chapters of the American Red Cross commented against the section as proposed. No comments specifically in favor of the proposed section were received.

New §168.2 sets out the minimum qualifications for persons who serve as instructors in

back injury prevention training programs. The section requires that the person who wishes to instruct apply to the division of health and safety of the commission for approvals, on a Form TWCC-111.

The section requires the individual to have three years' experience in back injury prevention, and also be one of the following: a qualified workers' compensation field safety representative; a licensed physical or occupational therapist who practices in Texas; a doctor, as defined in the Act; a licensed registered nurse with occupational safety experience; or have three years' occupational safety experience and be a graduate of a specified OSHA training course or its equivalent.

One commenter stated that the section should be changed to add language to make clear that it applied only to the pilot program established by the Act and would not otherwise restrict instructors teaching in other back injury prevention training programs.

The commission believes that the statutory authority and §168.1 make this evident, and disagree with amending this section. Three commenters observed that a five-year experience qualification was too restrictive. The commission agrees with lowering the requirement to three years.

In addition, the commission added, as subsection (c)(4), the provision that registered nurses with occupational safety experience could qualify as instructors. Proposed subsection (c)(4) has been renumbered (c)(5) in the adopted section.

Another commenter argued that a physical therapist should be allowed to instruct with only one year of experience in back injury prevention. The commission disagrees, noting that one year is not sufficient experience for purposes of the pilot program because the first year out of school may still involve practical learning and adaptation of techniques. The commission notes that the experience requirement has been lowered from five years to three years, however, in order to allow more persons to be approved as instructors.

Texas Eastman Company, Texas Physical Therapy Association, and an individual representing some, but not all, chapters of the American Red Cross, commented against the proposed section. No comments specifically in favor of the proposed section were received.

The new sections are adopted under the Texas Civil Statutes, Article 8308-2.09(a), which authorize the commission to adopt rules to implement and enforce the Act, Article 8308-1.01 et seq; and Article 8308-7.07(b), which authorize the commission to set minimum standards, by published rules, for the back injury prevention pilot programs, including instruction, qualifications of instructors, program content, and supplementary materials and equipment for providing back injury prevention programs.

§168.2. Minimum Instructor Qualifications For A Back Injury Prevention Training Program.

(a) An individual seeking approval to provide back injury prevention training

program instruction shall apply to the Division of Health and Safety on TWCC Form 111 as prescribed by the commission.

(b) To qualify as an approved instructor for a back injury prevention training program, an individual must have three years' experience in back injury prevention and meet one of the additional criteria specified in subsection (c) of this section.

(c) In addition to three years' experience in back injury prevention, an approved instructor for a back injury prevention training program must be:

(1) qualified as a workers' compensation field safety representative; or

(2) a licensed physical or occupational therapist practicing in Texas; or

(3) a doctor as defined by the Texas Workers' Compensation Act, §1.03 (17); or

(4) a licensed registered nurse with occupational safety experience; or

(5) have three years' occupational safety experience and be a graduate of the OSHA Training Institute Course 232 (Workplace Back Injuries) or an equivalent train-the-trainer course.

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 30, 1991.

TRD-9105026

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Effective date: May 21, 1991

Proposal publication date: February 26, 1991

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

TITLE 34. PUBLIC FINANCE

Part II. Texas State Treasury Department

Chapter 11. Cigarette Tax Stamps

• 34 TAC §11.1

The Texas State Treasury Department adopts the repeal of §11.1, without changes to the proposed text as published in the March 1, 1991, issue of the *Texas Register* (16 TexReg 1327).

It is necessary to repeal this old §11.1 so as to re-adopt this old rule §11.1 as new §11.51 to ensure that the new rule is in place for any distributor currently seeking replacement of cigarette tax stamps or credit from the Texas State Treasury Department. The purpose of the repeal of old rule §11.1 and its re-adoption as new rule §11.51 is to allow the simultaneous adoption of new procedural rules §§11.1 to 11.32.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Tax Code, §§154.415 and §111.002, which provides the state treasurer with the authority to adopt rules that do not conflict with the laws of this state or the Constitution of this state or the United States for the enforcement and the collection of taxes and other revenues under Title 2 of the Texas Tax Code, Chapters 111, 112, 113, and 154.

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 25, 1991.

TRD-9104991

Anne L. Schwartz
General Counsel
Texas State Treasury
Department

Effective date: May 20, 1991

Proposal publication date: March 1, 1991

For further information, please call: (512) 463-5971

Subchapter A. Practice and Procedure

• 34 TAC §§11.1-11.32

The Texas State Treasury Department adopts new §§11.1-11.32, without changes to the proposed text as published in the March 1, 1991, issue of the *Texas Register* (16 TexReg 1327).

The Texas State Treasury Department is charged with the administration and enforcement of the Texas cigarette and tobacco products tax laws, the Texas Tax Code, Chapters 154 and 155. The Administrative Procedure and Texas Register Act (APTRA), Texas Civil Statutes, Article 6252-13a, mandates that each agency adopt rules of practice setting the nature and requirements of all formal and informal procedures available.

These rules of practice and procedure provide a uniform and orderly procedure by which disagreements with certain actions of the Texas State Treasury Department may be pursued to secure a just and proper resolution or decision for every controversy.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Tax Code, §§154.415, 155.141, and 111.002, which provides the state treasurer with the authority to adopt rules that do not conflict with the laws of this state or the Constitution of this state or the United States for the enforcement and the collection of taxes and other revenues under Title 2 of the Texas Tax Code, Chapters 111, 112, 113, 154, and 155.

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 25, 1991.

TRD-9104990

Anne L. Schwartz
General Counsel
Texas State Treasury
Department

Effective date: May 20, 1991

Proposal publication date: March 1, 1991

For further information, please call: (512) 463-5971

Subchapter B. Cigarette Tax

• 34 TAC §11.51

The Texas State Treasury Department adopts new §11.51, without changes to the proposed text as published in the March 1, 1991, issue of the *Texas Register* (16 TexReg 1327).

The Texas State Treasury Department is charged with the administration and enforcement of the Texas cigarette tax law, Chapter 154, Texas Tax Code. This rule is necessary to ensure that procedures and requirements are in place for any cigarette distributor seeking replacement of cigarette tax stamps or credit from the Texas State Treasury Department.

The new section provides procedures to be followed by cigarette distributors returning cigarettes unfit for use to the manufacturer and seeking replacement of cigarette tax stamps or credit from the Texas Treasury Department.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Tax Code, §§154.415 and §111.002, which provides the State Treasurer with the authority to adopt rules that do not conflict with the laws of this state or the Constitution of this state or the United States for the enforcement and the collection of taxes and other revenues under Title 2 of the Texas Tax Code, Chapters 111, 112, 113, and 154.

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 25, 1991.

TRD-9104989

Anne L. Schwartz
General Counsel
Texas State Treasury
Department

Effective date: May 20, 1991

Proposal publication date: March 1, 1991

For further information, please call: (512) 463-5971

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

Chapter 81. Administrative Provisions

Case Management System for Delinquent Youth

• 37 TAC §81.112

The Texas Youth Commission (TYC) adopts the repeal of §81.112, without changes to the

proposed text as published in the April 5, 1991, issue of the *Texas Register* (15 TexReg 1979).

The repeal is justified in order to adopt a new section which adds the classification of controlled substance dealer, creating a more efficient classification system for youth committed to the Texas Youth Commission.

The repealed sections provided procedures concerning classification and reclassification of youth based on the current classifying offense and offense history and a finding regarding extenuating circumstances.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Human Resources Code, §61.034, which provides the Texas Youth Commission with authority to make rules appropriate to proper accomplishment of its functions.

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 May 1, 1991.

TRD-9105003

Ron Jackson
Executive Director
Texas Youth Commission

Effective date: May 21, 1991

Proposal publication date: April 5, 1991

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

Chapter 85. Admission and Placement

Placement Planning

• 37 TAC §85.23

The Texas Youth Commission (TYC) adopts new §85.23, without changes to the proposed text as published in the April 5, 1991, issue of the *Texas Register* (16 TexReg 1980).

The section identifies youth committed to TYC who engaged in controlled substance dealing so that the youth can be placed in programs most appropriate to their behavior.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to proper accomplishment of its functions.

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 May 1, 1991.

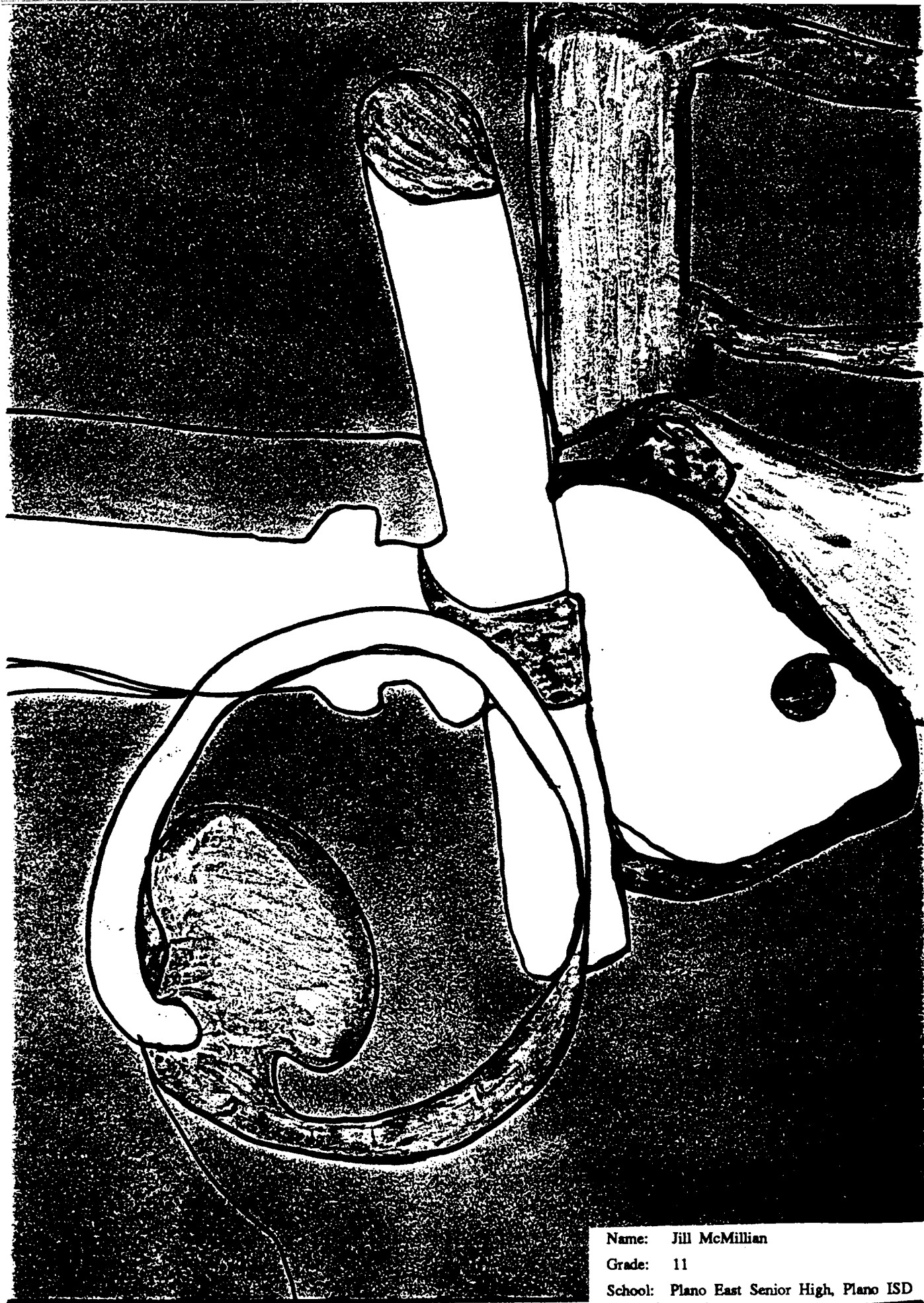
TRD-9105002

Ron Jackson
Executive Director
Texas Youth Commission

Effective date: May 21, 1991

Proposal publication date: April 5, 1991

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



Name: Jill McMillian

Grade: 11

School: Plano East Senior High, Plano 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 Animal Health Commission

Friday, May 10, 1991, 1 p.m. The Search Committee for Executive Director of the Texas Animal Health Commission will meet at the Hyatt Regency Hotel, East Tower, Room 2201, Dallas. According to the revised agenda summary, the committee will meet in executive session to discuss appointment of executive director; and in open session to discuss appointment of executive director.

Contact: Kathy Reed, 210 Barton Springs Road, Austin, Texas 78704, (512) 479-6697.

Filed: April 30, 1991, 3:40 p.m.

TRD-9105022

Friday, May 10, 1991, 1:30 p.m. The Texas Animal Health Commission will meet at the Hyatt Regency Hotel, East Tower, Room 2201, Dallas. According to the agenda summary, the commission will discuss and consider recommendations of the Search Committee for the position of the executive director; call executive session if required; hear report of executive director; discussion of internal audit function; and proposal of 4 TAC §35.2(b)(9), 35.2(e)(7).

Contact: Kathy Reed, 210 Barton Springs Road, Austin, Texas 78704, (512) 479-6697.

Filed: April 30, 1991, 3:40 p.m.

TRD-9105021

Texas Antiquities Committee

Friday, May 17, 1991, 9:30 a.m. The Texas Antiquities Committee will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the committee will approve minutes of previous meeting of March 15, 1991; approve draft operating budget for FY 1992; hear report on House Bill 2234, proposed §191.099, Reward, an amendment to the Antiquities Code of Texas; designate State

Archeological Landmarks/SALs in Bexar, Dallas, Webb, Brazoria, Harris, and Smith counties; nominate SALs in Brewster and Presidio counties; and hear a staff report.

Contact: Molly Godwin, P.O. Box 12276, Austin, Texas 78711, (512) 463-6098.

Filed: May 1, 1991, 8:59 a.m.

TRD-9105050

Comptroller of Public

Accounts

Thursday, May 9, 1991, 6 p.m. The Texas Performance Review of the Comptroller of Public Accounts will meet at the Bexar County Commissioners' Courtroom, 100 Dolorosa, San Antonio. According to the complete agenda, the review 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: May 1, 1991, 3:33 p.m.

TRD-9105087

Texas State Board of Dental Examiners

Friday-Saturday, May 3-4, 1991, 8 a.m. The Texas State Board of Dental Examiners met at the San Antonio Convention Center, Room 108, San Antonio. According to the complete emergency revised agenda, the board approved settlement order 1990-60; appearance by Donna Chavez, dental hygiene applicant; and appearance by Thomas Silver, dental applicant. The emergency status was necessary as information on these items had just been received in the board office and had to be considered at this meeting since this is the last board meeting before examinations begin.

Contact: C. Thomas Camp, 327 Congress Avenue, Suite 500, Austin, Texas 78701-4037, (512) 477-2985.

Filed: April 30, 1991, 1:55 p.m.

TRD-9105009

Friday-Saturday, May 3-4, 1991, 8 a.m. The Texas State Board of Dental Examiners met at the San Antonio Convention Center, Room 108, San Antonio. According to the complete emergency revised agenda, the board will approve settlement conference order 90-362. The emergency status was necessary as information on this item had just been received in the board office and needed to be approved in a timely manner before the full board.

Contact: C. Thomas Camp, 327 Congress Avenue, Suite 500, Austin, Texas 78701-4037, (512) 477-2985.

Filed: May 1, 1991, 12:39 p.m.

TRD-9105068

Educational Economic Policy Center

Wednesday, May 8, 1991, 9:30 a.m. The Policy Center Committee of the Educational Economic Policy Center will meet at the Joe C. Thompson Conference Center, Room 3.120, 2313 Red River Street, Austin. According to the complete agenda, the committee will approve minutes; review and discuss requested research projects; status of director search; Legislative Education Board request on innovative grants training workshops; report on Public School Legislation: omnibus education bill; school finance bill; and discuss other business.

Contact: Mary Ward, University of Texas, SRH 3.303, Austin, Texas 78713, (512) 471-4962.

Filed: April 30, 1991, 4:16 p.m.

TRD-9105025

Texas Education Agency

Thursday, May 9, 1991, 11 a.m. The State Board of Education Ad Hoc Committee on Middle Grade Education 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 review and discuss calendar and plan for the Ad Hoc Committee on middle grade education; discussion of middle school education in Texas; and curriculum review and middle grade education.

Contact: Thomas E. Anderson, Jr., 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8994.

Filed: May 1, 1991, 3:47 p.m.

TRD-9105096

Thursday, May 9, 1991, 1:30 p.m. The State Board of Education (SBOE) Committee of the Whole will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will hear public testimony; address by Governor Ann Richards to the SBOE; approval of waiver requests; adoption of the Texas assessment of academic skills tests for 1991-1992 school year and the review of mastery standards (to the extent necessary, the discussion of individual assessment instruments and assessment instrument items is confidential and not open to the public, and the discussion will be held in executive session in accordance with Texas Education Code §21.556); legislative recommendations; update on Senate Bill 351 issues; academic excellence indicator system; technical-preparatory programs; state agency delivery of health and human services; discussion of curriculum review/textbook adoption process; and discussion of pending litigation executive session in accordance with Article 62522-17, §2(e), Vernon's Texas Civil Statutes.

Contact: Thomas E. Anderson, Jr., 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8994.

Filed: May 1, 1991, 3:47 p.m.

TRD-9105094

Friday, May 10, 1991, 8:30 a.m. The State Board of Education Committee on School Finance 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 hear public testimony; review proprietary schools and veterans education; vocational and applied technology education; vocational and applied technology education projects to be funded under Carl D. Perkins Vocational and Applied Technology Education Act of 1990; irregularities related to failure to meet filing deadline for submission of sample textbooks; review of legislative recommendations to the 72nd Texas Legislature; repeal of rules regarding proprietary schools and veterans education and vocational education; appointment to Apprenticeship and Training Advisory Committee to fill unexpired term; appointment to 1991 State Textbook Subject Area Committee; report to management

for fiscal year ending August 31, 1991, by state auditor; and quarterly report of internal audit function evaluation topics for study by Texas Council on vocational education, 1991-1992.

Contact: Thomas E. Anderson, Jr., 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8994.

Filed: May 1, 1991, 3:47 p.m.

TRD-9105093

Friday, May 10, 1991, 8:30 a.m. The State Board of Education Committee on Students of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-100, Austin. According to the agenda summary, the committee will hear public testimony; student's status during proceedings; special populations and programs; well-balanced elementary curriculum; curriculum-driver education; adaptations for special populations; review of legislative recommendations to the 72nd Texas Legislature; repeal of rules on: comprehensive instruction, and adaptations for special populations; appointment to the State Textbook Proclamation Advisory Committees for the 1992 Proclamation; options for 11th and 12th grade migrant students to participate in the Texas assessment of academic skills; review of Chapter 75, Curriculum, Subchapter E, Well-balanced Curriculum, and Subchapter F, graduation requirements; report on Chapter 75 curriculum recommendations; discussion of plan for revision of the social studies curriculum; and discussion of reading essential elements in the English Language Arts, Grades 1-2.

Contact: Thomas E. Anderson, Jr., 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8994.

Filed: May 1, 1991, 3:48 p.m.

TRD-9105098

Friday, May 10, 1991, 8:30 a.m. The State Board of Education Committee on Personnel of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-111, Austin. According to the agenda summary, the committee will hear public testimony; master teacher examination/test security and confidential integrity; adoption of accreditation on-site review descriptors; request for initial approval of alternative teacher certification programs; reports from visiting teams and requests for reapproval of alternative teacher certification programs; review of legislative recommendations to the 72nd Texas Legislature; appointment of trustee for Randolph Field Independent School District; discussion of the composition of the Commission on Standards for the Teaching Profession; a review of teacher supply and demand data; status report on the accreditation of school districts; and principal management skills and practices.

Contact: Thomas E. Anderson, Jr., 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8994.

Filed: May 1, 1991, 3:48 p.m.

TRD-9105097

Friday, May 10, 1991, 1:30 p.m. The State Board of Education Committee on Long-Range Planning 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 hear public testimony; expert session-public housing and public education in Dallas; recommendation of the Software Advisory Committee; and review of legislative recommendations to the 72nd Texas Legislature.

Contact: Thomas E. Anderson, Jr., 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8994.

Filed: May 1, 1991, 3:49 p.m.

TRD-9105099

Friday, May 10, 1991, 2:30 p.m. The State Board of Education Committee on the Permanent School Fund (PSF) will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the agenda summary, the committee will hear public testimony; recommended PSF investment program for May and funds available for the program; recommendation for continuance of investment counsel contract; recommendation for continuance of master trust custodian contract; review of legislative recommendations to the 72nd Texas Legislature; appointment to the Investment Advisory Committee on the PSF; review of PSF securities transactions and the investment portfolio; and report of the chief investment officer.

Contact: Thomas E. Anderson, Jr., 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8994.

Filed: May 1, 1991, 3:49 p.m.

TRD-9105100

Friday, May 10, 1991, 6:30 p.m. The State Board of Education (SBOE) of the Texas Education Agency will meet at the Longhorn Room, Guest Quarters Hotel, 303 West 15th Street, Austin. According to the complete agenda, the board will have a dinner meeting to receive reports from the chairmen of the SBOE committees, i.e., Committee of the Whole, Committee on Long-Range Planning, Committee on the Permanent School Fund, Committee on Personnel, Committee on Students, Committee on School Finance, and Ad Hoc Committee on Middle Grade Education concerning items discussed in the committee meetings on Thursday, May 9 and Friday, May 10.

Contact: Thomas E. Anderson, Jr., 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8994.

Filed: May 1, 1991, 3:47 p.m.

TRD-9105095

Saturday, May 11, 1991, 8:30 a.m. The State Board of Education (SBOE) 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 board will review and discuss resolutions of the SBOE; approval of consent agenda; waiver requests; Texas assessment of academic skills; legislative recommendations; Software Advisory Committee; Permanent School Fund investment program for May; investment counsel contract; master trust custodian contract; master teacher examination-test security and confidential integrity; alternative teacher certification; student's status during proceedings; special populations/programs; well-balanced elementary curriculum; driver education; vocational/applied technology education; vocational/applied technology education projects funded under Carl D. Perkins Education Act; irregularities related to failure to meet filing deadline for submission of sample textbooks; information on agency administration; public testimony; and evaluation topics for study by Texas Council on Vocational Education, 1991-1992.

Contact: Thomas E. Anderson, Jr., 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8994.

Filed: May 1, 1991, 3:46 p.m.

TRD-9105092

Tuesday, May 14, 1991, 10 a.m. The Proprietary School Advisory Commission of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the complete agenda, the commission will review and discuss tuition protection fund and teach-out rules; discussion of "A Visit by Proprietary Schools to the Department of Proprietary Schools and Veterans Education: A Report"; Director's report on financial stability; state agencies task force; legislative action; and sunset of State Board of Education rules; discussion of new programs; and new renewal process for certificates of approval.

Contact: Dee Bednar, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-3560.

Filed: May 1, 1991, 3:46 p.m.

TRD-9105090

Friday, May 17, 1991, 9 a.m. The Task Force of Various State Agencies that Regulate Proprietary Schools of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the complete agenda, a task force comprised of staff from the Texas Education Agency, Texas Guaranteed Student Loan Corporation, and other state agencies that regulate proprietary schools will discuss the agen-

cies' actions to improve program quality and reduce default rates. The task force will then summarize the meeting and discuss the next meeting of the task force.

Contact: Dee Bednar, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-3560.

Filed: May 1, 1991, 3:46 p.m.

TRD-9105091

Governor's Task Force on Revenue

Friday, May 10, 1991, 10 a.m. The Governor's Task Force on Revenue will meet at the DeWitt-Greer Building, 125 East 11th Street, Austin. According to the complete agenda, the task force will review and discuss the Franchise Tax as a Source of State Revenue-Mike Reissig, Special Assistant to the Speaker of the House of Representatives; The Sales Tax as a Source of State Revenue-Dale Craymer, Director, Budget and Planning, Office of the Governor; Miscellaneous Sources of Revenue for the State-Tom Plaut, Chief Revenue Estimator, State Comptroller's Office; An Alternative Potential Revenue Source: Income Tax-John Keel, Special Assistant to the Lieutenant Governor; and Financial Problems of Texas Cities-Frank Sturzl, Executive Director, Texas Municipal League.

Contact: Terrell Blodgett, P.O. Box 12068, Austin, Texas 78711, (512) 463-3004.

Filed: May 1, 1991, 1:31 p.m.

TRD-9105069

Texas Department of Health

Friday, June 14, 1991, 10 a.m. The Sanitarian Advisory Committee of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-117, Austin. According to the complete agenda, the committee will hear an update on environmental and consumer health legislation; approve minutes of July 6, 1990 meeting; hear budget and activity report; review pending applications; consider revision of registration examination; hear report on Cameron County flood disaster; and hear general comments on continuing education.

Contact: Charles E. McEntire, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7536.

Filed: May 1, 1991, 9:19 a.m.

TRD-9105054

Texas Department of Human Services

Wednesday, May 15, 1991, 10 a.m. The Aged and Disabled Services Advisory

Committee 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 agenda summary, the committee will hear opening and deputy commissioner's comments; approval of minutes; federal legislative update; contractor civil rights compliance accessibility manual/checklist; reimbursement methodology for medical assistance programs; verbal summaries of public rate hearing comments to the board; ICF/MR related conditions VIII experimental class, special children's facilities and standards; reimbursement for nursing facility medicaid recipients; PASARR; adult foster care medically dependent children's waiver program; medically fragile children; primary home care; income and resource exclusion; new medicaid coverage group; transfer of resources and financial exploitation; personal needs allowance for certain veterans; radiation exposure compensation; in-home and family support program funds; waiver V children and family care; discussion; next meeting date; and adjourn.

Contact: Carolyn Howell, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3053.

Filed: May 1, 1991, 8:52 a.m.

TRD-9105140

State Board of Insurance

Wednesday, May 8, 1991, 8:30 a.m. The State Board of Insurance will meet at the State Insurance Building, 1110 San Jacinto Street, Room 460, Austin. According to the agenda summary, the board will review and discuss personnel; litigation; and solvency matters.

Contact: Angelia Johnson, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: April 30, 1991, 4:33 p.m.

TRD-9105029

Wednesday, May 8, 1991, 10 a.m. The State Board of Insurance will meet at the State Insurance Building, 1110 San Jacinto Street, Room 460, Austin. According to the agenda summary, the board will consider extension of emergency effectiveness of an amendment to 28 TAC §5.4501 regarding windstorm insurance costs; consideration of extension of emergency effectiveness of a new rule as 28 TAC §5.6302 regarding sale of alternatives to workers' compensation insurance; consideration of extension of emergency effectiveness of an amendment to 28 TAC §27.414 regarding fees for firms and individuals engaged in sale, distribution of fireworks; discuss personnel; motion for rehearing on action regarding ICH Associates and Texas Catastrophe Property Insurance Association; litigation; discussion and possible revision of the Internal Audit Plan.

Contact: Angelia Johnson, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: April 30, 1991, 4:34 p.m.

TRD-9105030

Texas Board of Professional Land Surveying

Thursday-Friday, May 16-17, 1991, 9 a.m. The Texas Board of Professional Land Surveying will meet at 7701 North Lamar Boulevard, Suite 400, Austin. According to the complete agenda, the board will approve the minutes of the previous meeting; discuss correspondence; conduct interviews; hear committee reports; discuss standards and continuing education; conduct one formal hearing on complaint 89-17; discuss the April, 1991 examinations; and consider new business.

Contact: Sandy Smith, 7701 North Lamar Boulevard, Suite 400, Austin, Texas 78752, (512) 452-9427.

Filed: April 30, 1991, 1:56 p.m.

TRD-9105010

Texas Department of Licensing and Regulation

Monday, May 13, 1991, 9 a.m. The Business and Occupational Programs-Tow Trucks, of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the Respondent's license for A. Williams for violation of Statutes, Articles 6687-9b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: May 2, 1991, 8:27 a.m.

TRD-9105130

Monday, May 13, 1991, 11 a.m. The Business and Occupational Programs-Tow Trucks, of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the Respondent's license for Robert Jones for violation of Statutes 6687-9b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: May 2, 1991, 8:27 a.m.

TRD-9105131

Friday, May 17, 1991, 9 a.m. The Business and Occupational Programs-Tow Trucks, of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the Respondent's license for Kenneth Wilson for violation of Statutes 6687-9b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: May 2, 1991, 8:28 a.m.

TRD-9105132

Friday, May 17, 1991, 11 a.m. The Business and Occupational Programs-Tow Trucks, of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the Respondent's license for Emanuel Auto Sales for violation of Statutes 66879b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: May 2, 1991, 8:28 a.m.

TRD-9105133

Thursday, May 23, 1991, 9 a.m. The Business and Occupational Programs-Tow Trucks, of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the Respondent's license for Steve Leverett for violation of Statutes 66879b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: May 2, 1991, 8:28 a.m.

TRD-9105134

Thursday, May 23, 1991, 11 a.m. The Business and Occupational Programs-Tow Trucks, of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the Respondent's license for Theodore Jackson for violation of Statutes 66879b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: May 2, 1991, 8:28 a.m.

TRD-9105135

Friday, May 24, 1991, 9 a.m. The Business and Occupational Programs-Tow Trucks, of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the Respondent's license for H. A. Graves for violation of Statutes 66879b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: May 2, 1991, 8:29 a.m.

TRD-9105136

Wednesday, May 29, 1991, 9 a.m. The Business and Occupational Programs-Tow Trucks, of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the Respondent's license for Ernesto Cavazos for violation of Statutes 6687-9b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: May 2, 1991, 8:29 a.m.

TRD-9105137

Thursday, May 30, 1991, 9 a.m. The Business and Occupational Programs-Tow Trucks, of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the Respondent's license for Pablo Rivera Garcia for violation of Statutes 66879b and 9100.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: May 2, 1991, 8:29 a.m.

TRD-9105138

Texas State Board of Medical Examiners

Thursday, May 9, 1991, 9 a.m. The Hearings Division of the Texas State Board of

Medical Examiners will meet at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the division will have probationary appearances, request for modification of probation, and request for termination of probation; and meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 30, 1991, 11:36 a.m.

TRD-9105004

State Board of Plumbing Examiners

Monday, May 13, 1991, 9 a.m. The State Board of Plumbing Examiners will meet at 929 East 41st Street, Austin. According to the complete agenda, the examiners will take roll call; recognize visitors; approve minutes of the last meeting; review financial report; discuss field department activity; discuss examination data; review hardship cases; report on examination committee; report on inspector examination and qualifications committee; report on legislative committee; report on 1992-1993 budget-House and Senate; and any other topics for discussion that may come before the board.

Contact: Lynn Brown, P.O. Box 4200, Austin, Texas 78765, (512) 458-2145.

Filed: May 1, 1991, 10:30 a.m.

TRD-9105061

Texas Public Finance Authority

Wednesday, May 8, 1991, 10:30 a.m. The Board of the Texas Public Finance Authority will meet at the Central Services Building, 1711 San Jacinto Street, Room 402, Austin. According to the complete agenda, the board will call the meeting to order; approve minutes; consider proposal from Kirchner Moore pertaining to escrow inefficiency recovery; at 11 a.m. CDT-open bids for Series 1991A G.O. bond issue; select winning bidder; consider "A Resolution authorizing the issuance of bonds to finance a project for the Texas Department of Criminal Justice, the execution and delivery of documents in connection therewith, and the taking of action to effect the sale and delivery of the bonds and resolving related matters; and adjourn.

Contact: Pamela Scivicque, 1201 Brazos Street, Suite 313, Austin, Texas 78701, (512) 463-5544.

Filed: April 30, 1991, 1:26 p.m.

TRD-9105005

Public Utility Commission of Texas

Monday, May 20, 1991, 8:15 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 10045-application of West Texas Utilities Company for a certificate of convenience and necessity for a 138kv transmission line in Ward, Reeves, and Pecos County.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 30, 1991, 3:41 p.m.

TRD-9105023

Wednesday, May 22, 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 10212-petition of GTE Corporation and Contel Corporation for declaratory relief.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 1, 1991, 3:54 p.m.

TRD-9105101

Texas Low-Level Radioactive Waste Authority

Thursday, May 16, 1991, 8:30 a.m. The Board of Directors of the Texas Low-Level Radioactive Waste Disposal Authority will meet at 7701 North Lamar Boulevard, Suite 300, Austin. According to the agenda summary, the board will approve minutes of previous meeting; hear a general manager's report and staff reports, including a financial report on year-to-date finances, appropriations request, an amended appropriations request, and an auditor's report; a legal report on the status of legislation affecting the authority and the status of interstate compacts; a technical report on the alternate site search in Hudspeth County and the status of agency contracts; a special programs report; new business including budget adjustments, a contract with Greg Johnson, consideration of alternate site evaluations, and a discussion of Attorney General's Opinion regarding Texas Revised Civil Statutes Annotated Health and Safety Code §402.073(a)(2); and public comments will be heard regarding a petition received from Fort Hancock. The board will meet in executive session to discuss litigation and take all necessary action concerning litigation with El Paso County, et al., pursuant to Texas Revised Civil Statutes, Article 6252-17, §2(e).

Contact: L. R. Jacobi, Jr., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Filed: May 2, 1991, 9:52 a.m.

TRD-9105144

Teacher Retirement System of Texas

Tuesday, May 14, 1991, noon. The Medical Board of the Teacher Retirement System of Texas will meet at 1000 Red River Street, Room 420E, Austin. According to the complete agenda, the board will discuss files of member who are currently applying for disability retirement; and the files of disability retirees who are due a re-examination report.

Contact: Don Cadenhead, 1000 Red River Street, Austin, Texas 78701-2698, (512) 397-6400.

Filed: May 2, 1991, 9:55 a.m.

TRD-9105145

University Interscholastic League

Wednesday, May 1, 1991, 1 p.m. The Waiver Review Board of the University League held an emergency meeting at the Radisson Plaza Hotel, Eighth and San Jacinto Streets, Austin. According to the agenda summary, the board requested retroactive waiver for a Humble High School student of the parent residence rule. The emergency status was necessary as request was referred to Waiver Review Board April 30, 1991 after 7 a.m. meeting of District Executive Committee.

Contact: Bob Young, P.O. Box 8028, UT Station, Austin, Texas 78713-8028, (512) 471-5883.

Filed: April 30, 1991, 2:22 p.m.

TRD-9105019

On-Site Wastewater Treatment Research Council

Friday, May 10, 1991, 12:30 p.m. The On-Site Wastewater Treatment Research Council will meet at the Center for Environmental Research, Hornsby Bend Wastewater and Treatment Facility, 2210 South FM 973, Austin. According to the complete agenda, the council will approve minutes of April 19, 1991 meeting; consider and possibly act on: executive secretary's report; colonias tour; request for proposal for colonias; requests for proposal on subjects of interest to the Texas Department of Health; pending legislation in current session; certificates of appreciation; reports from council chairman, vice-chairman, and

members; call for visitors input; and adjourn.

Contact: Ted Johns, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7274.

Filed: May 1, 1991, 9:19 a.m.

TRD-9105053

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Texas Water Commission

Wednesday, May 15, 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: May 1, 1991, 3:40 p.m.

TRD-9105088

Wednesday, May 15, 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: May 1, 1991, 3:41 p.m.

TRD-9105089

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Regional Meetings

Meetings Filed May 1, 1991

The Angelina and Neches River Authority Board of Directors will meet at the Holiday Inn, 3400 South Street, Austin Room, Nacogdoches, May 7, 1991, at 10 a.m. Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, Texas 75902-0387, (409) 632-7795, Fax (409) 632-2564. TRD-9105072.

The Austin Transportation Study Executive Committee, Policy Advisory Committee will meet at the Travis County Administration Building, 314 West 11th Street, First Floor Conference Room, Austin, May 7, 1991, at 6 p.m. Information may be obtained from Joseph P. Gieselman, 811 Barton Springs Road, Suite 700, Austin, Texas 78704, (512) 472-7483. TRD-9105073.

The Austin Travis County Mental Health and Mental Retardation Center Board of Trustees and Personnel Committee will meet at 1430 Collier Street, Board Room, Austin, May 7, 1991, at 6 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9105048.

The Brazos Valley Development Council Executive Committee will meet at 3006 East 29th Street, Bryan, May 9, 1991, at

1:30 p.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9105071

The Concho Valley Council of Governments Executive Committee will meet at 5014 Knickerbocker Road, San Angelo, May 8, 1991, at 7 p.m. Information may be obtained from Norma Cummings, 5002 Knickerbocker Road, San Angelo, Texas 76901, (915) 944-9666. TRD-9105059.

The Henderson County Appraisal District Appraisal Review Board met at 1751 Enterprise Street, Athens, May 6, 1991, at 9 a.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9105064.

The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, May 7, 1991, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9105066.

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Meetings Filed May 2, 1991

The Bosque Central Appraisal District Board of Directors will meet at the Bosque Central Appraisal District Office, 104 West Morgan Street, Meridian, May 8, 1991, at 1:30 p.m. Information may be obtained from Don Whitney, P.O. Box 393, Meridian, Texas 76665, (817) 435-2304. TRD-9105141.

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, May 9, 1991, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9105142.

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 Aviation Professional Engineering Services Contract Award

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: 92/30-4-1 Hale County Airport.

The engineering firm for these services is: HDR Engineering, Inc., 3000 South IH-35, Suite 400, Austin, Texas 78704.

The total value of the contract is \$97,250 and the contract period starts on April 29, 1991, until the completion of the project.

Issued in Austin, Texas, on April 30, 1991.

TRD-9105018 Lydia Scarborough
Deputy Director, Support and Services
Texas Department of Aviation

Filed: April 30, 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 Airport Layout Plans for up to 20 general aviation airports.

The purpose is to update, revise, or generate new Airport Layout Plans (ALPS) for up to 20 general aviation airports to be specified by the Texas Department of Aviation (TDA). The number of airports included will depend on the cost of preparing each ALP compared with the overall project budget.

Existing ALPs will be reviewed by the consultant to determine conformity with existing conditions and proposed Texas Aeronautical Facilities Plan (TAFP) development. Survey research of property boundaries will be obtained by the consultant where needed. ALPs will be digitized by the consultant using AUTOCADD or a compatible system. ALPs will be submitted to TDA for review and approval and, following TDA approval, to the Federal Aviation Administration (FAA) for approval. Existing

ALPs and aerial photographs will be supplied by TDA, as available, to aid in the completion of this project.

The work is to be completed by November 30, 1991.

Those interested consulting engineers should submit two copies of brief proposals consisting of the minimum number of pages sufficient to provide necessary information to: Texas Department of Aviation, Attention: Linda Howard, Mailing Address: P.O. Box 12607, Austin, Texas 78711, (512) 476-9262; Delivery Address: Anson Jones State Building, 410 East Fifth Street, Austin, Texas 78701.

Proposals must be received by 5 p.m., May 24, 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 \$30,000.

The Texas Department of Aviation 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); qualification and recent experience of the firm, key personnel and subconsultants relative to the performance of similar services for FAA or TDA projects; 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 and Affirmative Action Program; Please provide 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 Texas Department of Aviation. If a sufficient number of proposals are received, the committee will identify from three to five consultants who will be interviewed by the committee. Otherwise, selection will be based on a review of the proposals. If interviews are held, the final consultant selection will be made by the committee following completion of interviews.

Issued in Austin, Texas, on April 29, 1991.

TRD-9105017 Lydia Scarborough
Deputy Director, Support and Services
Texas Department of Aviation

Filed: April 30, 1991

For further information, please call: (512) 476-9262

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Texas Department of Banking
Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On April 26, 1991, the banking commissioner received an application to acquire control of South Main Bank, Houston, by SMB Partners, Limited, Houston, which consists of SMB Holding Company, Houston, a general partner; Mason P. Pearsall, Magnolia; Joe Mayer, Houston; Loren G. Horton, Houston; and Green, Patterson and Schulz, Houston, trustees for William T. Green, Glenn W. Patterson, and Carl T. Schultz.

Additional information may be obtained from: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on April 26, 1991.

TRD-9105012 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: April 30, 1991

For further information, please call: (512) 479-1200

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Notice of Hearing Cancellation

As no opposition has been noted in the application for San Saba National Bank, San Saba, to convert to a state charter under the name of San Saba State Bank, the hearing previously scheduled for Wednesday, May 8, 1991, has been cancelled.

Issued in Austin, Texas, on April 30, 1991.

TRD-9105011 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: April 30, 1991

For further information, please call: (512) 479-1200

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Governor's Energy Office
Consultant Proposal Request

This request for professional services is filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

Notice of Invitation. The Governor's Energy Office (GEO) invites proposals from engineering firms and individuals with experience in energy retrofitting of buildings to provide engineering energy audits for institutional and governmental building and other energy related engineering services as assigned. The proposers selected will be hired to perform these services on an as-needed basis. Energy audits performed under this program will follow the Texas LoanSTAR Audit Guidelines issued by the Governor's Office and will identify and analyze retrofit projects for possible funding through the state's energy retrofit loan program for state agencies, local governments, and school districts.

Services to be performed. Contractors elected will perform the following services as assigned: require project managers and audit team leaders to attend a one-day briefing on energy auditing procedures and reports conducted in Austin by the Governor's Office; schedule walk-through audits and review energy consumption and building data; perform walk-through energy audits of assigned buildings to identify potential improvements in current energy operation and maintenance practices, complete appropriate short form energy analyses, and identify building systems or cost-effective projects where detailed engineering energy analysis should be performed; prepare detailed engineering energy audit proposals which include the estimated range of savings of proposed projects and work with the GEO to set the cost, scope, starting date, and completion date of each audit; conduct detailed engineering energy audit and prepare written energy audit reports in a timely manner that will: describe the major building HVAC and lighting equipment, existing metering equipment, and energy use characteristics; describe and analyze recommended energy cost reduction measures; recommend maintenance and operation improvements; analyze utility rate schedules; and list other potential utility cost-saving measures which have not been included in the recommended energy cost reduction measures; provide five copies of the draft energy audit report for technical review and approval; revise the draft report in a timely manner according to the recommendations of the GEO and its technical review contractor(s) to assure that the technical quality of the audit report meets the program requirements; review and certify final reports for accuracy and adherence to sound engineering practices by a professional engineer registered in the State of Texas; and provide six copies of the final report, as approved by GEO, for distribution to the program administrators and institutional recipients.

Contact Person. To obtain answers to questions concerning this project, contact Steve Jaeger, P.E., Deputy Manager, Building Technologies Department, or Andrew Saleh, P.E., Audit Program Coordinator, at the Governor's Energy Office, P.O. Box 12428, Austin, Texas 78711; (512) 463-1931.

Closing Date. Six copies of the sealed proposals should be sent to Barbara Hayes, Governor's Energy Office, P.O. Box 12428, Austin, Texas 78711, (512) 463-1931. The Governor's Energy Office is located on the Sixth Floor of the Sam Houston State Office Building, 201 East 14th Street, Austin, Texas 78701. Proposals should be sent by certified mail or courier or be hand delivered, and must be postmarked or received no later than 5 p.m., May 31, 1991. Proposals received after that time and proposals submitted by facsimile will not be considered.

Selection Criteria. Proposers must attend a pre-proposal conference on May 17 from 11 a.m.-12 noon at the Balcones Research Center, Commons Building, Room 1.122. Proposals should be no longer than 30 pages and must specifically cover the selection criteria in the following order: demonstrated engineering experience with energy management technologies and with capital retrofit energy audits for the institutional sector; experience in providing cost estimates for retrofit projects (list selected projects where retrofit cost estimating was done); specialized engineering experience in energy technologies such as thermal storage systems, lighting systems, energy management systems, and boiler and steam system operations (list specialized firm capabilities); firm's ability to respond to audit requests and other engineering assignments in a timely manner (list previous energy audit projects and number of months to complete); demonstrated ability to work effectively with facility managers on audit and retrofit projects (list projects and references); and experience of

the project manager and audit team leaders to be assigned this work in providing commercial building audits in state, federal, and LoanSTAR audit programs (include their resumes in the proposal).

Contract awards will be based on the criteria listed above. The Governor's Office reserves the right to negotiate both budget and scope of work with the finalists. The Governor's Office reserves the right to reject any or all proposals and is under no legal requirement to execute a contract on the basis of this request for proposals.

Final selection of the contractors will be based on the recommendations of a review committee. If two or more proposals are ranked so closely that a decision cannot be made, the review committee may request finalists to provide additional information or to meet with GEO staff in Austin prior to final selection of the contractors. No respondent will be reimbursed for any cost incurred in the preparation, submission, or clarification of a proposal.

Issued in Austin, Texas, on May 1, 1991.

TRD-9105058 Bob Armstrong
Director
Governor's Energy Office

Filed: May 1, 1991

For further information, please call: (512) 463-1931

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Texas Department of Health

Current Schedule of Controlled Substances (4) Transmittal Date: April 29, 1991

The Texas Controlled Substances Act (Act), Health and Safety Code, §481.040, requires the Texas Commissioner of Health to file with the Office of the Secretary of State a copy of the schedules of all substances controlled under the Act. On April 25, 1991, the commissioner filed a copy of the current schedule with the Statutory Filings Division of the Office of the Secretary of State. This schedule contains all changes made since the effective date of the Act.

Copies of the schedule are filed and are available for public inspection in the Food and Drugs Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Information may be obtained from the Food and Drugs Division regarding the schedule.

Issued in Austin, Texas, on April 29, 1991.

TRD-9104965 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: April 29, 1991

For further information, please call: (512) 458-7248

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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 Financial Institutions Insurance Fund, Inc., a foreign casualty insurance company. The home office is in Chicago, Illinois.
2. Application for admission to do business in Texas of American Sterling Insurance Company, a foreign casualty

insurance company. The home office is in El Toro, California.

3. Application for admission to do business in Texas of The Central National Life Insurance Company, a foreign life insurance company. The home office is in Peapack, New Jersey.

4. Application for incorporation in Texas of Special Insurance Services, Inc., a domestic third party administrator. The home office is in Dallas.

5. Application for admission to do business in Texas of The Travelers Plan Administrators of California, Inc., a foreign third party administrator. The home office is in Walnut Creek, California.

Issued in Austin, Texas, on April 26, 1991.

TRD-9105057 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: May 1, 1991

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

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Notice of Public Hearing

Notice is hereby given that a public hearing under Docket Number 1822 will be held before the State Board of Insurance beginning at 9:30 a.m. on Tuesday, May 28, 1991. The purpose of the hearing will be consideration of possible adoption of new §§19.1201-19.1206 of the rules of the board and such other matters as may properly be brought before the board. These new sections would concern regulation of 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). The new sections would set forth general provisions, would define terms, would adopt forms by reference, would require provisions to be included in each contract between a managing general agent and an insurer, would provide that the State Board of Insurance shall be a certificate holder of any error and omissions policy and receive a copy of any cancellation or renewal notice, and would set forth requirements for use of escrow accounts for the placement of fiduciary monies and other monies and requirements for methods of accounting for these funds. Notification of proposal of the new sections, including proposed language and additional information, was published in the Proposed Sections portion of the April 23, 1991, issue of the *Texas Register* (16 TexReg 2267). The hearing will be in Room 100 of the William P. Hobby, Jr., State Office Building at 333 Guadalupe Street in Austin.

The hearing will be held in accordance with the legal authority and jurisdiction provided in the Insurance Code, Article 1.14-2, §15A, and Article 21.07-3, §3A, §3C, §4A, §11, §11A, and §21, and Article 21.70; and in 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 to provide requirements for contracts between managing general agents (MGAs) and insurers. Article 21.07-3, §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. Article 21.07-3, §3C, provides requirements for records, escrow accounts, account reports, offsets, and the fiduciary nature of funds held by an MGA of an insurer; §4A provides requirements for persons other than an MGA to share in an MGA's profit; §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. 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 various procedures, and prescribe the procedure for adoption of rules by state administrative agencies. The hearing and procedure will be governed by the rulemaking provisions of the rules of practice and procedure before the State Board of Insurance (Texas Administrative Code, Title 28, Chapter 1, Subchapter A) and the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a). In addition to other statutes and rules to which this notice directs attention, the hearing may involve other articles of the Insurance Code and other sections of the Texas Administrative Code, Title 28, Part 1.

Each page of any exhibit offered in evidence at a hearing before the State Board of Insurance must be numbered, must be on 8 1/2-inch by 11-inch paper, and must be on paper three-hole-punched along the left margin. The front page of each exhibit should indicate that the exhibit would be part of the record of a public hearing before the State Board of Insurance and should identify the subject of the hearing, the docket number, the date of the hearing, and the party offering the exhibit. On the front page, the party offering the exhibit should also describe the exhibit and leave a space for numbering the exhibit. Parties offering exhibits into evidence at the hearing should be prepared with sufficient copies of each proposed exhibit to furnish the following: the original exhibit, which will be tendered to the general counsel for marking and retention for the official record, after which the attorneys shall use an exact photocopy of such marked exhibit in the examination of witnesses; three copies for the board with one copy to be tendered to each of the three board members for their use in ruling on the admissibility of the exhibit; one additional copy for the general counsel; one copy for the staff attorney; and one copy each for every other party admitted to the hearing.

Please direct all inquiries regarding this hearing to Jack Evins, Deputy Insurance Commissioner for Licensing, Mail Code 014-1, State Board of Insurance, 333 Guadalupe Street, Austin, Texas 78701-1998, or telephone (512) 322-4105.

Issued in Austin, Texas, on April 30, 1991.

TRD-9105056 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Filed: May 1, 1991

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

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Secretary of State
Notice of Public Hearing

Pursuant to the Texas Election Code Annotated, §31.003 and §19.002(b) (Vernon 1986 and Supplement 1991), the secretary of state revised rules regarding Chapter 19 funds. By letter dated April 2, 1991, copies of the revised rules were received and submission of written comments was

encouraged. The rules were published in the April 5, 1991, issue of the *Texas Register*, to be effective June 5, 1991.

This office will hold a public hearing at the location and time specified as follows: May 9, 1991, 9 a.m., Fourth Floor, James E. Rudder Building, 1019 Brazos (11th and Brazos), Austin.

Issued in Austin, Texas, on April 30, 1991.

TRD-9105049 Audrey Selden
 Assistant Secretary of State
 Secretary of State

Filed: May 1, 1991

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

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Texas Water Commission
Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Structural Metals, Inc., Permit Number HW-50142, on April 18, 1991, assessing \$324,800 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sally Jo Hahn, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on April 29, 1991.

TRD-9104986 Laurie J. Lancaster
 Notices Coordinator
 Texas Water Commission

Filed: April 29, 1991

For further information, please call: (512) 463-7898

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Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Agnes Dairy, Permit Number 03071, on April 26, 1991, assessing \$84,800 in administrative penalties with \$68,000 deferred pending compliance. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Margaret A. Kirick, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on April 29, 1991.

TRD-9104985 Laurie J. Lancaster
 Notices Coordinator
 Texas Water Commission

Filed: April 29, 1991

For further information, please call: (512) 463-7898

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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