

Texas Register

Volume 16, Number 36, May 14, 1991

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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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POSTMASTER: Please send Form 3579 changes to the *Texas Register*, P.O. Box 13824, Austin, Texas 78711-3824.

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Attorney General-summaries of requests for opinions, opinions, and open records decisions

Emergency Sections-sections adopted by state agencies on an emergency basis

Proposed Sections-sections proposed for adoption

Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Sections-sections adopted following a 30-day public comment period

Open Meetings-notices of open meetings

In Addition-miscellaneous information required to be published by statute or provided as a public service

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

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

In Order that readers may cite material more easily page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "14 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 14 TexReg 3"

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

Texas Administrative Code

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

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

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



Texas Register Publications

a section of the
Office of the Secretary of State
P.O. Box 13824
Austin, Texas 78711-3824

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

In Addition

Texas Air Control Board

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Office of the State Auditor

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Texas Department of Aviation

2672—Professional Engineering Services Contract Award

Texas Department of Banking

2672—Notice of Continuance

Texas Education Agency

2672—Request for Applications

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2673—Consultant Selection Notice

Public Utility Commission of Texas

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2674—Notice of Application for Change in Depreciation Rates

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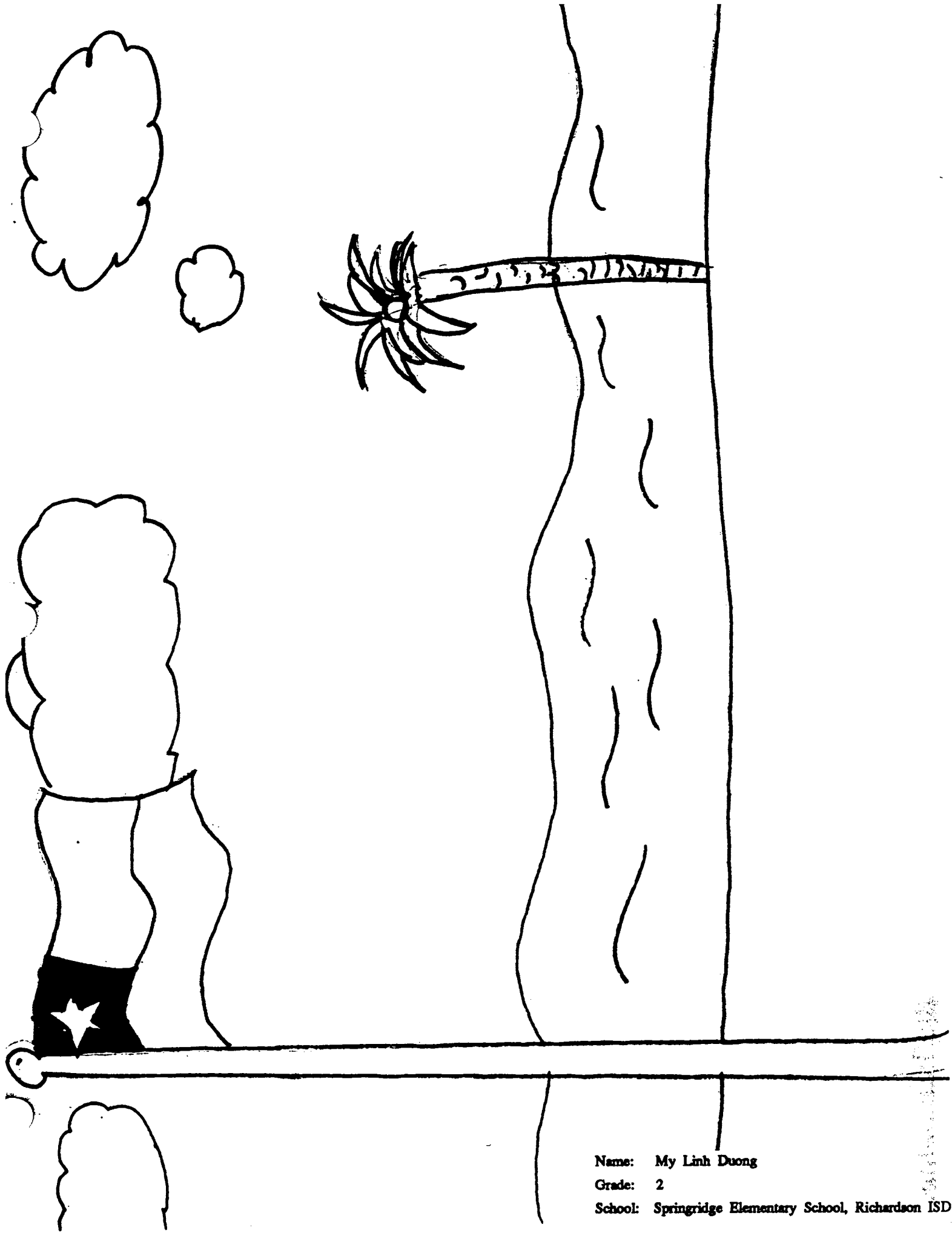
2675—Notice of Proceeding for Certification of Cogeneration Agreement

Texas Water Commission

2676—Notice of Application for Waste Disposal Permit



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TAC Titles Affected

TAC Titles Affected—May

The following is a list of the administrative rules that have been published this month.

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Part V. State Purchasing and General Service Commission

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1 TAC §§113.21, 113.23, 113.25—2449, 2467

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Part II. Animal Health Commission

4 TAC §35.1—2453, 2469

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7 TAC §91.506—2504

7 TAC §95.2—2521

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7 TAC §95.102—2521

7 TAC §95.201—2521

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7 TAC §95.308—2522

7 TAC §95.309—2523

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7 TAC §97.113—2506

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7 TAC §123.1, §123.2—2471

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16 TAC §3.22—2523, 2508

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16 TAC §§5.53-5.55—2659

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19 TAC §141.443—2573

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22 TAC §131.17, §131.18—2524

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22 TAC §145.1—2460

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22 TAC §193.7—2508

Part XII. Texas State Board of Vocational Nurse Examiners

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22 TAC §465.26—2526

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28 TAC §9.31—2447

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34 TAC §29.11—2519

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34 TAC §81.1—2519

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34 TAC §123.1—2577

34 TAC §127.3—2577

**TITLE 37. PUBLIC SAFETY AND
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Part III. Texas Youth Commission

37 TAC §81.112—2537

37 TAC §85.23—2537

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40 TAC §15.305—2473

40 TAC §15.435—2473

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40 TAC §327.1—2520

Part IX. Texas Department on Aging

40 TAC §§268.3, 268.6, 268.7, 268.13—2660

TITLE 43. TRANSPORTATION

***Part I. State Department of Highways and Public
Transportation***

43 TAC §7.72—2568, 2577



Attorney General

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

Opinions

DM-18 (RQ-2180). Request from Bruce Gibson, Chairman, Government Organization, Texas House of Representatives, Austin, concerning whether an individual who is an audiologist member of the Board of Examiners in the Fitting and Dispensing of Hearing Aids may be employed by a retail hearing aid company.

Summary of Opinion. An individual who serves as the audiologist member of the Board of Examiners in the Fitting and Dispensing of Hearing Aids may not be em-

ployed by a hearing aid manufacturing company or a wholesale or retail hearing aid company.

TRD-9105335

DM-19 (RQ-2). Request from D. C. Jim Dozier, County Attorney, Montgomery County Courthouse, Conroe, concerning disposition of proceeds generated by inmates' use of pay telephones in a county jail.

Summary of Opinion. Proceeds from pay telephones in county jails are not governed by the Local Government Code, §351.0415, and should be paid to the county treasurer.

TRD-9105337

DM-20 (RQ-2171). Request from Alvin Roy Granoff, Chairman, Committee on State, Federal and International Relations, Texas House of Representatives, Austin, concerning authority of the Coordinating Board to mandate training requirements for locally elected community and junior college trustees, and related questions.

Summary of Opinion. The Higher Education Coordinating Board may not by rule set training requirements for trustees of junior college districts. A junior college district is not authorized to request an attorney general opinion under the Government Code, §402.042(b)(6).

TRD-9105336





Name: Brandon Barker

Grade: 12

School: Plano East Senior High, Plano ISD

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 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 403. Other Agencies and the Public

Subchapter I. Capital Improvements by Citizen Groups

• 25 TAC §§403.251-403.274

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes the repeal of §§403.251-403.274, concerning capital improvements by citizen groups. The repeal is submitted contemporaneously with the proposal of new §§410.101-410.122, also concerning capital improvements by citizen groups.

The proposed new sections update terminology and references to various department entities, and call for design professionals in place of the former requirement of consultants. The new rules also remove the provision concerning application to the Texas Health Facilities Commission for certain capital improvements.

Lailani Rose, director, office of budget and fiscal services, 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.

There is no anticipated local economic impact.

Nancy Barker, director, office of volunteer services, has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the adoption of rules which make it possible for citizen groups to pursue capital improvements at facilities which will benefit the persons being served. 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 Linda Logan, Director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The repeals are proposed under Texas Civil Statutes, Article 5547-202, §2. 11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§403.251. Purpose.

§403.252. Application.

§403.253. Definitions.

§403.254. Initial Contact with Persons Desiring to Provide Capital Improvements: The Nature of the Volunteer Services Council.

§403.255. Appointment of Capital Improvement Committee: Ex Officio Members.

§403.256. Functions and Responsibilities of the Capital Improvement Committee.

§403.257. Retaining a Professional Consultant: Requirements for an Agreement with a Consultant.

§403.258. Capital Improvement Proposal Letter; Contents; Proposed Name for the Improvement; Recipients of Letter.

§403.259. Approval, Recommendation, and Action by the Board.

§403.260. Texas Health Facilities Commission Application; History and Functions of the THFC; Texas Health Facilities Commission Approval.

§403.261. Responsibilities of the Capital Improvement Committee with Respect to Fundraising Activities.

§403.262. Programming Stage: Establishment of the Program for the Project: Selection of the Construction Site.

§403.263. Schematic Design Stage: Preparation, Review, and Approval of Drawings and Specifications.

§403.264. Design Development and Contract Documents Stage.

§403.265. Bidding the Project; Reserving the Right to Reject Any and All Bids; Procedures Where There are Insufficient

Funds; Additional Review by Commissioner Required when Contract Documents are Modified.

§403.266. Placing Funds in Escrow.

§403.267. Signing the Construction Contract; Requisites of the Contract.

§403.268. Project Construction: Preconstruction Conference; Duties of the Professional Consultant During Construction.

§403.269. Completion and Acceptance of the Project.

§403.270. Benefit to the Client.

§403.271. Design and Construction Codes and Standards.

§403.272. Resources Available to the Volunteer and Citizen Groups.

§403.273. References.

§403.274. Distribution.

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 May 7, 1991.

TRD-9105415

Ann Utley
Chairman
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: June 14, 1991

For further information, please call: (512) 485-4670

Subchapter S. Early Childhood Intervention Program

• 25 TAC §403.530

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes the repeal of §403.530, concerning the Early Childhood Intervention Program. The section adopts by reference rules of the Texas Department of Human Services, Texas Adminis-

trative Code 40, §§621.1-621.48, with which TDMHMR must comply to receive federal funds for the program.

Lailani Rose, director, office of budget and fiscal service, has determined that there will be no fiscal implications for state or local government.

There is no anticipated local economic impact.

Jaylon Fincannon, deputy commissioner for mental retardation services, has determined that the public benefit will be the deletion of duplicative regulations. 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 Linda Logan, Director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The repeal is proposed under Texas Civil Statutes, Article 5547-202, §2.11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§403.530. Interagency Council on Early Childhood Intervention.

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 May 7, 1991.

TRD-9105387

Ann K. Utley
Chairman
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: June 14, 1991

For further information, please call: (512) 465-4670

Chapter 404. Protection of Clients and Staff

Subchapter A. Client Abuse and Neglect in TDMHMR Facilities

• 25 TAC §§404.1-404.14

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes the repeal of §§404.1-404.14 of this title, concerning client abuse and neglect in TDMHMR facilities. Key provisions of the sections are included in new §§404.1-404.20, concerning abuse and neglect of persons served by TDMHMR facilities, which are being proposed contemporaneously in this issue of the *Texas Register*.

Lailani Rose, director, Office of Budget and Fiscal, has determined that there will be no additional fiscal cost to state or local government as a result of administering the sections as proposed. There will be no significant local economic impact.

William H. Reid, M.D., M.P.H., medical director, has determined that the public benefit is the provision of more definitive procedures for

investigating and reporting allegations of abuse and neglect in facilities and affiliates. There will be no effect on small businesses. There is no anticipated cost to persons required to comply with the sections as proposed.

Comments on the proposal may be submitted to Linda Logan, Director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The repeals are proposed under Texas Civil Statutes, Article 5547-202, §2.11, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§401.1. Purpose.

§401.2. Application.

§401.3. Definitions.

§401.4. Client Abuse and Neglect Defined.

§401.5. Prohibition Against Client Abuse and Neglect.

§401.6. Responsibilities of All TDMHMR Employees.

§401.7. Responsibilities of Heads of Facilities.

§401.8. Client Abuse Committee.

§401.9. Responsibilities of the Office of Client Services and Rights Protection.

§401.10. Appeals Process.

§401.11. Prohibition Against Retaliatory Action.

§401.12. Staff Training in Prevention of Client Abuse and/or Neglect.

§401.13. Distribution.

§401.14. References.

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 May 8, 1991.

TRD-9105418

Ann Utley
Chairman
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: June 14, 1991

For further information, please call: (512) 465-4670

Subchapter A. Abuse and Neglect of Persons Served by TDMHMR Facilities

• 25 TAC §§404.1-404.20

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §§404.1-404.20, concerning abuse and neglect of persons served by TDMHMR facilities. The new sections would replace existing Chapter 404, Subchapter A, which is being proposed contemporaneously for repeal in this issue of *Texas Register*.

The primary difference between these sections and the existing subchapter is that the new sections would more comprehensively address abuse and neglect without regard to the identity of the perpetrator; the sections proposed for repeal pertain largely to abuse and neglect by department employees. Provisions would be added concerning reporting allegations of sexual abuse and sexual exploitation. Additionally, the new sections would clarify the responsibilities and functions of facility abuse and neglect committees and facility investigators; clarify the relationship between medical and nursing peer review committees and client abuse and neglect committees; change the composition of facility abuse and neglect committees; clarify the responsibilities for reporting abuse and neglect by facility contractors and agents; reference the confidential nature of the reports, records, and working papers used in investigations; and make language changes in keeping with current department usage. Exhibit A has been modified by replacing its attachment "Guidelines for Report and Investigation of Sexual Offenses" with "Procedures and Techniques for Investigation of Abuse and Neglect," and by deleting the attachment "Procedures in Client Abuse Investigations and Thurston Rebuttal Proceedings," which becomes new Exhibit C. Exhibit D, governing professional nursing quality assurance, and Exhibit E, governing investigative medical peer review, would also be adopted by reference.

Lailani Rose, director, office of budget and fiscal services, 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.

There will be no significant local economic impact.

William H. Reid, M.D., M.P.H., medical director, 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 provision of more definitive procedures for investigating and reporting allegations of abuse and neglect in facilities and affiliates. 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 Linda Logan, Director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The new sections are proposed under Texas Civil Statutes, Article 5547-202, §2.11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§404.1. Purpose. The purpose of this subchapter is to define and prohibit abuse and neglect of any person receiving services from a facility, facility contractor, or an agent of the Texas Department of Mental Health and Mental Retardation and to prescribe procedures for its report, investigation, and prevention.

§404.2. Application. The provisions of this subchapter shall apply to all facilities of the Texas Department of Mental Health and Mental Retardation and their contractors and agents.

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

Absent—A term in the client assignment and registration system used to describe when a person is physically away from a campus-based location, formerly known as "furlough."

Adult—A person 18 years of age or older.

Agent—Any individual not employed by the facility but working under the auspices of the facility, such as volunteers, students, etc.

Allegation—A report by a person having reasonable cause to believe that a person receiving services has been or is in a state of abuse, sexual or other exploitation, or neglect as defined in this subchapter.

Child—A person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.

Client abuse and neglect reporting system (CANRS)—A subsystem of CARE developed to record incidents involving abuse or neglect of persons served by facilities.

Client assignment and registration system (CARE)—The on-line data entry system developed to provide demographic and other data about persons served by the department.

Confirmed—Term used to describe an allegation of abuse or neglect which is supported by the preponderance of the evidence.

Contractor—Any school, organization, entity, or individual associated by contract in a working alliance with a facility.

Department—The Texas Department of Mental Health and Mental Retardation.

Designee—A staff member immediately available who is temporarily appointed to assume the responsibilities of the head of the facility.

Exploitation—The illegal or improper act or process of an employee using the resources of a person served for monetary or personal benefit, profit, or gain.

Facility—Any institution, program, or service operated by the department.

Head of the facility—The superintendent or director of a facility.

Investigator—A TDMHMR employee or independent contractor (consultant) with expertise in conducting investigations, training, experience, and demonstrated competence in the area of investigation.

Negligence—An action that a person of ordinary prudence would not have taken under the same or similar circumstances, or the failure to take an action that a person of ordinary prudence would have taken under the same or similar circumstances.

Nonserious physical injury—Any injury determined not to be serious by the examining physician. Examples of nonserious injury include, but are not limited to, the following: superficial laceration, contusion, abrasion.

Peer review—A review of clinical and/or medical practice(s) by peer physicians or nurses.

Perpetrator unknown—Term used to describe instances in which abuse or neglect is confirmed but positive identification of the responsible person cannot be made, and in which self-injury has been eliminated as the cause.

Person served—Any person receiving services from the department, including those persons who are absent who are still carried on the rolls of the facility.

Retaliatory action—Any action intended to inflict emotional or physical harm or inconvenience on an employee or person served that is taken because he or she has reported abuse or neglect. This includes, but is not limited to, harassment, disciplinary measures, discrimination, reprimand, threat, and criticism.

Serious physical injury—An injury determined to be serious by the examining physician. Examples of serious injury include, but are not limited to, the following: fracture; dislocation of any joint; internal injury; any contusion larger than 2 1/2 inches in diameter; concussion; second or third degree burn.

Sexual abuse—Any sexual act, including assault, which occurs as a result of coercion, physical force, or taking advantage of disability of a person receiving services; any sexual act committed with a minor child (under 18 years).

Sexual assault—Any physically coercive or intrusive sexual behavior toward another person. Examples of sexual assault include, but are not limited to, the following: inappropriate touching of the breasts, groin and buttocks areas, fondling or oral manipulation of the breasts or genital area, and sexual intercourse.

Sexual contact—Sexual activities up to and including sexual intercourse.

Sexual exploitation—Any act in which a less able individual is coerced, manipulated, or otherwise used sexually by a more physically and intellectually advanced or more socially able individual.

Sexually transmitted disease—Any infection of a person served, with or without symptoms or clinical manifestations, that is or may be transmitted from one person to another during or as a result of sexual contact between persons.

Unconfirmed—Term used to describe an allegation of abuse or neglect which is not supported by the preponderance of the evidence.

§404.A. Classification of Abuse and Neglect. When the perpetrator is an employee, contractor, or agent, or the perpetrator is unknown, confirmed abuse or neglect shall be classified in accordance with the "Procedures and Techniques for Investigation of Abuse and Neglect," which is herein adopted by reference in §404.18 of this title (relating to Exhibits) as Exhibit A.

(1) Class I abuse means any act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused serious physical injury to a person served. Without regard to injury, any sexual contact between an employee and a person served will be considered to be Class I abuse.

(2) Class II abuse means:

(A) any act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused nonserious physical injury to a person served; or

(B) exploitation.

(3) Class III abuse means any use of verbal or other communication to curse, vilify, or degrade a person served, or to threaten a person served with physical or emotional harm, or any act which vilifies, degrades, or threatens a person served with physical or emotional harm.

(4) Neglect means negligence which causes or could predictably lead to any physical or emotional injury to a person served.

(A) Under the Family Code, neglect includes such situations as leaving a child unsupervised in a dangerous situation; acts or omissions resulting in the placement of the child in a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or substantial risk of immediate harm to the child; the failure to seek, obtain, or follow through with medical care for the child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury, or an observable and material impairment to the growth, development, or functioning of the child; or the failure to provide the child with food, clothing, or shelter necessary to sustain the life or health

of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused.

(B) Under the Human Resources Code, neglect means the failure to provide for one's self the goods or services which are necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

§404.5. Prohibition Against Abuse and Neglect of Persons Served by Facilities, Facility Contractors, and Agents.

(a) Abuse or neglect of persons served by facilities, facility contractors, and agents is prohibited and shall be grounds for appropriate action, including reporting to law enforcement authorities; reporting to governing boards for professional practice; and, additionally for employees, disciplinary action up to and including termination.

(b) Abuse does not include:

(1) the proper use of restraints or seclusion and the approved application of behavior modification techniques as described in Chapter 405, Subchapter F of this title (relating to Restraint and Seclusion-Mental Health Facilities) and Chapter 405, Subchapter HH of this title (relating to Restraint and Seclusion-Mental Retardation Facilities);

(2) other actions taken in accordance with the rules of the department; or

(3) such actions as an employee may reasonably believe to be immediately necessary to avoid imminent harm to self, persons served, or other individuals if such actions are limited only to those actions reasonably believed to be necessary under the existing circumstances.

§404.6. Reporting Responsibilities of All TDMHMR Employees.

(a) Each employee who suspects or has knowledge of, or who is involved in an allegation of, abuse or neglect must make an immediate verbal report and a written incident report to the head of the facility or designee within two hours of the incident. Employees who become aware of a situation at any time after the fact must make an immediate verbal report and a written report to the head of the facility or designee within two hours.

(1) The head of the facility or designee shall note the date and time of day the abuse or neglect allegedly occurred and the date and time of day the verbal and written reports are received. This information will be forwarded to the investigator for inclusion in the investigative case file.

(2) Failure to make such reports within the allotted time period without suf-

ficient justification shall be considered a violation of this subsection and make the employee subject to disciplinary action and possible criminal prosecution.

(b) Without regard to the identity of the perpetrator, suspected sexual abuse shall be reported to the head of the facility immediately by the person making the allegation. If the person making the allegation is not an employee, e.g., a person receiving services, a guest, etc., staff shall assist the individual in making the report, if necessary.

(c) Any person who believes that any abuse or neglect has occurred involving a person served may also make such concerns known to the public responsibility committee as described in Chapter 403, Subchapter P of this title (relating to Public Responsibility Committees).

(d) If there is reason to suspect that a person served was abused, neglected, or exploited during an absence from the facility with a family member or guardian, the employee shall also immediately contact the Department of Human Services, 1-800-252-5400.

(e) Anonymous allegations will be received and investigated following the same procedures that are used when the complainant is known.

(f) An allegation that sexual abuse has been committed by a person receiving services shall be reported and investigated following the procedures outlined in this subchapter. Other aggressive behaviors by persons receiving services shall be reported and investigated according to §404.244 of this title (relating to Reporting Injuries and Incidents Involving Persons Served) and §404.245 of this title (relating to Reporting a Criminal Act).

§404.7. Responsibilities of the Head of the Facility or Designee: Immediate Actions Required. Immediately upon receiving an allegation of abuse or neglect, the head of the facility or designee shall take the following actions.

(1) When the head of the facility or designee has reason to believe that any abuse-related crime has been committed, including sexual abuse, the allegation shall be immediately reported to the appropriate local or state law enforcement agencies.

(2) The head of the facility or designee shall make basic determinations of whether the person accused is an employee, a person receiving services from the facility, or another person, and whether the person is known or unknown to the victim.

(A) If the accused is an employee, the head of the facility or designee will immediately grant the employee emergency leave, reassign the employee to a non-direct care area, or allow the employee to continue in the post pending investigation.

(B) If the accused is a person receiving services, the head of the facility or designee will take immediate appropriate action to protect the victim, e.g., one-on-one observation of the accused and/or the victim, separation, etc.

(C) If the accused is another person who is known but who is neither a staff member nor a person receiving services, e.g., family member, friend, etc., the head of the facility or designee will effect a restriction on that person's access to the individual pending investigation.

(3) The head of the facility or designee shall immediately report all allegations of abuse and neglect to the chairperson of the client abuse and neglect committee, the composition and function of which is discussed in §404.8 of this title (relating to Abuse and Neglect Committee and Facility Investigator), or the investigator.

(4) The head of the facility or designee shall immediately, if possible, and in no case later than 24 hours after receiving the report of abuse/neglect, notify the parents, guardian, spouse, or other appropriate relative of the alleged victim.

(5) If the allegation involves physical abuse and/or sexual abuse, the head of the facility or designee will ensure necessary immediate and ongoing medical and/or psychological attention is obtained for the victim and, as needed, for the perpetrator, if a person is receiving services e.g., screening and treatment for sexually transmitted diseases, psychological counseling and support, etc., consistent with the procedures described in "Procedures and Techniques for Investigation of Abuse and Neglect," which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit A.

(6) If the allegation appears to involve medical or nursing practice of a physician or registered nurse, the head of the facility or designee shall:

(A) refer the allegation to the medical director or nursing director, as appropriate, for review for possible peer review as required in §404.9 of this title (relating to Peer Review); and

(B) ensure that a report of the allegation is made as required by law to the licensing authority for the discipline under review, e.g., to the Board of Medical Examiners for physicians, and to the Board of Nurse Examiners for registered nurses.

§404.8. Abuse and Neglect Committee and Facility Investigator.

(a) Appointment. The head of a facility shall appoint a multidisciplinary committee or committees to assist in the

investigation of alleged incidents of abuse and/or neglect. The committee shall be called the abuse and neglect committee (CANC).

(b) Composition. The committee shall be comprised of at least four persons.

(1) One member of the committee shall be a member of the public responsibility committee for the facility. All other members of the committee shall be staff persons with representation from each of the following classifications:

(A) professional;

(B) administrative; and

(C) direct care.

(2) One person shall be designated to act as chairperson and shall be required to maintain all records of investigations conducted by the committee. When the chairperson is away from the facility, one of the committee members shall be appointed acting chairperson.

(c) Terms. The term of membership shall be one year. The head of the facility may reappoint the same staff members for more than one term.

(d) Facility investigator. The head of the facility may appoint a qualified individual to serve as the leader of the investigation.

(e) Consultants. The head of the facility may retain a consultant for the purpose of assisting the committee in conducting investigations pursuant to this subchapter.

(f) Responsibilities.

(1) The committee and the facility investigator must fully investigate alleged incidents of abuse or neglect.

(A) Consistent with the provisions contained in "Procedure and Techniques for Investigation of Abuse and Neglect," which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit A, the designated investigator shall begin the initial investigation immediately, including investigations of sexual abuse, sexual assault, or sexual exploitation.

(B) The initial investigative report, including witness statements and all evidence collected, must be presented to the abuse and neglect committee no later than five working days after receipt of the allegation. If additional time is required, written justification will be submitted to the head of the facility for approval or disapproval and this will be included in the final report.

(C) The committee shall review the evidence gathered by the investigator, interview all available witnesses,

make a final determination of findings, and submit a final report to the head of the facility within five working days after receipt of the designated investigator's report. If the committee is unable to complete its investigation within five working days, written justification will be submitted to the head of the facility for approval or disapproval and this will be included in the final report.

(D) If the initial investigation, including written witness statements and all evidence gathered, indicates that the allegation is obviously without merit, the investigation may be closed subsequent to the report being reviewed and signed by the chairperson of the committee, a public responsibility committee member, and the head of the facility. A copy of the report of all such investigations shall be sent to the Office of Client Services and Rights Protection in Central Office. Ten percent of these investigative reports must be submitted by the chairperson to the full committee for review to ensure that the criteria for closing an investigation are being met.

(E) Investigative procedures outlined in "Procedures and Techniques for Investigation of Abuse and Neglect," which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit A, are to be followed in all investigations.

(i) Written statements must be obtained from all witnesses and any other persons who may provide collateral information.

(ii) All injuries must be photographed as soon as possible after discovery of the injury. Photographs of all injuries sustained shall be submitted with the investigative report sent to the Office of Client Services and Rights Protection, Central Office.

(iii) The physician's exam and treatment of abuse-related injuries shall be documented on the client injury/incident report form, which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit B, and attached to the investigative report submitted to the Office of Client Services and Rights Protection, Central Office. The physician's remarks during or following the examination should address the injury's cause, age, and treatment, to the extent that can be determined, as well as the timing of the medical exam with regard to the date the injury was received. All clinical issues will be referred to the medical/clinical director or designee for consultation.

(F) The chairperson is responsible for monitoring the implementation of the committee's recommendations regarding preventive measures and for the evaluation of their effectiveness. A quarterly report detailing these findings will be submitted to the head of the facility, with a

copy sent to the Office of Client Services and Rights Protection.

(2) The abuse and neglect committee must report to the head of the facility whether it is of the opinion that there is cause to believe that abuse or neglect has occurred in the incident investigated. Such opinion is not binding on the head of the facility.

(3) The abuse and neglect committee shall indicate "perpetrator unknown" in those instances where the preponderance of evidence exists to confirm abuse or neglect, but positive identification of the person(s) responsible cannot be determined and self-injury has been eliminated as the cause.

(g) Rights of employees. The rights of employees summoned to appear before the abuse and neglect committee are outlined in the memo titled "Procedures in Client Abuse Investigations and Thurston Rebuttal Proceedings," which is herein adopted by reference as Exhibit C and which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit C.

§404.9. Peer Review.

(a) When the head of the facility or designee refers an allegation to the medical director or nursing director for determination for possible investigative peer review as described in §404.7(6) of this title (relating to Responsibilities of the Head of the Facility or Designee: Immediate Actions Required), the head of the facility or designee will at the same time appoint a qualified individual to serve as facility investigator.

(1) The designated investigator shall confer with the medical director or nursing director and begin the initial investigation immediately, consistent with the provisions contained in "Procedure and Techniques for Investigation of Abuse and Neglect," which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit A.

(2) The investigator's initial report, including witness statements, all evidence collected, and classification of the allegation as described in §404.4 of this title (relating to Classification of Abuse and Neglect), must be presented to the head of the facility no later than five days after receipt of the allegation. If additional time is required, written justification will be submitted to the head of the facility for approval or disapproval and this will be included in the final report.

(b) The head of the facility, in collaboration with the facility investigator and the medical director or nursing director, will make a determination as to whether the abuse or neglect allegation involves clinical issues.

(1) If the abuse or neglect allegation does not involve clinical issues, the

head of the facility will refer it directly to the abuse and neglect committee for investigation as described in §404.8 of this title (relating to Abuse and Neglect Committee and Facility Investigator).

(2) If the abuse or neglect allegation involves the clinical practice of a physician, the head of the facility will refer it to the chairperson of the investigative medical peer review committee for determination as described in Operating Instruction 408 2, governing Investigative Medical Peer Review, which is herein adopted by reference as Exhibit D and which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit D.

(3) If the abuse or neglect allegation involves the clinical practice of a nurse, the head of the facility will refer it to the chairperson of the nursing peer review committee for determination as described in Operating Instruction 408 1, governing Professional Nursing Quality Assurance, which is herein adopted by reference as Exhibit E and which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit E.

(c) The investigator will participate as a nonvoting member of the investigative peer review committee.

(d) Within five working days of the referral, the findings of the peer review process will be reported to the head of the facility. If the committee is unable to complete its investigation within five working days, written justification will be submitted to the head of the facility for approval or disapproval and this will be included in the final report.

§404.10. Abuse and Neglect Investigative Procedures for Facility Contractors.

(a) The head of the facility shall notify the executive director of the contractor of an allegation of abuse or neglect involving an employee of the contractor.

(1) Independent school districts (ISDs). An allegation that an ISD employee has committed abuse or neglect should be reported to the Texas Department of Human Services, which has principle responsibility for investigation, and the ISD.

(2) Contractors. An allegation that an employee of a contractor has committed abuse or neglect will be investigated and reported following all procedures prescribed in this subchapter. Allegations will be investigated in a collaborative effort by the administrator of the contract provider and the facility abuse and neglect committee.

(A) An employee of a contract provider who has knowledge of or is involved in abuse or neglect must make an immediate report to the administrator of the contract provider. The administrator will immediately report the allegation to the head of the facility.

(B) If the allegation is made by a state facility employee, the head of the facility will inform the administrator of the contract provider and coordinate a collaborative effort to investigate the incident.

(C) The decision made by the head of the facility, based on the investigative report, will be discussed with the administrator of the contract provider, at which time agreement should be reached regarding the action to be taken, if any.

(b) For purposes of reporting, investigating, and preventing abuse and neglect by agents of state facilities, the procedures described for employees shall be followed.

§404.11. Responsibilities of Head of the Facility or Designee: Following Investigation. Upon completion of the investigation of any allegation, the head of the facility or designee shall take the following actions.

(1) Unless specifically prohibited by Chapter 403, Subchapter K of this title (relating to Client-Identifying Information), Chapter 405, Subchapter L of this title (relating to Client Rights Mental Health Services), or Chapter 405, Subchapter Y of this title (relating to Client Rights Mental Retardation Services), the head of the facility or designee shall ensure prompt notification of the parents, guardian, spouse, or other appropriate relative previously notified of the final results of the investigation.

(2) The head of the facility or designee shall submit to the director of the Office of Client Services and Rights Protection two copies of:

(A) the Client Abuse/Neglect Report (AN-1-A), which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit F;

(B) the investigative report, including a statement of the allegation, a summary of the investigative methodology, the findings of fact and/or the conclusions of the abuse and neglect committee, an analysis of the evidence, the abuse and neglect committee's finding regarding whether abuse occurred, and any concerns and recommendations for corrective and preventive actions;

(C) the client injury/incident report, which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit B; and

(D) all witness statements and supporting documents.

(3) When abuse of a child is alleged, the head of the facility shall submit a "Final Report of Suspected Child Abuse

and Neglect in a Child Care Facility," which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit G, to the Office of Client Services and Rights Protection to be forwarded to the Office of Youth Care Investigation (Attorney General's Office).

(4) In confirmed cases of abuse or neglect, a copy of the final investigative report shall be submitted to the appropriate law enforcement agency.

§404.12. Responsibilities of Head of the Facility or Designee: Disciplinary Action. The head of the facility or designee in the absence of the head of the facility shall be responsible for taking prompt and proper disciplinary action when a charge of abuse or neglect is confirmed.

(1) Disciplinary action shall be based on criteria including, but not limited to:

(A) the seriousness of the abuse and/or neglect;

(B) the circumstances surrounding the event; and

(C) the employee's record.

(2) When the head of the facility determines that abuse or neglect has occurred, the following disciplinary action shall be taken.

(A) Class I abuse. The employee shall be dismissed from employment.

(B) Class II abuse. The employee shall be placed on suspension for up to 10 days, demoted, or dismissed from employment.

(C) Class III abuse. If the act of abuse is the employee's first violation, the employee shall receive a written reprimand which shall become a part of the employee's personnel file and may be placed on suspension for up to 10 days. If the act of abuse is the employee's second violation, the employee shall be placed on suspension for up to 10 days, demoted, or dismissed from employment.

(D) Neglect. The employee shall receive a written reprimand, be placed on suspension for up to 10 days, demoted, or dismissed from employment.

(3) When disciplinary action is taken against an employee based on abuse or neglect, the head of a facility shall notify the disciplined employee in writing of any right to a grievance hearing the employee may have under the department's internal policies and procedures relating to employee grievances.

§404.13. Responsibilities of the Office of Client Services and Rights Protection. The Office of Client Services and Rights Protection shall:

- (1) monitor statistical trends in abuse and neglect;
- (2) review all abuse and neglect investigations and make recommendations to facilities concerning corrective and preventive actions;
- (3) determine closure on all investigations;
- (4) report all allegations of abuse involving a child to the Office of Youth Care Investigation in the Attorney General's Office;
- (5) report all allegations of abuse involving adults served by the department to the Adult Protective Services division of the Texas Department of Human Services (DHS); and
- (6) make appropriate reports of abuse regarding registered nurses or physicians to the respective boards of examiners.

§404.14. Appeals Process. A complainant who makes an allegation of abuse or neglect and wishes to appeal the findings shall request a review of the completed investigation by notifying the Office of Client Services and Rights Protection, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

- (1) If the incident involves a person under the age of 18, the complainant may further request a review from the Office of Youth Care Investigation, Attorney General's Office, P.O. Box 12548, Austin, Texas 78711.
- (2) If the incident involves a person 18 years or older, the complainant may further contact the Office of Adult Protective Services, Department of Human Services, P.O. Box 2960, Austin, Texas 78769.

§404.15. Prohibition Against Retaliatory Action.

- (a) Any employee or person served who in good faith reports abuse, exploitation, or neglect shall not be subjected to retaliatory action by any employee of the department or any person affiliated with an employee of the department.
- (b) Any person who believes he or she is being subjected to retaliatory action upon making a report of abuse or neglect, or who believes a report has been ignored without cause, shall immediately contact the head of the facility. Such person may also contact:

- (1) the Office of Client Services and Rights Protection, Central Office, at the toll free number 1-800-252-8154;

- (2) the Office of the Attorney General at (512) 463-2120 which, under the Whistleblower Act, Texas Civil Statutes, Article 6252-16a, may prosecute a supervisor who suspends or terminates a public employee for reporting a violation of law to law enforcement authorities.

- (c) Any employee found guilty of retaliatory action may be subject to disciplinary action.

§404.16. Staff Training in Identifying and Reporting Abuse and Neglect.

- (a) This subchapter shall be thoroughly and periodically explained to all employees of each facility as follows:

- (1) All new employees, contractors, and agents shall receive the instruction on the content of this subchapter during their orientation training and prior to beginning work that involves direct contact with any person served. Acknowledgment of this instruction shall be certified by the employee, contractor, or agent using the orientation to Chapter 404, Subchapter A form, which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit H, and filed.

- (2) Orientation shall include a thorough explanation of the definitions contained in these rules, including the categories or classes of abuse or neglect, the disciplinary consequences of abuse or neglect, and the procedures for reporting incidents of abuse or neglect.

- (3) Within 60 days after the effective date of this subchapter, all current employees shall receive a copy of this subchapter and be briefed on its contents by the head of the facility or designee. Within six months following the effective date of this subchapter, all current employees shall receive refresher training on identifying and reporting abuse and neglect. Acknowledgment of this instruction shall be certified by the employee using the orientation to Chapter 404, Subchapter A form, which is referenced in §404.18 of this title (relating to Exhibits) as Exhibit H and filed in the employee's record.

- (b) Those employees in frequent contact with persons served shall receive additional instruction on the prevention and therapeutic management of aggressive, combative behavior or similar volatile situations as a unit of training within the employee's six-month probationary period of employment. Training shall comply with training standards promulgated by the department.

- (c) All supervisory personnel shall have a continuing responsibility to keep employees currently informed on rules governing abuse or neglect and shall insure that each employee receives training on identifying and reporting abuse and neglect not less than once each calendar year. Such training shall be reported to the facility office for staff development.

- (d) Instructional materials, audiovisual, and/or other training aids concerning this subchapter shall be approved by the deputy commissioner of Human Resources, Central Office, in concurrence with the Office of Legal Services and the Office of Client Services and Rights Protection.

- (e) A record shall be kept by the facility office for staff development on each employee receiving orientation, annual training, or additional instruction in compliance with this section, including the date training was provided and the name of the individual conducting the training.

§404.17. Confidentiality of Investigative Process and Report. The reports, records, and working papers used by or developed in the investigative process and the resulting final report regarding abuse and neglect are confidential and may be disclosed only as provided under law. Information discussed during the deliberation of the abuse and neglect committee may not be discussed outside the purview of those deliberations with the exception of the concerns and recommendations which are to be addressed by the appropriate person(s) or as otherwise allowed in §404.7 of this title (relating to Responsibilities of the Head of the Facility or Designee: Immediate Actions Required) and in §404.8 of this title (relating to Abuse and Neglect Committee and Facility Investigator.)

§404.18. Exhibits. Copies of the following exhibits are available from the Texas Department of Mental Health and Mental Retardation, P. O. Box 12668, Austin, Texas 78711:

- (1) Exhibit A—Procedures and Techniques for Investigation of Abuse and Neglect;
- (2) Exhibit B—Client Injury/Incident Report;
- (3) Exhibit C—Procedures in Client Abuse Investigations and Thurston Rebuttal Proceedings;
- (4) Exhibit D—Operating Instruction 408 2, governing Investigative Medical Peer Review;
- (5) Exhibit E—Operating Instruction 408 1, governing Professional Nursing Quality Assurance;
- (6) Exhibit F—Client Abuse/Neglect Report (AN-1-A);
- (7) Exhibit G—Final Report of Suspected Child Abuse and Neglect in a Child Care Facility; and
- (8) Exhibit H—Orientation to Chapter 404, Subchapter A certification form.

§404.19. References. Reference is made to the following statutes, rules of the department, and attorney general opinions:

(1) Texas Civil Statutes, Article 695c-2, §9;

(2) Texas Civil Statutes, Article 5547-87;

(3) Texas Civil Statutes, Article 5547-202, §2.12;

(4) Texas Civil Statutes, Article 5547-300;

(5) Whistleblower Act, Texas Civil Statutes, Article 6252-16a;

(6) Texas Penal Code, Chapters 19 and 21, §§22.01, 22.02, 22.04, 22.05, 22.07, 22.08, 22.10;

(7) Texas Family Code, §§11.01, 34.01, 34.02, 34.03;

(8) Human Resources Code, Chapter 48;

(9) Chapter 403, Subchapter P of this title (relating to Public Responsibility Committees);

(10) Chapter 404, Subchapter G of this title (relating to Unusual Incidents at TDMHMR Facilities);

(11) Chapter 405, Subchapter F of this title (relating to Restraint and Seclusion Mental Health);

(12) Chapter 405, Subchapter G of this title (relating to Restraint and Seclusion Mental Retardation);

(13) Chapter 405, Subchapter L of this title (relating to Client Rights Mental Health Services);

(14) Chapter 405, Subchapter Y of this title (relating to Client Rights Mental Retardation Services);

(15) TDMHMR Personnel Manual, sections relating to:

(A) emergency leave;

(B) suspension, demotion, and reduction in salary; and

(C) dismissal for cause;

(16) TDMHMR policy and procedures relating to employee grievances; and

(17) Attorney General Opinion Numbers H-237 (1974), H-986 (1977), and H-494 (1975).

§404.20. Distribution.

(a) The provisions of this subchapter shall be distributed to:

(1) members of the Texas Board of Mental Health and Mental Retardation;

(2) deputy commissioners, associate deputy commissioners; assistant deputy commissioners; and directors of Central Office;

(3) superintendents and directors of all department facilities;

(4) contractors and agents;

(5) the attorney general of Texas;

(6) the Attorney General's Office of Youth Care Investigation;

(7) the Association for Retarded Citizens of Texas;

(8) the Mental Health Association in Texas;

(9) the Parent Association for the Retarded of Texas;

(10) the Texas Association on Mental Deficiency;

(11) the Texas Association for Mental Health;

(12) the Texas Department of Health;

(13) the Texas Department of Human Services;

(14) the Texas Youth Commission;

(15) the Texas Alliance for the Mentally Ill;

(16) Texas Mental Health Consumers; and

(17) Advocacy, Inc.

(b) The head of each facility shall be responsible for duplicating and disseminating copies of this subchapter to:

(1) appropriate staff; and

(2) any person served, employee, or other person desiring a copy.

(c) The head of each facility shall be responsible for prominently displaying copies of this subchapter at nursing stations and on bulletin boards within each facility.

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 May 8, 1991.

TRD-9105419

Ann Utley
Chairman
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: June 14, 1991

For further information, please call: (512) 465-4670

Subchapter G. Unusual Incidents at TDMHMR Facilities

• 25 TAC §§404.241-404.256

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes the repeal of §§404.241-404.256, concerning unusual incidents at TDMHMR facilities. Key

provisions of the sections which deal with persons served by TDMHMR facilities are included in new §§404.241-249, concerning unusual incidents involving persons served by TDMHMR facilities, which are being proposed contemporaneously in this issue of *Texas Register*.

Leilani Rose, director, Office of Budget and Fiscal, has determined that there will be no additional fiscal cost to state or local government as a result of administering the sections as proposed. There will be no significant local economic impact.

William H. Reid, M.D., M.P.H., medical director, has determined that the public benefit is the provision of simpler and more definitive procedures for employees to following whenever an unusual incident occurs involving individuals other than employees. There will be no effect on small businesses. There is no anticipated cost to persons required to comply with the sections as proposed.

Comments on the proposal may be submitted to Linda Logan, Director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The repeals are proposed under Texas Civil Statutes, Article 5547-202, §2.11, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§404.241. Purpose.

§404.242. Application.

§404.243. Definitions.

§404.244. Incidents Which Must be Reported by Telephone to the Deputy Commissioner as Soon as Possible.

§404.245. Reporting Serious or Nonserious Injury to a Client, Guest, or an Employee.

§404.246. Employee Training Requirements.

§404.247. Treatment of Employees Injuries/Illnesses in the Performance of Official Duties.

§404.248. Reporting Injury, Death, or Property Damage Which is the Result of an Automobile Accident Involving the Department.

§404.249. Reporting Fire Which Causes Property Damage of \$100 or More.

§404.250. Reporting Theft or Damage, from Causes Other than Fire, Resulting in Property Loss or Damage of \$100 or More.

§404.251. Reporting Loss, Destruction, or Damage to State Property.

§404.252. Reporting a Criminal Act.

§404.253. Reporting Unauthorized Departure of a Client.

§404.254. Exhibits.

§404.255. Distribution.

§404.256. References.

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 May 8, 1991.

TRD-9105420

Ann Utley
Chairman
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: June 14, 1991

For further information, please call: (512) 465-4670

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Subchapter G. Unusual Incidents Involving Persons Served by TDMHMR Facilities

• 25 TAC §§404.241-404.249

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §§404.241-404.249, concerning unusual incidents involving persons served by TDMHMR facilities. The new sections would replace existing Chapter 404, Subchapter G, which is being proposed contemporaneously for repeal in this issue of *Texas Register*.

The primary difference between these sections and the existing subchapter is that the new sections focus on incidents involving individuals receiving services; the sections proposed for repeal contain many forms and processes for documenting risk management situations involving employees only, e.g., automobile accidents, fires, employee theft, etc. Provisions are included in the new rule that emphasize the importance of immediately reporting to the police allegations of sexual abuse and sexual exploitation of individuals receiving services. Additionally, the form used to record client injuries has been modified to include documenting sexual contact between clients when one or both clients is not consenting or is not capable of giving consent.

Leilani Rose, director, Office of Budget and Fiscal, has determined that for the first five-year period the sections are in effect there will be no additional fiscal cost to state or local government or small businesses as a result of administering the sections as proposed. There will be no significant local economic impact.

William H. Reid, M.D., M.P.H., medical director, has determined that for each year of the first five years the sections are in effect public

benefit anticipated as a result of enforcing the sections will be the provision of simpler and more definitive procedures for employees to follow whenever an unusual incident occurs involving individuals other than employees. There is no anticipated cost to persons required to comply with the sections as proposed.

Comments on the proposal may be submitted to Linda Logan, director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The new sections are proposed under Texas Civil Statutes, Article 5547-202, §2.11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§404.241. Purpose. The purpose of this subchapter is to establish procedures for reporting and recording unusual incidents involving persons served at facilities of the Texas Department of Mental Health and Mental Retardation.

§404.242. Application. This subchapter applies to all facilities of the Texas Department of Mental Health and Mental Retardation.

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

Client Assignment and Registration System (CARE)—The on-line data entry system developed to provide demographic and other data about persons served by the department.

Client Injury Reporting System (CIRS)—A subsystem of CARE developed to record injuries and incidents involving persons served by facilities.

Commissioner—The commissioner of the department.

Department—The Texas Department of Mental Health and Mental Retardation.

Facility—Any state hospital, state school, state center, or other entity which is now or hereafter made a part of the department.

Nonserious physical injury—Any injury determined not to be serious by the examining physician. For purposes of CIRS, a registered nurse may make this determination if the injured person is not seen by a physician except in those instances of suspected abuse or neglect which require a physician's examination. Examples of nonserious injury include, but are not limited to, the following: superficial laceration, contusion, abrasion.

Person served—A person receiving mental health or mental retardation services provided by a facility.

Serious physical injury—An injury determined to be serious by the examining physician. Examples of serious injury in-

clude, but are not limited to, the following: fracture; dislocation of any joint; internal injury; any contusion larger than 2 1/2 inches in diameter; concussion; second or third degree burn.

Sexual assault—Any physically coercive or intrusive sexual behavior toward another person. Examples of sexual assault include, but are not limited to, the following: inappropriate touching of the breasts, groin and buttocks areas, fondling or oral manipulation of the breasts or genital area, and sexual intercourse.

Sexual contact—Sexual activities up to and including sexual intercourse.

Sexual exploitation—Any act in which a less able individual is coerced, manipulated, or otherwise used sexually by a more physically and intellectually advanced or more socially able individual.

Sexually transmitted disease—Any infection of a person served, with or without symptoms or clinical manifestations, that is or may be transmitted from one person to another during or as a result of sexual contact between persons.

Unauthorized departure which might have unusual consequences—The unauthorized departure of a person served which causes a reasonably prudent staff member who has knowledge of the person's condition to believe that harm or injury to the person or to others may occur as a result of the unauthorized departure, e.g., the unauthorized departure of a person who the treatment staff believes to be a danger to self or to others, or the unauthorized departure of a person who requires maintenance medication such as insulin. Unusual incident Includes:

(A) the death of a person served resulting from other than natural causes;

(B) an injury to a person served, from whatever cause;

(C) a criminal act by a person served or a criminal act by any individual against a person served; and

(D) the unauthorized departure of a person served who is unable to ensure personal safety and/or is considered to be a danger to self or to others.

(E) sexual contact between persons served when one or more is not capable of consent or is not consenting;

(F) any sexual assault involving persons served;

(G) sexual exploitation;

(H) pregnancy of a person served, regardless of the identity of the

perpetrator, provided there is medical verification that conception could have occurred while the individual was a client of a TDMHMR facility; and

(1) the diagnosis of a sexually transmitted disease in a person served.

§404.244. Reporting Injuries and Incidents Involving Persons Served.

(a) All deaths of persons served shall be reported in accordance with §405.264(f) of this title (relating to Actions Taken Upon Death of a Client on Facility Grounds).

(b) All serious and nonserious injuries, sexual assaults, sexual exploitation, pregnancy, or sexually transmitted diseases involving a person served shall be reported on the Client Injury/Incident Report form, which is referenced in §404.247 of this title (relating to Exhibits) as Exhibit A.

(1) The injury/incident report shall be entered into the Client Injury Reporting System (CIRS) as described in the CIRS User's Manual.

(2) The original of the Client Injury/Incident Report form may be maintained in either the ward chart or the master record of the person served or in the office of the facility safety officer.

(c) Upon receiving a report of a serious injury, sexual assault, sexual exploitation, pregnancy, or sexually transmitted disease of a person served, the head of the facility or designee shall promptly notify:

(1) the person's parents, legal guardian, managing conservator, or other interested party for whom release has been authorized;

(2) the appropriate deputy commissioner and the TDMHMR medical director; and

(3) in cases of sexually transmitted disease, an immediate report shall be made to the facility director of infection control or designee.

(d) The facility safety officer will analyze trends in injuries to persons served, make recommendations for corrective measures, and evaluate the effectiveness of the corrective measures. The safety officer will report all trends in injuries involving a particular person served to that person's qualified mental retardation professional or treatment team for corrective action.

§404.245. Reporting a Criminal Act.

(a) A criminal act by or against a person served, including sexual assault, shall be reported immediately by telephone to the appropriate local law enforcement agency.

(b) The criminal act also shall be reported on the Criminal Occurrence Report

form, which is referenced in §404.247 of this title (relating to Exhibits) as Exhibit B. The original report shall be mailed to the appropriate deputy commissioner. One copy shall be mailed to the Office of Legal Services in Central Office, and another copy shall be retained in the central files of the facility.

§404.246. Reporting an Unauthorized Departure Which Might Have Unusual Consequences.

(a) The superintendent or director shall immediately make a missing person report to the appropriate law enforcement agency upon discovering an unauthorized departure which might have unusual consequences for a person served who:

(1) is unable to ensure personal safety and/or is considered to be a danger to self or to others; and

(2) is receiving court-ordered inpatient or residential services or is voluntarily receiving mental retardation residential services.

(b) The incident shall be reported on the Unauthorized Departure Report form, which is referenced in §404.247 of this title (relating to Exhibits) as Exhibit C. The original report shall be retained in the person's record.

§404.247. Exhibits. The following forms are herein adopted by reference and are available from the Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711:

(1) Exhibit A Client Injury/Incident Report;

(2) Exhibit B Criminal Occurrence Report;

(3) Exhibit C Unauthorized Departure Report.

§404.248. References. Reference is made to the following statutes:

(1) Texas Civil Statutes, Article 5561k;

(2) Texas Civil Statutes, Article 6252-6;

(3) Chapter 405, Subchapter K, (relating to Client Deaths);

(4) CIRS User's Manual.

§404.249. Distribution.

(a) This subchapter shall be distributed to members of the Texas Board of Mental Health and Mental Retardation; the medical director, deputy commissioners, associate and assistant deputy commissioners; directors of Central Office; and superintendents and directors of all facilities.

(b) The superintendent or director of each facility shall provide a copy of this subchapter to the business manager or ad-

ministrators of the facility and shall be responsible for the distribution of the information to all appropriate staff members.

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 May 8, 1991.

TRD-9105421

Ann Utley
Chairman
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: June 14, 1991

For further information, please call: (512) 465-4670

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Chapter 410. Volunteer Services

Subchapter C. Capital Improvements by Citizen Groups

• 25 TAC §§410.101-410.122

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §§401.101-410.122, concerning capital improvements by citizen groups. The new sections are proposed contemporaneously with the repeal of the sections they replace, which are §§403.251-410.274, also concerning capital improvements by citizen groups.

A preliminary version of Chapter 410, Subchapter C was distributed to staff at TDMHMR facilities and advocacy organizations in early March. Several comments and recommendations were received, and are reflected in the proposed sections. The new sections update terminology and references to various department entities and call for design professionals in place of the former requirement of consultants. The new rules also remove the provision concerning application to the Texas Health Facilities Commission for certain capital improvements.

Lellani Rose, director, office of budget and fiscal services, 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.

There is no anticipated local economic impact.

Nancy Barker, director, office of volunteer services, 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 adoption of rules which make it possible for citizen groups to pursue capital improvements at facilities which will benefit the persons being served. 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 Linda Logan, director, Policy Development,

Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The new sections are proposed under Texas Civil Statutes, Article 5547-202, §2.11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§410.101. Purpose. The purpose of this subchapter is to assist and encourage those individuals and groups desiring to provide capital improvements to the Texas Department of Mental Health and Mental Retardation.

§410.102. Application. The provisions of this subchapter shall apply to any situation in which individuals and citizen groups wish to provide capital improvements to facilities of the Texas Department of Mental Health and Mental Retardation.

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

Board—The Texas Board of Mental Health and Mental Retardation.

Bond—An insurance agreement pledging surety for financial loss caused to another by the act or default of a third person or by some contingency over which the third person may have no control. Bonds for capital improvement projects, as may be stipulated by the contract documents, are furnished to the owner by the contractor.

Capital improvement—An improvement to the grounds or buildings of the facility, including landscaping, sitework, and buildings or other permanent structures.

Central Office—The central office of the Texas Department of Mental Health and Mental Retardation, located at 909 West 45th Street, Austin.

Commissioner—The commissioner of the Texas Department of Mental Health and Mental Retardation.

Committee—The capital improvement committee sponsored by the Volunteer Services Council for the purpose of providing a capital improvement.

Construction administrator—A construction specialist on the staff of the Maintenance and Construction Section of the Central Office employed to inspect and administer the construction phase of projects financed from appropriated state funds at one or more TDMHMR facilities. The construction administrator also performs periodic inspections of Volunteer Services Council projects for the capital improvement committee to assure compliance with departmental standards.

Contract documents—The owner/contractor agreement, the conditions of the contract (general, supplementary, and other conditions), the contractor's proposal,

the invitation and instructions to bidders, the drawings, the specifications, and all addenda issued prior to, and all modifications issued after execution of the contract. The contract documents form the contract which represents the entire and integrated agreement between the owner and the contractor and supersedes all prior negotiations, representations, or agreement, either written or oral. The contract documents are complementary and what is required by any one document is as binding as if required by all.

Contractor—The entity which has been awarded the contract for construction of a specific capital improvement project.

Design professional—The architect/engineer of a capital improvement project.

Facility—A state school, state hospital, state center, or other entity which is a part of the Texas Department of Mental Health and Mental Retardation.

Facility director of volunteer services—The state employee who acts as liaison between the facility and the Volunteer Services Council or the community. The facility director of volunteer services is responsible to the superintendent or director of the facility and relies on the director of volunteer services at Central Office for guidance, direction, and advice. The facility director of volunteer services interprets the needs of the facility to the council or the community and interprets the resources of the council and the community to the facility. In some facilities, the director of volunteer services is also the director of public information.

Maintenance and Construction Section—The Maintenance and Construction Section of the Support Services Department at the Central Office of the Texas Department of Mental Health and Mental Retardation.

Person being served—A person who is receiving mental health or mental retardation services from the Texas Department of Mental Health and Mental Retardation.

Planning coordinator—An architect or engineer on the staff of the Maintenance and Construction Section of the Central Office employed to coordinate the planning of construction projects financed from appropriated state funds at one or more TDMHMR facilities. The planning coordinator acts in the capacity of the department's representative for the duration of construction projects and as an advisor to assigned facilities and the capital improvement committee in construction matters.

Plant maintenance manager—The state employee who is responsible for the management of plant maintenance activities at a state hospital, state school, or state center and who serves as an ex officio member of the capital improvement committee.

Project manager—A person designated by the capital improvement committee who acts on behalf of the committee in dealing with the design professional and the contractor through the duration of the project.

State—The State of Texas.

Superintendent/director—The chief administrator of a department facility.

TDMHMR—The Texas Department of Mental Health and Mental Retardation.

Volunteer Services Council—The Volunteer Services Council for a facility of TDMHMR.

Volunteer Services Section—The Volunteer Services Section of the Central Office of the Texas Department of Mental Health and Mental Retardation.

§410.104. Initial Contact with Persons Desiring to Provide Capital Improvements; the Nature of the Volunteer Services Council.

(a) Individuals or groups desiring to provide capital improvements will be given a copy of this subchapter and referred to the Volunteer Services Council chairman for the facility for which they desire to provide the improvements.

(b) The Volunteer Services Council is a separately chartered, private, nonprofit organization. Although they have no control over the state facilities, the Volunteer Services Councils have been organized expressly for the purpose of extending to the persons being served at facilities services and items that can be acquired from the communities as donations. The Volunteer Services Council often initiates projects from within its own membership.

§410.105. Appointment of Capital Improvement Committee; Ex Officio Members.

(a) The Executive Committee of the Volunteer Services Council shall appoint, for the purpose of providing a capital improvement, a capital improvement committee which shall be composed of responsible citizens in the community.

(b) Ex officio members of the established capital improvement committee shall include the superintendent or director of the facility, the facility director of volunteer services, the facility business manager, a planning coordinator from Central Office Construction and Management, and the facility plant maintenance manager.

§410.106. Functions and Responsibilities of the Capital Improvement Committee.

(a) Initial functions and responsibilities of the capital improvement committee shall include the following:

(1) determining the feasibility and need for the proposed capital improvement;

(2) selecting an honorary chairman who is knowledgeable of the ways and means of fundraising;

(3) selecting a working chairman who is well known in the community, a friend of the facility, and conscientious in the discharging of duties; and

(4) in the case of a proposed chapel, selecting a resource committee composed of a representative from three major faiths (Protestant, Catholic, and Jewish) to serve as consultants along with others deemed necessary. For other capital improvements, experts of recognized community standing and expertise in their particular fields should be selected as consultants.

(b) The committee must:

(1) work under the sponsorship of the Volunteer Services Council;

(2) be a policy and procedure setting body for raising funds and construction of the project;

(3) report periodically on the progress of the committee to the Volunteer Services Council; and

(4) insure that all buildings meet the requirements of applicable federal and state laws regarding handicapped requirements and energy conservation.

(c) If for any reason the capital improvement committee should fail to function, the Volunteer Services Council has the right and the responsibility to dissolve and reorganize the committee immediately.

§410.107. Retaining a Design Professional; Requirements for an Agreement with a Design Professional.

(a) The capital improvement committee must retain the services of a professional architect or professional engineer, licensed to practice in Texas, to prepare contract documents, such as drawings and specifications for projects that by law must be designed by these licensed professionals.

(b) The agreement between the committee and the design professional shall include both a description of the services to be provided throughout the project and the basis for compensation. The nature and extent of services will vary according to the type and complexity of the project. For larger and more complex projects, the agreement with the design professional may include not only services in project design and production of contract documents, but also administration of the project and frequent inspections during construction.

(c) The design professional shall be provided a copy of the provisions of this subchapter.

§410.108. Capital Improvement Proposal Letter; Contents; Proposed Name for the Improvement; Recipients of Letter.

(a) After establishing the feasibility of and need for the proposed capital improvement, the council chairman shall prepare a letter, cosigned by the superintendent or director, proposing the erection of the improvement and requesting permission to conduct a fundraising campaign for such

purpose. In the event that utilization of the improvement is contingent upon concurrent or future improvements to be provided by the facility, or in the event that any part of the construction of the project is to be performed by or paid for by the facility, the letter shall include a description of the improvement or work to be performed by or paid for by the facility.

(b) The committee may propose a name for the completed capital improvement in the letter or may recommend a name at a later time. The name of the improvement must be approved by the board.

(c) The letter must be addressed to the commissioner, Texas Department of Mental Health and Mental Retardation, with copies sent to directors of:

(1) legal services;

(2) support services; and

(3) volunteer services and public information.

(d) An example of the capital improvement proposal letter is referred to as Exhibit A and is available from the Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

§410.109. Approval, Recommendation, and Action by the Board.

(a) After receipt of the Volunteer Council's letter proposing the capital improvement, and at the request of the commissioner, Volunteer Services and Public Information shall prepare a board agenda item recommending that the board approve the requests to erect the capital improvement and to conduct a fundraising campaign.

(b) After considering the merits of the proposal, the board acts on the request for the erection of the improvement.

§410.110. Responsibilities of the Capital Improvement Committee with Respect to Fundraising Activities. The capital improvement committee shall be responsible for fundraising activities after board approval is obtained. These activities shall include:

(1) stating the purpose and objectives of the fundraising campaign to the public;

(2) designating a particular post office box for receipt of contributions;

(3) designating a bonded treasurer, who shall be responsible for receiving contributions and for paying bills authorized by the capital improvement committee;

(4) obtaining written pledges from contributors who are pledging particular donations, including conditions that are attached to the pledge;

(5) preparing and presenting appropriate publicity, such as, but not limited to, audiovisuals, feature articles, and programs for the purpose of education and fund raising; and

(6) investing accumulated funds prudently.

§410.111. Programming Phase: Establishment of the Program for the Project; Selection of the Construction Site.

(a) After a design professional has been retained as required by the nature of the project to be undertaken, the capital improvement committee, the facility director of volunteer services, the superintendent or director of the facility, and the design professional shall jointly establish the program for the project, which will include the following considerations:

(1) the nature of the persons being served who will use the improvement;

(2) the kinds of activities to be provided by the improvement;

(3) relationships between and among the improvement and the rest of the facility; and

(4) a preliminary determination of how much can be done with the available funds.

(b) Selection of the construction site will be an outcome of the programming phase. The Volunteer Services Council chairman shall write a letter to the commissioner requesting approval of the selected site, and including a drawing showing the proposed location of the project. An example of this letter is referred to as Exhibit B and is available from the Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

(c) The Maintenance and Construction Section shall review the proposed site location and determine its suitability with regard to the facility's master plan for future development, availability of utilities, site conditions, such as tree cover, slope, and other natural features, and vehicular or pedestrian traffic. The Maintenance and Construction Section shall then recommend to the commissioner that the site be approved or that another site be selected.

§410.112. Schematic Design Phase: Preparation, Review, and Approval of Drawings and Specifications.

(a) After the commissioner approves a site for the project, the capital improvement committee, the superintendent or director of the facility, and the design professional shall begin the schematic design phase. In this phase, the general size and appearance of the project are determined and the functional characteristics are defined. Drawings and written specifications in brief form are generally necessary to complete this phase.

(b) At the completion of the schematic design phase, the Volunteer Services Council chairman must submit the drawings and specifications to the commissioner for approval. An example of the letter submitting such documents is referred to as Exhibit C and is available from the Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

(c) The Maintenance and Construction Section will review and comment upon the submitted documents. This review may facilitate further development later in the design or construction of the project.

§410.113. Design Development and Contract Documents Phase.

(a) For a large or complex project, the schematic design phase is usually followed by a design development phase in which the design of the project is worked out in more detail before proceeding with development of the final contract documents. For smaller or less complex projects, the contract documents phase may be entered directly after the schematic design phase.

(b) In the contract documents phase, the project is fully described in detail by drawings and by written specifications. The professional consultant continues to work with the capital improvement committee and the superintendent or director of the facility. There shall be periodic review of the drawings and specifications by the committee and the facility's staff.

(c) Upon completion of the contract documents phase, the Volunteer Services Council chairman must submit the contract documents to the commissioner for approval. An example of the letter submitting the documents is referred to as Exhibit C in §410.112 of this title (relating to Schematic Design Phase: Preparation, Review, and Approval of Drawings and Specifications). The Maintenance and Construction Section shall review and comment upon the documents.

§410.114. Bidding the Project; Reserving the Right to Reject Any and All Bids; Procedures Where There Are Insufficient Funds; Additional Review by Commissioner Required when Contract Documents are Modified.

(a) For smaller projects or isolated elements of larger projects, the capital improvement committee may at its discretion obtain volunteers to perform the work. Otherwise, the committee may request bids for the construction of the project. The design professional can offer recommendations on methods of accomplishing this.

(b) The committee should insure that the specifications or the invitation to bid, or both, reserve to the committee the

right to reject any and all bids. This will protect the committee in the event that the minimum cost of the project exceeds the available funds.

(c) In the event that the funds available prove insufficient to construct the project, the capital improvement committee may raise additional funds, have the project redesigned, or eliminate from the contract documents any nonessential elements necessary and feasible.

(d) If the contract documents are modified in any way from the condition in which they were reviewed and approved by the commissioner, they must be resubmitted to him for further review and approval before the project may be constructed in accordance with the modified contract documents.

§410.115. Placing Funds in Escrow. Prior to the execution of a contract for construction of the project, the total council cost of the project must be placed in escrow. The capital improvement committee's bonded treasurer should be consulted for advice on the best way of placing these funds in escrow.

§410.116. Signing the Construction Contract; Requisites of the Contract.

(a) Unless all work is to be performed by volunteers, the capital improvement committee selects a contractor for the project and executes a contract for construction, naming the capital improvement committee of the Volunteer Services Council as the owner of the project. The capital improvement committee shall be responsible for all costs incurred by the project, including, but not limited to, the costs of locating and tapping into utilities, erection of a construction fence, and/or repairs to roads or sodded areas damaged by construction activities; the committee shall not be responsible for costs accrued from concurrent projects undertaken by the facility, as described in §410.108 of this title (relating to Capital Improvement Proposal Letter: Contents; Proposed Name for the Improvement; Recipients of Letter).

(b) The contract shall be for the complete construction of the project. For projects requiring a prime contractor, construction work by volunteers or work donated by subcontractors shall not be permitted, as the prime contractor could not then be held responsible for errors or omissions in the work.

(c) The contract documents shall stipulate that the contractor's warranty of the work is to be extended to the department after the project is accepted by the department.

(d) The contract shall require the contractor to provide performance and payment bonds, liability insurance, and builder's risk insurance. The Volunteer Services Council shall be named as the beneficiary.

§410.117. Project Construction Contract: Preconstruction Conference; Duties of the Professional Consultant During Construction.

(a) Before construction begins, the Volunteer Services Council chairman shall schedule a preconstruction conference to be attended by the capital improvement committee, the facility director of volunteer services, the design professional, the prime contractor and his job superintendent, the subcontractors, the superintendent or director and the plant maintenance manager of the facility, and the Central Office construction administrator. If the work is to be performed by volunteers, those in charge of the work shall attend instead of the prime and subcontractors.

(b) During the preconstruction conference, the superintendent or director, or his designated representative, shall inform the contractors of the facility's rules and regulations. This will include a description of items and actions prohibited on the grounds of the facility. Normal working hours and arrangements necessary for overtime work will be discussed. The route to be followed by vehicles delivering construction materials will be discussed, as well as any other matter of importance relating to construction of the project.

(c) All instructions to the contractor should be made through the design professional, and all contractor requests directed to the capital improvement committee should be routed through the design professional or the designated project manager. The design professional or project manager should verify performance of the work and should approve payment to the contractor when satisfied that the contractor is entitled thereto. These payments should be disbursed by the bonded treasurer.

(d) The Central Office Maintenance and Construction Section performs periodic inspection throughout the construction of the project and advises the committee of its findings and recommendations. These inspections help to insure that the projects meet the various standards the department is striving to maintain.

(e) Upon completion of the project, but before releasing the contractor or turning the project over to the state, the committee shall inform the director of support services that the project is complete and ready for a final inspection. If this inspection discloses deficiencies, follow-up inspections shall be performed until the project is free of deficiencies.

§410.118. Completion and Acceptance of the Project.

(a) Upon completion of the project, and after all deficiencies noted in the final inspection by the Maintenance and Construction Section have been satisfactorily

corrected, the chairman of the Volunteer Services Council shall prepare a letter to the commissioner stating that the project is completed and turning the project over to the state. An example of this letter is referred to as Exhibit D and is available from the Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

(b) Upon receipt of the council's letter turning the project over to the state, the commissioner acknowledges his acceptance of the project. At that time, the department and the facility at which the project is located assume responsibility for use and maintenance of the project.

§410.119. Design and Construction Codes and Standards. All projects constructed on the grounds of a facility will be required to meet specific design and construction codes and standards stipulated by TDMHMR. The capital improvement committee shall ascertain the codes and standards which apply to the project prior to beginning the design of the project.

§410.120. Resources Available to the Capital Improvement Committee.

(a) The assistance of the Maintenance and Construction Section of TDMHMR may be obtained at any time by contacting the director, Support Services, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

(b) The assistance of the Volunteer Services Section of TDMHMR may be obtained at any time by contacting the director, Volunteer Services and Public Information, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

§410.121. References. Reference is made to the following state laws and department rules:

(1) Texas Civil Statutes, Article 5547-202, §2.14, which describe the acceptance of capital improvements.

(2) Texas Civil Statutes, Article 678g, which establishes principles to make buildings and facilities accessible to and usable by the physically handicapped.

§410.122. Distribution.

(a) The provisions of this subchapter shall be distributed to the members of the Texas Board of Mental Health and Mental Retardation; the medical director; deputy commissioners, associate deputy commissioners, assistant deputy commissioners, directors, and section chiefs of central office; and superintendents, directors, plant engineers, and directors of volunteer services of all department facilities.

(b) The superintendent or director of each department facility shall be responsible for the dissemination of the informa-

tion contained in this subchapter to all appropriate staff members.

(c) The department, the superintendent or director, or the director of volunteer services of each department facility shall, upon request, provide a copy of this subchapter to individuals or citizen groups who are interested in making a capital improvement to a facility of the department.

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 May 7, 1991.

TRD-9105388

Ann Utley
Chairman
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: June 14, 1991

For further information, please call: (512) 465-4670

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 29. Purchased Health Services

Subchapter Y. Federally Qualified Health Center Services

• 40 TAC §29.2401

The Texas Department of Human Services (DHS) proposes an amendment to §29.2401, concerning benefits and limitations, in its Purchased Health Services chapter. The purpose of the amendment is to clarify that federally qualified health center (FQHC) services are those services furnished to an individual as a "patient" of the FQHC. Services furnished off-site such as those furnished to a person in his/her home or a person who is an inpatient of an acute care hospital or nursing facility, would be considered FQHC services if the physician's agreement with the FQHC requires that he or she seek compensation from the FQHC. This change is required by the Omnibus Reconciliation Act of 1990 (the Act), §4704(c), which amended the Act, §1905(1) and (2). In addition, the department is clarifying the text to reflect that the state survey agency will determine if a shortage of home health agencies exist, allowing visiting nurse services to eligible homebound individuals.

Burton F. Raiford, chief financial officer, has determined that for the first five-year period the proposed section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the section is in effect will be an estimated additional cost of \$223,766 for fiscal year (FY) 1992; \$238,377 for FY 1993; \$256,631 for FY 1994; \$272,332 for FY 1995; and \$291,960 for FY 1996. There will be no fiscal implications for local government as a result of enforcing or administering the section.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that access to care for the Medicaid eligible population will be increased by providing services to "patients of FQHC" rather than "at the FQHC." There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Questions about the content of this proposal may be directed to Kay Sterling at (512) 338-6511, Purchased Health Services Section. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-113, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

§29.2401. Benefits and Limitations.

(a) (No change.)

(b) [Except as otherwise specified in subsection (d)(7) of this section, covered] Covered services are limited to:

(1) [ambulatory] services as described in the Social Security Act, §1861(aa)(1)(A)-(C)], and which are provided at the FQHC]; and

(2) other ambulatory services [which are provided at the FQHC, and which are] covered by the Texas Medical Assistance Program when provided by other enrolled providers.

(c) (No change.)

(d) When furnished to a patient [an outpatient] of the FQHC, medically necessary services include:

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

(7) visiting nurse services to a homebound individual, in the case of those FQHCs that are located in an area that has a shortage of home health agencies as determined by the state survey agency [DHS or its designee]; and

(8) (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 May 7, 1991.

TRD-9105382

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

Proposed date of adoption: July 15, 1991

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

Adopted Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter C. System of Accounts and Records

• 16 TAC §§5.53-5.55

The Railroad Commission of Texas adopts the repeal of §§5.53-5.55, concerning transportation division, without changes to the proposed text as published in the March 29, 1991, issue of the *Texas Register* (16 TexReg 1865).

The repealed rules set out with specificity the balance sheet, income, and expense accounts to be used by motor carriers. Upon repeal of these sections, motor carriers and motor bus companies will no longer be required to maintain the system of accounts currently set forth in these sections. Instead, the carriers will be directed to report their financial condition on commission approved forms.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, and the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which provide the Railroad Commission of Texas with the authority to regulate motor bus companies and motor carriers, respectively.

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 6, 1991.

TRD-9105413 Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: May 28, 1991

Proposal publication date: March 29, 1991

For further information, please call: (512) 463-7095

Subchapter E. Annual and Other Reports

• 16 TAC §5.82, §5.83

The Railroad Commission of Texas adopts an amendment to §5.82 and §5.83, concerning the form of annual reports and additional reports. The amendment and new section are adopted without changes to the proposed text as published in the March 29, 1991, issue of the *Texas Register* (16 TexReg 1865).

The amendment to §5.82 and new §5.83 will provide for more uniform reporting of financial data from motor carriers and motor bus companies.

As amended, §5.82 will remove the current provision allowing motor carriers and motor bus companies to file with the commission a copy of the annual report filed with the Interstate Commerce Commission pursuant to its regulations. Section 5.82 will retain the language stating that each annual report shall be made on the form prescribed by the commission. The new §5.83 will provide that the commission may require any accounting reports needed to determine the reasonableness of rates and charges of motor carriers and motor bus companies.

No comments were received regarding adoption of the sections.

The amendment and new section are adopted under the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, and the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorize the Railroad Commission of Texas to regulate motor bus companies and motor carriers, respectively.

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 6, 1991.

TRD-9105412 Martha V. Swanger
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Effective date: May 28, 1991

Proposal publication date: March 29, 1991

For further information, please call: (512) 463-7095

TITLE 22. EXAMINING BOARDS

Part III. Texas Board of Chiropractic Examiners

Chapter 73. Licenses and Renewals

• 22 TAC §73.6

The Texas Board of Chiropractic Examiners adopts new §73.6, concerning licenses and renewal of licenses. The new section is adopted without changes to the proposed text as published in the March 5, 1991, issue of the *Texas Register* (16 TexReg 1411).

Doctors who have not completed their required continuing education will be put on probation until they complete their requirements.

The licensee will be placed on probation for one year until he/she complete the required hours. If the doctor does not fulfill the requirements the license will be cancelled. The public will be notified that the doctor is on probation.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules as deemed necessary.

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-9105334 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: May 27, 1991

Proposal publication date: March 5, 1991

For further information, please call: (512) 343-1895

TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 401. System Administration

Subchapter B. Interagency Agreements

• 25 TAC §401.55

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts new §401.55, concerning a memorandum of understanding, with changes, to Exhibit L which is adopted by reference, to the proposed text as published in the March 5, 1991, *Texas Register* (16 TexReg 1412), will not change.

The purpose of the new section is to implement provisions of Senate Bill 1426, 71st Legislature, which directs the department and the Texas Department of Human Services by rule to adopt a memorandum of understanding that specifies the services covered by and the exclusions and limitations of the ICF-MR Program.

The changes to Exhibit L are of a non-substantive nature and involve revised rule references in the State Standards for Participation which are attached to the MOU.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 5547-202, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers, and under the provisions of Senate Bill 1426 of the 71st Texas Legislature, which requires TDMHMR to adopt the memorandum of understanding by rule.

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 8, 1991.

TRD-9105422

Ann Utley
Chairman
Texas Department of
Mental Health Mental
Retardation

Effective date: May 29, 1991

Proposal publication date: March 5, 1991

For further information, please call: (512) 465-4670



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part IX. Texas Department on Aging

Chapter 268. Adequate Proportion of Priority Services

Statutes and Regulations

• 40 TAC §§268.3, 268.6, 268.7, 268.13

The Texas Department on Aging adopts amendments to §§268.3, 268.6, 268.7, and 268.13, concerning adequate proportion of priority services. Sections 268.3, 268.6, and 268.7 are adopted with changes to the proposed text as published in the November 13, 1990, issue of the *Texas Register* (15 TexReg 6486). Section 268.13 is adopted without changes and will not be republished.

The sections were developed to expand and clarify the adequate proportion requirements as established in the Older Americans Act, as amended.

The Older Americans Act, §307(a)(22), requires that the state plan specify a minimum percentage of funds received by each area agency that will be spent to provide services associated with access to services of transportation, outreach, and information and referral; in-home services (homemaker and home health aide, visiting and telephone reassurance, and chore maintenance, and supportive services for families of elderly victims of Alzheimer's disease and related disorders, with neurological and organic brain dysfunction); and legal assistance. These revisions broaden the priority service listing to provide area agencies greater flexibility in meeting the adequate proportion requirements.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

§268.3. Priority Services Categories.

(a) As required by the Older Americans Act, an adequate proportion of Title III funding will be expended for delivery of services in each of the categories of access, in-home, and legal assistance. Allowable services in these priority categories include:

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

(b) Additional services that may be provided under the priority categories include:

(1) access services. Access services include case management;

(2) in-home services. In-home services include emergency response systems, in-home respite, in-home hospice, residential repair/minor modification of homes, and in-home health maintenance services.

§268.6. Possible Reduction of Minimum Percentages Required to be Expended.

(a) The Texas Department on Aging may adjust the minimum percentages of the Older Americans Act (the Act), Title IIIB funds required to be expended for the categories of access and/or in-home services described in §268.3(a) of this title (relating to Priority Services Categories) if the area agency on aging expends an amount equal to or greater than the minimum percentages required for those categories, or a combination of the services listed in §268.3(b) and the services listed in §268.3(a), for the appropriate category.

(b) The Texas Department on Aging may adjust the minimum percentages of the Act, Title IIIB funds required to be expended for the categories of services described in §268.3(a) if the area agency on aging expends an amount equal to or greater than the minimum percentages required for those categories from a combination of Title IIIB funds and resources other than Title III funds.

(c) The Texas Department on Aging will review each area agency on aging on an individual basis and take into consideration all access, in-home, and legal assistance services being funded by the area agency, through all resources, to determine if the minimum percentages of the Act, Title IIIB funds required to be expended, as listed in §268.5 of this title (relating to Adequate Proportion) may be adjusted. In no case will the minimum percentage of the Act, Title IIIB funds required to be expended for any of the priority categories be adjusted to zero.

§268.7. Waiver of the Requirement to Provide an Adequate Proportion of Funding for Priority Services.

(a) The Texas Department on Aging may grant a waiver of §268.5 of this title (relating to Adequate Proportion) for any category of services described in §268.3 of this title (relating to Priority Services Categories) if the area agency on aging documents that the services in such category are being furnished and are sufficient to meet the need for such services in the area.

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

Issued in Austin, Texas on May 6, 1991.

TRD-9105332

Polly Sowell
Executive Director
Texas Department on
Aging

Effective date: May 27, 1991

Proposal publication date: November 13, 1990

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



Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)

The State Board of Insurance in a public meeting on April 30, 1991, adopted amendments to Parts One and Two, Texas Retrospective Rating Plan Manual pertaining to a large risk alternative rating option and a residual market factor. The large risk alternative rating option allows a risk with an estimated annual workers' compensation premium in excess of \$350,000 to be retrospectively rated as mutually agreed upon by the carrier and the insured, provided the maximum premium does not exceed 500% of standard premium and the minimum premium does not exceed the guaranteed cost that would apply if the risk were not subject to retrospective rating.

The notice of election was amended and the endorsement for residual market premium was adopted, along with a change to the retrospective premium formula to add a residual market premium to the formula. The residual market premium is determined through an initial residual market factor (RMF) which is promulgated annually by the State Board of Insurance based on projected residual market cost for that calendar year. The final RMF shall be used in making all adjustments under the Retrospective Rating Plans I, II, III, IV, and V. Both RMFs are to be applied on a calendar year basis, prorated to the policy year of each risk.

The amended rules and forms are effective 12:01 a.m., May 1, 1991.

The board adopted the amended rules and forms under the authority and jurisdiction of the Insurance Code, Articles 5.55, 5.62, 5.77, 5.78, 5.79, and 5.96 and on an emergency basis as provided in Article 5.96(i).

It is the opinion of the State Board of Insurance, and the Board finds a clear and compelling necessity requiring that these amendments take effect on an emergency basis in order that expiring retrospectively rated workers' compensation policies continue to be written on Texas risks, pending the board's further consideration of issues related thereto.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register 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 May 7, 1991.

TRD-9105417 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: May 1, 1991

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



The State Board of Insurance in a public meeting on April 24, 1991, adopted on a permanent basis the S.B.1 Litigation Surcharge Endorsement. The constitutionality of Senate Bill 1, Acts on the 71st Legislature, 2nd Called Session, 1989, has been challenged in court proceedings instituted in a state district court in Texas. Rates for premiums charged for a Workers' Compensation policy adopted by the State Board of Insurance under Board Order Number 57480 are based in part on cost savings to result from the Workers' Compensation system created by Senate Bill 1.

In response to this court challenge, the endorsement adopted as a condition to the policy to which the endorsement becomes a part, includes a separate surcharge known as S.B.1 Litigation Surcharge, which is considered a part of the premium for the policy. If a final decision is rendered by a court of competent jurisdiction declaring all or any part of Senate Bill 1, Acts of the 71st Legislature, 2nd Called Session, 1989, unconstitutional and no appeal of that decision may be filed or heard under any law, the State Board of Insurance shall impose on the insured the S.B.1 Litigation Surcharge in an amount determined by the board to be sufficient to compensate for the loss of any cost-savings identified in Board Order Number 57480. The insured will be liable for payment of S.B.1 Litigation Surcharge as prescribed in the S.B.1 Litigation Surcharge Endorsement.

The S.B.1 Litigation Surcharge Endorsement adopted on a permanent basis is effective on or after 12:01 a.m., the 15th day after notice of this action is published in the Texas Register.

The board adopted the endorsement on a permanent basis under the authority and jurisdiction of the Insurance Code, Articles 5.55-5.68-1, 5.76-2, 5.77, 5.78, and 5.96.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register 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 May 8, 1991.

TRD-9105418 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: May 29, 1991

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





Name: Lan Syyap
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 Department of Agriculture

Wednesday, May 29, 1991, 10 a.m. The Texas Department of Agriculture will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 933, Ninth Floor Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Administrative Code, Section 7.22 by Charles H. Jones doing business as Hardcastle Ag Air, Inc., as petitioned by the Texas Department of Agriculture.

Contact: Cordelia Martinez, P.O. Box 12847, Austin, Texas 78711, (512) 475-1609.

Filed: May 7, 1991, 2:27 p.m.

TRD-9105381

Tuesday, June 18, 1991, 10 a.m. The Texas Department of Agriculture will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 933, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §76.116(a)(1), (Vernon 1991) and 4 TAC §7.22(a), by James B. Garrett as petitioned by the Texas Department of Agriculture.

Contact: Chris Hanger, P.O. Box 12847, Austin, Texas 78711, (512) 463-7703.

Filed: May 7, 1991, 2:26 p.m.

TRD-9105380

State Aircraft Pooling Board

Wednesday, May 15, 1991, 4:30 p.m. The State Aircraft Pooling Board will meet at 4900 Old Manor Road, Austin. According to the agenda summary, the board will call the meeting to order; make introductions; approve minutes of board meeting, March 13, 1991; hear reports; discuss items relating to personnel matters; adjournment for executive session; reconvene regular session; setting time and place for next meeting; and final adjournment.

Contact: Gladys Alexander, 4900 Old Manor Road, Austin, Texas 78723, (512) 477-8900.

Filed: May 7, 1991, 2:18 p.m.

TRD-9105379

State Bar of Texas

Wednesday, May 15, 1991, 10 a.m. The Commission for Lawyer Discipline of the State Bar of Texas will meet at the Texas Law Center, 1414 Colorado Street, Room 204, Austin. According to the agenda summary, the commission will review and discuss duties and authority of commission; operating rules; establishment of committees; delegation of settlement authority; budget consideration; general counsel organization; general counsel budget consideration; reports; future meetings; appropriate discipline; litigation report; expansion of grievance committees; insurance; request for Attorney General's Opinion; review of forms; use ADA; and case load update.

Contact: Lonny Morrison, P.O. Drawer 5008, Wichita Falls, Texas 76307, (817) 322-2929.

Filed: May 7, 1991, 3:19 p.m.

TRD-9105389

Comptroller of Public Accounts

Thursday, May 16, 1991, 5:30 p.m. The Texas Performance Review of the Comptroller of Public Accounts will meet at the El Paso County Courthouse, Jury Selection Room 104, 200 South Kansas Street, El Paso. According to the complete agenda, the comptroller will take public testimony regarding the Texas Performance Review, which is in the process of conducting a complete review of all state agencies and all programs, services and activities operated by those agencies.

Contact: Kathy McElveen, 111 East 17th Street, Room 1101, Austin, Texas 78701, (512) 475-0332.

Filed: May 7, 1991, 2:40 p.m.

TRD-9105385

Texas Board of Criminal Justice

Friday, May 17, 1991, 9 a.m. The Texas Board of Criminal Justice will meet at 8100 Cameron Road, Suite 600, Building B, Austin. According to the agenda summary, the board will meet in executive session; review and discuss consent items; board member reports; board policy-inmate legal services; site selection; allocation formula; testing for controlled substance; selection of assistant director for internal audits; construction authorizations; prior pending business; convene at Windham School Board in executive session; and discuss consent items.

Contact: James A. Lynaugh, P.O. Box 99, Huntsville, Texas 77342-0099, (409) 294-2141.

Filed: May 7, 1991, 4:37 p.m.

TRD-9105410

Texas State Board of Dental Examiners

Saturday, May 18, 1991, 6 p.m. The Texas State Board of Dental Examiners will meet at 7703 Floyd Curl Drive, San Antonio. According to the complete agenda, the board will discuss approval of dental and dental hygiene exam passes and failures; and approval of the minutes from the May 3-4 board meeting.

Contact: C. Thomas Camp, 327 Congress Avenue, Austin, Texas 78701, (512) 477-2985.

Filed: May 8, 1991, 2:04 p.m.

TRD-9105435

Educational Economic Policy Center

Wednesday, May 8, 1991, 9:30 a.m. The Policy Center Committee of the Educational Economic Policy Center met at the Joe C. Thompson Center, Room 3. 110, 2313 Red River Street, Austin. According to the complete emergency revised agenda, the committee approved minutes; requested research projects; status of director search; legislative education board request on innovative grants training workshops; report on public school legislation: omnibus education bill, and school finance bill; discussed other business; met in executive session for personnel matters; and adjourned. The emergency status was necessary as short notice was given for advisement of executive session.

Contact: Mary Ward, SRH 3.303, University of Texas, Austin, Texas 78713, (512) 471-4962.

Filed: May 7, 1991, 3:42 p.m.

TRD-9105399

Texas Education Agency

Thursday, May 16, 1991, 9 a.m. The Committee on Recruiting and Training Members of Visiting Teams Commission on Standards for the Teaching Profession 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, the commission will review and discuss letter from Dr. John White and presentation by Representative of Consortium of State Organizations for Teacher Education; and hold a work session on proposed visitation procedures (open to all commission members).

Contact: Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: May 8, 1991, 4:22 p.m.

TRD-9105471

Thursday, May 16, 1991, 1 p.m. The Committee on Certification Programs and Requirements Commission on Standards for the Teaching Profession 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 commission will hear a report on certification testing; letter from Texas Educational Theater Association; proposals for requirements for associate and school psychologist, to include national certification; review and discussion of proposed standards for professional and special service certificate programs, including the mechanism for substituting training and experience in principal and superintendent programs; and individual programs (1987 standards) from the following universities: Abilene Christian University, Abilene; Cor-

pus Christi State University; East Texas State University, Commerce; Huston-Tillotson College, Austin; Laredo State University, Laredo; Schreiner College, Kerrville; Southwestern University, Georgetown; Stephen F. Austin State University, Nacogdoches; Sul Ross State University, Alpine; Tarleton State University, Stephenville; and Texas A&I University, Kingsville.

Contact: Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: May 8, 1991, 4:21 p.m.

TRD-9105468

Thursday, May 16, 1991, 3 p.m. The Committee on Standards and Procedures for Institutional Approval Commission on Standards for the Teaching Profession 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, the commission will review progress report from the University of Houston on pilot program for mid-management administrator's certificate; and discussion of issues concerning initial approval of institutions.

Contact: Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: May 8, 1991, 4:22 p.m.

TRD-9105472

Thursday, May 16, 1991, 3:45 p.m. The Teacher Education Conference Planning Committee, Commission on Standards for the Teaching Profession 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, the commission will discuss continued development of plans for 44th annual conference, October 17-19, 1991, at the Wyndham Hotel, San Antonio.

Contact: Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: May 8, 1991, 4:20 p.m.

TRD-9105466

Friday, May 17, 1991, 8:10 a.m. The Executive Committee, Commission on Standards for the Teaching Profession 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, the commission will review agenda items with committee chairmen.

Contact: Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: May 8, 1991, 4:22 p.m.

TRD-9105470

Friday, May 17, 1991, 9 a.m. The Commission on Standards for the Teaching Pro-

fession 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 commission will take roll call; adoption of agenda; approval of minutes, March 15, 1991, meeting; introduction of new commission member information items; report from the following committees: Committee on Recruiting and Training Members of Visiting Teams; Committee on Certification Programs and Requirements; Committee on Standards and Procedures for Institutional approval; Teacher Education Conference Planning Committee; and Executive Committee.

Contact: Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: May 8, 1991, 4:21 p.m.

TRD-9105469

Tuesday, June 4, 1991, 10 a.m. The Advisory Committee for Budgeting, Accounting, and Auditing of the Texas Education Agency will meet at the Texas Association of School Business Officials, 1701 Directors Boulevard, Austin. According to the complete agenda, the committee will discuss change 25 to Bulletin 679, Financial Accounting Manual.

Contact: Tom Canby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9095.

Filed: May 8, 1991, 4:20 p.m.

TRD-9105465

Texas Health and Human Services Coordinating Council

Friday, May 17, 1991, 8:30 a.m. The Commission on Children, Youth and Family Services of the Texas Health and Human Services Coordinating Council will meet at 9101 Burnet Road, Suite 216, Austin. According to the complete agenda, the commission will call the meeting to order; review and approve minutes; review of commission report; discuss old business; new business; and adjourn.

Contact: Rick Reynolds, 9101 Burnet Road, Suite 216, Austin, Texas 78758, (512) 873-2400.

Filed: May 8, 1991, 2:41 p.m.

TRD-9105445

Texas Department of Human Services

Friday, May 17, 1991, 10 a.m. The Texas Board of Human Services of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tow-

er, Public Hearing Room, Austin. According to the agenda summary, the board will consider action on approval of April 19, 1991 minutes; comments by the chairman; DIR report on DHS automation budget request; NHIC reserve fund balance; FY 1990-1991 budget adjustments; PASARR; ICF-MR standards; ICF-MR related conditions, reimbursement methodology special children's facilities; unit rate for primary home care and family care; DAHS reimbursement rate; cost-finding methodology for 24-hour care facilities; five prescription drugs reimbursement for nursing facility medicaid recipients; reimbursement rates for adult foster care and school health and related services; Title XX family planning; suspension of benefits for refugee cash assistance; child care block grant; self arranged child care provider eligibility; CCMS vendor payments; inpatient hospital services; reimbursement to out-of-state children's hospitals; medically needy budget periods; budgeting income of disqualified AFDC and medicaid; adoption subsidy in AFDC and medicaid; food stamp program educational assistance; amendments to policies and procedures; accessibility of lease space; and hear commissioner's report.

Contact: Sherron Heinemann, P.O. Box 149030, Austin, Texas 78714-9030.

Filed: May 8, 1991, 2:40 p.m.

TRD-9105444

Tuesday, May 21, 1991, 1:30 p.m. The Adolescent Pregnancy and Parenthood Advisory Council of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, West Tower, Conference Room 103-W Public Hearing Room, Austin. According to the complete agenda, the council will call the meeting to order and hear opening remarks; approval of minutes; legislative update; update on dissemination of APPAC report; sub-committee report on long range planning; program updates; and wrap-up.

Contact: Liz Silbernagel, P.O. Box 149030, Austin, Texas 78714-9030.

Filed: May 8, 1991, 2:39 p.m.

TRD-9105443

Department of Information Resources

Thursday, May 16, 1991, 1:30 p.m. The Board of the Department of Information Resources will meet at One Capitol Square, Suite 1300, 300 West 15th Street, Austin. According to the complete agenda, the board will review and discuss ISD rate study and issues; and other business.

Contact: Debra Williams, 300 West 15th Street, Suite 1300, Austin, Texas 78701, (512) 371-1120.

Filed: May 7, 1991, 4:57 p.m.

TRD-9105414

State Board of Insurance

Wednesday, May 15, 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; solvency matters; and consideration of payment of NAIC annual assessment for Texas SBI.

Contact: Angelia Johnson, 1110 San Jacinto Street, Austin, Texas 78701-1998.

Filed: May 7, 1991, 3:56 p.m.

TRD-9105401

Wednesday, May 15, 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 final action on an amendment to 28 TAC §7.28 and §7.30; consideration of final action on new 28 TAC §9.11; discuss personnel; consideration of request from Hartford Accident and Indemnity Company, et al, for cessation of acceptance of small premium policies through the small premium policy plan of the Texas Workers' Compensation Insurance Facility.

Contact: Angelia Johnson, 1110 San Jacinto Street, Austin, Texas 78701-1998.

Filed: May 7, 1991, 3:56 p.m.

TRD-9105400

Commission on Jail Standards

Wednesday, May 22, 1991, 9 a.m. The Commission on Jail Standards will meet at the Employees Retirement Building, Room 100, 18th and Brazos Streets, Austin. According to the agenda summary, the commission will call the meeting to order; take roll call of members; reading and approval of minutes of last meeting of March 27, 1991; election of officers; discuss old business: change to standards dealing with classification and separation; sub-committee report on change to standards dealing with privatization; report on stun guns; report on suicide prevention plan, Midland County; operation of the Big Spring detention center; juvenile justice survey; status of Sunset Review; completed jail projects; jail population report; active remedial orders; status of budget/appropriations; new business: Bexar County, Bowie County; Callahan County; Chambers County; Kaufman County; McLennan County; Polk County; Zapata County; Attorney General Opinion affecting jail telephones; legislative action affecting Jail Commission; application for variances: Harris County; Wichita County and Travis

County; hear director's report; discuss other business; meet in executive session; and adjourn.

Contact: Jack E. Crump, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

Filed: May 7, 1991, 1:51 p.m.

TRD-9105374

Board of Vocational Nurse Examiners

Monday-Wednesday, May 20-22, 1991, 8 a.m. The Board of Vocational Nurse Examiners will meet at the Ramada Inn Airport, Frontier Room, 5660 North IH-35, Austin. According to the agenda summary, the board, on Monday will call the meeting to order; approve minutes; education report (program matters, meetings/conferences attended, program actions); unfinished business (continuing education, abandonment policy, investigation rules and regulations, budget update); executive director's report; new business (Area III meeting, drug free workplace policy, Texas Hazard Communication Act), TPAPIN; and administrative hearings. On Tuesday, administrative hearings will be held; and Wednesday, any unfinished business; administrative hearings (if necessary) and adjournment; and on call-executive session to discuss personnel changes/matters.

Contact: Marjorie A. Bronk, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

Filed: May 7, 1991, 10:27 a.m.

TRD-9105368

Public Utility Commission of Texas

Monday, July 8, 1991, 10 a.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 10144-application of Lea County Electric Cooperative, Inc. for final approval of a levelized fuel and PCRF clause.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 8, 1991, 3:17 p.m.

TRD-9105450

Tuesday, July 9, 1991, 10 a.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 9703-application of Texas-New Mexico Power Company for a certificate of convenience and necessity for transmission line within Brazoria County.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 8, 1991, 3:16 p.m.

TRD-9105448

Tuesday, July 9, 1991, 10 a.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 9728-application of Texas-New Mexico Power Company for a certificate of convenience and necessity for a transmission line within Galveston County.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 8, 1991, 3:17 p.m.

TRD-89

TRD-9105449

Friday, November 15, 1991, 10 a.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a final prehearing conference in Docket Number 9981-petition of General Counsel to inquire into the reasonableness of the rates and services of Central Telephone Company of Texas.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 7, 1991, 3:23 p.m.

TRD-9105391

Tuesday, November 19, 1991, 10 a.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 9981-petition of General Counsel to inquire into the reasonableness of the rates and services of Central Telephone Company of Texas.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 7, 1991, 3:24 p.m.

TRD-9105392

Railroad Commission of Texas

Thursday, May 16, 1991, 2:30 p.m. The Railroad Commission of Texas will meet at 1701 North Congress Avenue, 12th Floor Executive Conference Room, Austin. According to the complete agenda, the commission will meet with the state treasurer to consider and act on matters regarding the disposition of abandoned oilfield equipment

and mineral proceeds, and the funding of the well plugging fund.

Contact: Jamie Nielson, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6864.

Filed: May 7, 1991, 4:46 p.m.

TRD-9105411

Texas Rehabilitation Commission

Tuesday, May 21, 1991, 4 p.m. The Governor's Committee for Disabled Persons of the Texas Rehabilitation Commission will meet at Loews Anatole Hotel, 2201 Stemmons Freeway, Dallas. According to the agenda summary, the committee will approve minutes; make announcements; presentations; council on disabilities; Texas Head Injury Association; disability policy consortium; legislative report; and discussion.

Contact: Virginia Roberts, 4900 North Lamar Boulevard, Austin, Texas 78751-2316, (512) 483-4380.

Filed: May 7, 1991, 1:52 p.m.

TRD-9105375

House of Representatives

Monday, May 13, 1991, 8:30 a.m. The House Committee on Redistricting of the House of Representatives held an emergency meeting at the John H. Reagan Building, 105 West 15th Street, Room 401, Austin. According to the complete agenda, the committee held an emergency meeting, one of several hearings during the preparation of the committee's preliminary statewide redistricting proposals for House of Representative districts. Therefore, the committee invited all interested parties to testify on the presented preliminary proposals. Testimony may have been used in the final formulation of a committee plan to be laid out on the House floor in the near future. This hearing will not be your only chance for input. The Redistricting Committee will conduct public hearings Tuesday and Wednesday, May 14th and 15th, on the preliminary proposals. The hearing will be held in Room 401 of the John H. Reagan Building at the time noted on the appropriate posting. The emergency status was necessary due to the nature of this process and the far-reaching effects of Redistricting required that the citizen's of Texas offer input into the process at every step. These are the last opportunities for input into the process before this proposal goes for debate.

Contact: Brian Jammer, P.O. Box 2910, Austin, Texas 78711, (512) 463-9948.

Filed: May 8, 1991, 3:25 p.m.

TRD-9105459

Tuesday, May 14, 1991, 10:30 a.m. or upon adjournment of the House. The House Committee on Redistricting of the

House of Representatives will hold an emergency meeting at the John H. Reagan Building, 105 West 15th Street, Room 401, Austin. According to the complete agenda, the committee will hold the second of three hearings during the preparation of the committee's preliminary statewide redistricting proposals for the House of Representatives districts. Therefore, the committee invites all interested parties to testify on the presented preliminary proposals. Testimony may be used in the formulation of a final committee plan to be laid out on the House floor in the near future. This hearing will not be your only chance for input. The Redistricting Committee will conduct additional public hearings on Wednesday, May 15th, on these preliminary proposals. Wednesday's hearing will be held in Room 401 of John H. Reagan Building at the time noted on the posting. The emergency status is necessary as the nature of this process and the far-reaching effects require that the citizens offer input into the process at every step. These are the last opportunities for the citizens to offer input into the process regarding House seats before this proposal goes to the floor.

Contact: Brian Jammer, P.O. Box 2910, Austin, Texas 78711, (512) 463-9948.

Filed: May 8, 1991, 3:26 p.m.

TRD-9105461

Wednesday, May 15, 1991, 10:30 a.m. or upon adjournment of the House. The House Committee on Redistricting of the House of Representatives will meet at the John H. Reagan Building, 105 West 15th Street, Room 401, Austin. According to the complete agenda, the committee will hold the last of the scheduled public hearings during the preparation of the committee's preliminary statewide redistricting proposals for House of Representative districts. Therefore, the committee invites all interested parties to testify on the presented preliminary proposals. Testimony will be used in the formulation of a final committee plan to be laid out on the House floor in the near future. Additional hearings may be scheduled if necessary. The emergency status is necessary as the nature of this process and the far-reaching effects of redistricting require that the citizens offer input into the process at every step. These are the last opportunities for citizens to offer input into the process regarding the Texas House seats before this proposal goes to the House floor for debate.

Contact: Brian Jammer, P.O. Box 2910, Austin, Texas 78711, (512) 463-9948.

Filed: May 8, 1991, 3:25 p.m.

TRD-9105460

Texas National Research Laboratory Commission

Wednesday, May 15, 1991, 1:30 p.m. The Texas National Research Laboratory Com-

mission will meet at the Schmidt Room, The Alumni Center, University of Texas-Austin, 2110 San Jacinto Street, Austin. According to the agenda summary, the commission will convene meeting; take roll call of members; meet in executive session to discuss land acquisition; reconvene; hear chairman's report-J. Fred Bucy; executive director's report-Edward C. Bingler; general counsel's report-Michael J. Shearn; committee reports: finance-Peter O'Donnell, Jr., government affairs-Martha Smiley, site acquisition/development-Charles Perry, education/research-Peter T. Flawn; items for commission action; hear public comments; and adjourn.

Contact: Karen Chrestay, 1801 North Hampton #400, DeSoto, Texas 75115, (214) 709-3800.

Filed: May 7, 1991, 4:23 p.m.

TRD-9105409

◆ ◆ ◆ Texas Guaranteed Student Loan Corporation

Wednesday, May 15, 1991, 11 a.m. The Executive Committee of the Texas Guaranteed Student Loan Corporation will meet at 12015 Park 35 Circle, Colonnade Building, Suite 300, Austin. According to the complete agenda, the committee will hear legislative update; corporate update; set agenda for June 12 and 13, 1991; and discuss old and new business.

Contact: Peggy Irby, P.O. Box 15996, Austin, Texas 78761-5996, (512) 835-1900.

Filed: May 7, 1991, 4:06 p.m.

TRD-9105402

◆ ◆ ◆ Texas Water Commission

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 7, 1991, 4:12 p.m.

TRD-9105406

Tuesday, May 21, 1991, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Ave-

nue, Room 1030, Austin. According to the agenda summary, the commission will consider assessment of administrative penalties and requiring certain actions of Label and Packaging Corporation of America and American Contact Products, Inc., SWR-38623. Label and Packaging Corporation operated and American Contact Products, Inc. currently operates an industrial manufacturing facility located at 416 North Interstate 45, in Hutchins, Dallas County.

Contact: Angela Demerle, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

TRD-9105407

Wednesday, May 22, 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 8, 1991, 3:23 p.m.

TRD-9105453

Wednesday, May 22, 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 8, 1991, 3:23 p.m.

TRD-9105452

Wednesday, June 12, 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 hold a hearing on the adoption of standby fees for Bastrop County W.C.I.D. Number Three.

Contact: Gloria A. Vasquez, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

TRD-9105454

Wednesday, June 26, 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 hold a hearing on an amendment to Certificate of Adjudication Number 06-4411 for Lower Neches Valley Authority. Applicant seeks authority to construct and maintain two temporary saltwater barriers (i.e., one on the Neches River and one on Pine Island Bayou, a tributary of the Neches River, in the Neches River Basin, in Jefferson, Orange and Hardin Counties) to protect owner's intake facilities from salt water moving upstream to its authorized diversion points on the Neches River and Pine Island Bayou during periods of low flow. The application does not request any increase in diversion quantities, nor rates of diversion.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 371-6384.

Filed: May 8, 1991, 3:23 p.m.

TRD-9105451

Wednesday, June 26, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 511, Austin. According to the complete agenda, the commission will consider an application by Texas Municipal Power Agency, Application Number 5354, for an 11.121 water use permit to construct and maintain two dams and reservoirs on unnamed tributaries of Gibbons Creek, tributary of the Navasota River, tributary of the Brazos River in the Brazos River Basin and to divert and use not to exceed 100 acre-feet of water per annum from each reservoir. Applicant also seeks to construct a control ditch from an unnamed tributary of Gibbons Creek to one of the proposed reservoirs. Impoundments will be used for in-place sedimentation control and diversion therefrom for dust suppression (industrial) purposes in Grimes County, three miles southwest of Carlos.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 371-6384.

Filed: May 7, 1991, 4:11 p.m.

TRD-9105404

Wednesday, July 3, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 18, Austin. According to the agenda summary, the commission will conduct a hearing on an application to appropriate public waters of the State of Texas by Independent American Development Corporation, Application Number 4514A. Applicant seeks to amend Permit Number 4297 to include authorization to use four additional dams and reservoirs for recreational purposes on applicant's golf course in Denton County, approximately 15 miles south-southeast of Denton.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 371-6386.

Filed: May 7, 1991, 4:11 p.m.

TRD-9105405

Wednesday, July 10, 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 an application to appropriate public waters of the State of Texas by the City of College Station, Application Number 5357, to impound a total of 13.35 acre-feet of water in a 2.64-acre surface area reservoir to be created by a dam (overflow weir) on Wolf Pen Creek, tributary of Carters Creek, tributary of the Navasota River, tributary of the Brazos River, Brazos River Basin, Brazos County. The water will be used for in-place recreation use within the city limits of College Station.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 371-6384.

Filed: May 7, 1991, 4:12 p.m.

TRD-9105408

Regional Meetings

Meetings Filed May 7, 1991

The Denton Central Appraisal District Board of Directors will meet at 3911 Morse Street, Denton, May 16, 1991, at 4 p.m. Information may be obtained from John D. Brown, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904. TRD-9105371.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, May 31, 1991, at 9 a.m. Information may be obtained from John D. Brown, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904. TRD-9105372.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, June 3, 1991, at 9 a.m. Information may be obtained from John D. Brown, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904. TRD-9105373.

The Hunt County Tax Appraisal District Appraisal Review Board will meet at the Hunt County Tax Appraisal District, Board Room, 4801 King Street, Greenville, May 14, 1991, at 4 p.m. Information may be obtained from Melda Hart or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510. TRD-9105369.

Meetings Filed May 8, 1991

The Austin-Travis County Mental Health and Mental Retardation Center Executive Committee held an emergency meeting at 2405 East Campus Drive, Austin, May 9, 1991, at 8:30 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78765, (512) 440-4031. TRD-9105463.

The Dewitt County Appraisal District Board of Directors will meet at the Dewitt Appraisal District Office, 103 Bailey Street, Cuero, May 14, 1991, at 7:30 p.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9105439.

The Garza County Appraisal District Board of Directors will meet at the Appraisal District Office, 124 East Main Street, Post, May 14, 1991, at 8:30 a.m. Information may be obtained from Billie Y. Windham, P.O. Drawer F, Post, Texas 79356, (806) 495-3518. TRD-9105436.

The Gregg Appraisal District Board of Directors met at 2010 Gilmer Road, Longview, May 13, 1991, at 9 a.m. (Rescheduled from Thursday, May 9, 1991). Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608-6700. TRD-9105442.

The Harris County Appraisal District Board of Directors will meet at 2800 North Loop West, Eighth Floor, Houston, May 15, 1991, at 9:30 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292-0973, (713) 957-5291. TRD-9105446.

The Limestone County Appraisal District Board of Directors will meet at the Board Room, Limestone County Courthouse, Second Floor, Groesbeck, May 15, 1991, at 5:10 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009. TRD-9105441.

The Limestone County Appraisal District Appraisal Review Board will meet at the Appraisal District Meeting Room, Limestone County Courthouse, Second Floor, Groesbeck, May 29-31 and June 3-4, 1991, 9 a.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009. TRD-9105440.

The Kendall County Appraisal District Board of Directors will meet at the Kendall Appraisal Office, 207 East San Antonio Street, Boerne, May 16, 1991, at 5 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9105437.

The Wheeler County Appraisal District Board of Directors met at the District's Office, County Courthouse Square, Wheeler, May 13, 1991, at 6 p.m. (revised agenda). Information may be obtained from Larry M. Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900. TRD-9105438.

Meetings Filed May 9, 1991

The Cass County Appraisal District Board of Directors met at the Cass County Appraisal District, 502 North Main Street,

Linden, May 13, 1991, at 7 p.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (903) 756-7545. TRD-9105482.

The Dallas Area Rapid Transit elected Officials Workshop held an emergency meeting at the Double Tree Hotel, LBJ and Dallas Parkway, Dallas, May 11, 1991, at 8:30 a.m. The emergency status was necessary as it was of the utmost importance that the DART Board of Directors take immediate action in implementing the DART service plan. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9105484.

The East Texas Council of Governments Private Industry Council will meet at the ETCOG Offices, Kilgore, May 16, 1991, at 9:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9105474.

The Golden Crescent Service Delivery Area Private Industry Council, Inc. met at 2401 Houston Highway, Victoria, May 13, 1991, at 7 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77902, (512) 576-5559. TRD-9105476.

The Golden Crescent Service Delivery Area Private Industry Council, Inc. will meet at 2401 Houston Highway, Victoria, May 15, 1991, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77902, (512) 576-5559. TRD-9105477.

The Guadalupe-Blanco River Authority Board of Directors will meet at the Authority's Offices, 933 East Court Street, Seguin, May 16, 1991, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 70156-0271, (512) 379-5822. TRD-9105481.

The Region V Education Service Center Board of Directors will meet at the ESC Board Room, 2295 Delaware Street, Beaumont, May 24, 1991, at 3:30 p.m. Information may be obtained from Robert E. Nicks, 2295 Delaware Street, Beaumont, Texas 77703, (409) 835-5212. TRD-9105483.

The South Plains Association of Governments Executive Committee will meet at 1323 58th Street, Lubbock, May 14, 1991, at 9 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Lubbock, Texas 79452-3730. TRD-9105478.

The San Antonio River Authority Board of Directors will meet at the SARA General Office, 100 East Guenther Street, San Antonio, May 15, 1991, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (512) 227-1373. TRD-9105480.

The South Plains Association of Governments Board of Directors will meet at 1323

58th Street, Lubbock, May 14, 1991, at 10 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Lubbock, Texas 79452-3730. TRD-9105479.

The Wood County Appraisal District Board of Directors will meet at the Wood County Appraisal District, 217 North Main Street, Conference Room, Quitman, May 16, 1991, at 7 p.m. Information may be obtained from W. Carson Wages or Lou E. Brooke, P.O. Box 951, Quitman, Texas 75783, (903) 763-4891. TRD-9105485.





Name: Chad Brown

Grade: 12

School: Plano East Senior High, Plano ISD

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board Notice of Public Hearing

Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act, §382.017; 40 Code of Federal Regulations 51.102 of the United States Environmental Protection Agency regulations concerning State Implementation Plans; the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5; and the Texas Air Control Board (TACB) Procedural Rules, §103.11(4), the TACB will conduct a public hearing to receive testimony concerning proposed revisions to TACB Regulation I.

The TACB proposes new §§111.131-111.139, concerning abrasive blasting of water storage tanks performed by portable operations. The new sections define terms used in regard to abrasive blasting, outline test methods required before abrasive blasting is performed on any water storage tank, outline control requirements for abrasive blasting of tanks depending on the amount of lead in the coatings, and list the abrasive operations that are exempt from testing and control requirements.

This notice is in reference to Regulation I rule proposals published in the April 16, 1991, issue of the *Texas Register* (16 TexReg 2214). This additional hearing is being held at the request of the Texas Municipal League. All comments and testimony in conjunction with this hearing will be added to the hearing record.

The hearing is scheduled for 7 p.m. on Thursday, June 6, 1991, at the main auditorium of the Arlington Community Center, 2800 South Center Street in Vandergriff Park, Arlington, Texas 76014. The hearing is structured for the receipt of oral or written comments. Interrogation or cross-examination is not permitted. However, a TACB staff member will be available to answer questions informally.

Written testimony received by 4 p.m. on June 7, 1991, at the TACB central office will be included in the hearing record. The TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written comments should be addressed to the Control Strategy Division. For further information, call Betty Rogers at (512) 451-5711.

Issued in Austin, Texas on May 1, 1991.

TRD-9105359
Lane Hartsack
Director, Planning and Development
Program
Texas Air Control Board

Filed: May 6, 1991

For further information, please call: (512) 451-5711, ext. 433

Office of the State Auditor Consultant Proposal Request

Notice of Invitation for Proposal: Pursuant to Texas Civil Statutes, Article 6252-11c, the State Auditor's Office

(SAO) invites consultants and consultant firms to submit proposals to provide services for the SAO which may include: custom-designing and presenting programs addressing principles of project management relating to audits conducted by SAO; providing training and technical assistance to SAO in areas of planning, scheduling, and evaluating audit projects; custom-designing project management handbooks for SAO; consulting with SAO staff and management regarding the application of principles of project management to audits.

It is anticipated that services will involve a combination of consulting and training services, and will be provided primarily through interactive workshops with SAO staff. Workshops will typically be of three days in duration, and will be provided to approximately 20 SAO staff at a time on an as-needed basis during the period of performance.

Continuation of Services Previously Performed: The services desired by SAO are a continuation of services previously provided by Lee M. Eckstrom, affiliated with Sun Shore Services, Inc., a consulting firm based in Fort Meyers, Florida. The SAO intends to award a contract for the services described in this invitation for proposal to the same private consultant that previously performed the services unless a better offer is received, price and other factors being considered.

Period of Performance: The period of performance is anticipated to begin approximately June 23, 1991, and extend through August 31, 1992. The level of funding for the requested services is not anticipated to exceed \$7,000 per workshop, inclusive of all developmental and travel costs, with a total of four workshops during the period of performance; however, SAO expressly reserves the right to negotiate and execute amendments to any resulting contract to extend the period of performance or to obligate additional funds as SAO determines necessary.

Qualifications Desired by SAO. To be eligible: offerors must have at least 10 years' experience in the practice of project management; offerors must be certified as project management specialists by the Project Management Institute or must have comparable accreditation; offerors must provide a schedule of fees which include the fees customarily charged for services of this nature; offerors must submit samples of project management materials proposed to be used in conducting the workshops; if considered necessary by SAO, offerors may be required to make a presentation to SAO staff during the selection process.

Deadline for Submission: This invitation for proposal will close as of 5 p.m. on May 29, 1991, except for those proposals received after that date which were postmarked on or before May 27, 1991.

General Information: The SAO reserves the right to accept or reject any (or all) proposals submitted. The information contained in this invitation for proposal is intended to serve only as a general description of the services desired by SAO, and SAO intends to use responses as a basis for further negotiation of specific project details with offerors. In the event SAO selects a contractor to provide the services described, SAO will

base its choice on demonstrated competence and qualifications and the reasonableness of the fee for services. This request does not commit SAO to pay for any costs incurred prior to the execution of a contract and is subject to availability of funds. Issuance of this invitation for proposal in no way obligates SAO to award a contract or to pay any costs incurred in the preparation of a response.

Form and Format: Proposals should be sent by registered mail or delivered in person to Sharnon L. Bieberdorf, Manager, Professional Development, Texas State Auditor's Office, 309 East Ninth Street, Suite 1900, Austin, Texas 78711, no later than the deadline for submission of proposals specified previously. Proposals should be typed, preferably double-spaced, with all pages sequentially numbered and stapled or bound together.

Contact Person. For further information please contact Sharnon L. Bieberdorf, Manager, Professional Development, Texas State Auditor's Office, 309 East Ninth Street, Austin, Texas 78711, (512) 479-4995.

Issued in Austin, Texas, on May 7, 1991.

TRD-9105398 Lawrence F. Alwin, CPA
State Auditor

Filed: May 7, 1991

For further information, please call: (512) 479-4900

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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 May 18, 1990, (15 TexReg 2821).

The consultant proposals will be for professional engineering services for the design and construction administration phases for the following TDA Project: 91/14-5-1 Grange County Airport.

The engineering firm for these services is: Justice and Huang Engineers, Inc., P.O. Box 80104, Baton Rouge, Louisiana 70898.

The total value of the contract is \$68,095 and the contract period starts on May 3, 1991, until the completion of the project.

Issued in Austin, Texas, on May 7, 1991.

TRD-9105378 Lydia Scarborough
Deputy Director, Support and Services
Texas Department of Aviation

Filed: May 7, 1991

For further information, please call: (512) 476-9262

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Texas Department of Banking Notice of Continuance

The May 16, 1991, hearing regarding a bank charter application for the First Bank, to be located in McKinney, has been continued to May 21, 1991, at 9 a.m.

Additional information may be obtained from James Lee Murphy, III, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on May 5, 1991.

TRD-9105370 Ann Graham
General Counsel
Texas Department of Banking

Filed: May 7, 1991

For further information, please call: (512) 479-1200

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Texas Education Agency Request for Applications

RFA# 701-920-002. This request for application is in accordance with ESEA, Chapter 2.

Eligible Applicants. The Texas Education Agency is requesting applications (RFA# 701-92-002) from public school districts and cooperatives of school districts in Texas to participate in a research project which will improve student writing through staff development and the application of technology. Applicants must identify for participation one or two high school campuses in which 50% or more of the student population has been identified as at-risk in order to be eligible for funding. Selection of the participating school districts will be representative according to statement of need, geographic location, district size, student and teacher demographics, and local commitment. The amount of awards will vary depending upon the number of students enrolled in Correlated Language Arts. A school district or Education Service Center may serve as fiscal agent of a cooperative of school districts.

Description. The research project will combine the professional development of teachers as well as target the improvement of student writing through utilizing technology. The purpose of this project is to: develop a thematic approach for a writing-across-the-curriculum program for at-risk students; conduct the professional development of teachers to plan and implement writing process instruction; and utilize a telecomputing network for collaboration and dissemination.

Dates of Project. The Telecommunications and the Writing Process Project will be implemented during the 1991-1992 school year. Applicants should plan for a project starting date of July 1, 1991, and an ending date of August 31, 1992.

Project Amount. This Request for Application (RFA) invites applications for the establishment of an innovative writing project which utilizes technology. The project will enable approximately 10 school districts to each support up to two teachers (at one or two high school campuses) working collaboratively to receive approximately \$15,000 per district for the 1991-1992 school year for a total not to exceed \$150,000. The project is totally funded from ESEA, Chapter 2 federal funds.

Selection Criteria. The contract will be awarded on the basis of the application which is judged by the Texas Education Agency Application Review Committee and the Commissioner of Education to fulfill most effectively the specifications outlined in the Request for Application. The applications approved for funding will be selected in order to: establish programs that are cost-effective; establish programs that are diverse with respect to geographic location and size of districts; and establish programs that are diverse with respect to the type of present at-risk population served.

Requesting the Application. A copy of the complete request for application (RFA# 701-92-002) may be ob-

tained by writing the Document Control Center, Room 6-180, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304.

Further Information. For clarifying information about this request, contact Connie Stout, Division of Technology Development, Texas Education Agency, (512) 463-9087.

Deadline for Receipt of Application. The deadline for submitting an application is 5 p.m., Friday, June 14, 1991.

Issued in Austin, Texas, on May 3, 1991.

TRD-9105376 Thomas E. Anderson, Jr.
Interim Commissioner of Education

Filed: May 7, 1991

For further information, please call: (512) 463-9701



RFA# 701-92-006. This request for application is filed in accordance with ESEA, Chapter 2.

Eligible Applicants. The Texas Education Agency is requesting applications submitted to local campuses that have been identified with 50% or more of the student population as at-risk. The primary focus of the application will be the implementation of strategies to increase student learning and enhance teacher effectiveness in the classroom. The application must originate at the local campus, not the school district. Local campuses are required to enter into partnerships with education service centers, colleges or universities, businesses and industries, or other consortia to improve student learning, enhance teacher performance, and effectively implement the project. Only those campuses which have not previously considered implementing site-based management on their campus are eligible to apply. Campuses which have extensively considered or have begun implementing these concepts are not eligible to apply. Education Service Centers are eligible to apply on behalf of and in coordination with a local campus.

Description. Selected campuses will establish a site-based management/shared decision-making process which will include training, development, and collaboration between teachers, administrators, school board members, parents, business, and the local community. The purpose of this process will be the design of a plan of implementation of collaborative strategies to increase student learning and improve teacher performance in the classroom. This request for application is to elicit applications that will focus on the integration of three priorities: what is currently known about the teaching/learning process (active learning to enhance student learning); the utilization of technology to increase student learning in the classroom and as an instructional and management strategy; and a plan for restructuring the local campus site to increase student learning and teacher effectiveness. A primary purpose of the application is to develop more effective instructional and delivery methods of all students, with the focus upon those identified as at-risk, through the process of implementation of site-based decision-making at the level closest to the student and teacher. The components of effective schools will provide a common game of reference.

Dates of Project. This project will be implemented during the 1991-1992 school year. Applicants should plan for a starting date no earlier than July 1, 1991, and an ending date no later than August 31, 1992.

Project Amount. Up to six campus sites will be awarded approximately \$35,000 each for the 1991-1992 school year, for a total not to exceed \$210,000. This portion of

the project is funded with ESEA Chapter 2 federal funds. All funds provided to campuses through this project must be matched dollar for dollar or by other in-kind resources (computer hardware, training experts from private sector, etc.) by the school district, the private sector, or a combined effort of the entities. Thus, each project will ultimately receive approximately \$35,000 from the state and \$35,000 from the school district and/or private sector, totalling \$70,000. This project is a three-year commitment to fully implement instructional strategies to improve student learning and increase teacher effectiveness as identified by the aforementioned collaborative decision-making group. Continued funding for participating campuses for 1992-1993 and 1993-1994 are contingent upon available federal funding, priority of agency management, approval of the Chapter 2 state advisory committee, and approval of the State Board of Education and the Commissioner of Education.

Selection Criteria. The contract will be awarded on the basis of the application which is judged by the Texas Education Agency Application Review Committee and the Commissioner of Education to fulfill most effectively the specifications outlined in this request. Following review and scoring, additional factors will be considered. The applications approved for funding will be selected in order to establish programs that are cost-effective; establish programs that are diverse with respect to geographic location and size of district; and establish programs that are diverse with respect to the type of identified at-risk population to be served.

Requesting the Application. A copy of the complete request for application (RFA #701-92-006) may be obtained by writing the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304.

Deadline For Receipt of Application. The deadline for submitting an application is 5 p.m., June 21, 1991.

Further Information. For clarifying information about this request, contact Dr. Lynda Haynes, Division of Teacher Education, Texas Education Agency, (512) 463-9327.

Issued in Austin, Texas, on May 3, 1991.

TRD-9105377 Thomas E. Anderson, Jr.
Interim Commissioner of Education

Filed: May 7, 1991

For further information, please call: (512) 463-9701



Texas Department of Health Consultant Selection Notice

Description of the Study. The consultant is conducting a nationwide search for qualified candidates for the position of Commissioner of Health.

Consultant name and address. The consultant selected is Korn/Ferry International, located at 500 North Akard, 3950 Lincoln Plaza, Dallas, Texas 75201.

Dates of Contract. The contract commenced April 27, 1991, and will terminate upon successful conclusion of the search process or August 31, 1991.

Amount of Contract. The amount of the contract will not exceed \$35,000.

Reports. The consultant will submit progress reports to the Texas Department of Health on an ongoing basis, with

a final report due upon the successful conclusion of the search process.

Issued in Austin, Texas, on May 7, 1991.

TRD-9105386 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: May 7, 1991

For further information, please call: (512) 458-7470

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Public Utility Commission of Texas
Notice of Application to Amend
Certificate of Convenience and
Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on April 25, 1991, to amend a Certificate of Convenience and Necessity pursuant to the Public Utility Regulatory Act, §§16(a), 18(b), 50, 52, and 54. A summary of the application follows.

Docket Title and Number. Application of Contel of Texas, Inc. to amend Certificate of Convenience and Necessity within Wise County, Docket Number 10274, before the Public Utility Commission of Texas.

The Application. In Docket Number 10274, Contel of Texas, Inc. seeks approval of its application for a minor boundary change in order to serve a customer in Wise County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Office within 15 days of this notice at (512) 458-0256. The telecommunications device for the deaf (TDD) number for the Public Information Office is (512) 458-0221.

Issued in Austin, Texas, on May 7, 1991.

TRD-9105394 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 7, 1991

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

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Notice of Application for Change in
Depreciation Rates

Notice is given to the public of the filing with the Public Utility Commission of Texas of an Application on March 19, 1991, to modify the existing depreciation accrual rates and methods of depreciation pursuant to the Public Utility Regulatory Act, §§16(a), 18(a), 27(b). A summary of the Application follows.

Docket, Title and Number. Application of Alltel Texas, Inc. to Modify Existing Depreciation Accrual Rates and Methods of Depreciation, Docket Number 10113, before the Public Utility Commission of Texas.

The Application. In Docket Number 10113, Alltel Texas, Inc. requests approval of its Application to Modify its Existing Depreciation Accrual Rates and Methods of Depreciation. Alltel Texas, Inc. is also currently the subject of an Inquiry by the General Counsel of the Public Utility Commission of Texas into the Reasonableness of its Rates

and Services in Docket Number 9985 before the Public Utility Commission of Texas.

Persons who wish to intervene in the proceeding or comment upon actions sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or (512) 458-0256 or (512) 458-0221 (TTY for the Deaf).

Issued in Austin, Texas, on May 3, 1991.

TRD-9105385 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 7, 1991

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

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Notice of Intent to File Pursuant to PUC
Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Shell Oil-Deer Park, Deer Park.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Shell Oil-Deer Park Pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 10313.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Shell Oil-Deer Park. The geographic service market for this specific service is the Houston, area.

Persons who wish to comment upon action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on May 6, 1991.

TRD-9105390 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 7, 1991

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

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for AT&T Microelectronics, Mesquite.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for AT&T Microelectronics Pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 10324.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for AT&T Microelectronics. The geographic service market for this specific service is the Dallas, area.

Persons who wish to comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information

Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on May 7, 1991.

TRD-9105393 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 7, 1991

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

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Valero Transmission San Antonio.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Valero Transmission. Pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 10322.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Valero Transmission. The geographic service market for this specific service is the San Antonio, area.

Persons who wish to comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on May 7, 1991.

TRD-9105395 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 7, 1991

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

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Tarrant County, Fort Worth.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Tarrant County Pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 10314.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Tarrant County. The geographic service market for this specific service is the Fort Worth, area.

Persons who wish to comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on May 6, 1991.

TRD-9105396 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 7, 1991

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

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for IBM, Austin.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for IBM Pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 10323.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for IBM. The geographic service market for this specific service is the Austin, area.

Persons who wish to comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on May 7, 1991.

TRD-9105397 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 7, 1991

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

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Notice of Proceeding for Certification of Cogeneration Agreement

Notice is given to the public of the filing with the Public Utility Commission of Texas of a joint application on March 22, 1991, seeking certification of a cogeneration agreement pursuant to the Public Utility Regulatory Act, §41A. The following is a summary of the nature of the joint application.

Docket Title and Number. Application of Bayou Cogeneration, Inc. and Houston Lighting and Power Company for Certification of Cogeneration Agreement, Docket Number 10121 before the Public Utility Commission of Texas.

The Joint Application. Certification is sought of a cogeneration agreement effective January 23, 1991, by Bayou Cogeneration, Inc. and Houston Lighting and Power Company which provides for the purchase by Houston Lighting and Power Company of approximately 270 MW of capacity and associated energy from a cogeneration facility to be owned and operated by Bayou Cogeneration, Inc. in Pasadena, Harris County. The Public Utility Commission of Texas is asked to make two determinations: that the payments provided for in the cogeneration agreement are equal to or less than Houston Lighting and Power Company's avoided costs as established by the Public Utility Commission of Texas and in effect at the time the cogeneration agreement was signed; and the cogeneration agreement provides Houston Lighting and Power Company the opportunity to acquire the cogeneration installation before the installation is offered to another purchaser in the event of its abandonment, or provides other sufficient assurances that Houston Lighting and Power Company will be provided with a comparable

supply of electricity, if Bayou Cogeneration, Inc. ceases to operate the installation.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0223, or (512) 458-0227, or (512) 458-0221 for teleewriter for the deaf within 15 days of this notice.

Issued in Austin, Texas, on May 3, 1991.

TRD-9105366 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 7, 1991

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



Texas Water Commission

Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of April 29-May 3, 1991.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain: the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Rex Bullard doing business as Rex Bullard Dairy; Covington; a dairy; approximately two miles northwest of the intersection of FM Road 67 and FM Road 2488 in Hill County; 03341; new.

Lake Cities Municipal Utility Authority; Lake Dallas; wastewater treatment facilities; on Lakeview Airport Road, adjacent to the west side of Lewisville Lake, approximately 1.5 miles east of Interstate Highway 35 in Denton County; 10698-01; renewal.

City of Pearland; wastewater treatment facilities; approximately 0.5 mile southeast of the intersection of County Road 127 and Dixie Farm Road (County Road 126) in Brazoria County; 10134-05; renewal.

Safety-Kleen Corporation; Amarillo; Class I industrial solid waste storage and processing facility; at 3811 Interstate 40 East, on the corner of Dulles Street and the Interstate 40 frontage road, Amarillo, Potter County; HW-50252, EPA I.D. Number TXD-000747410; new; 45-day notice.

Safety-Kleen Corporation; Corpus Christi; Class I industrial solid waste storage and processing facility; approximately one mile east of Cabaniss Airfield and about 500 feet west of Weber Road in Corpus Christ, Nueces County; HW-50233, EPA I.D. Number TXD-000747402; new; 45-day notice.

Issued in Austin, Texas, on May 6, 1991.

TRD-9105403 Laurie J. Lancaster
Deputy Chief Clerk
Texas Water Commission

Filed: May 7, 1991

For further information, please call: (512) 463-7906



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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