

Texas Register



Volume 16, Number 54, July 19, 1991

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

Governor-Appointments, executive orders, and proclamations

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

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

Proposed Sections-sections proposed for adoption

Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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

Open Meetings-notices of open meetings

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

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

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

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

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

Texas Administrative Code

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

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

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



Texas Register Publications

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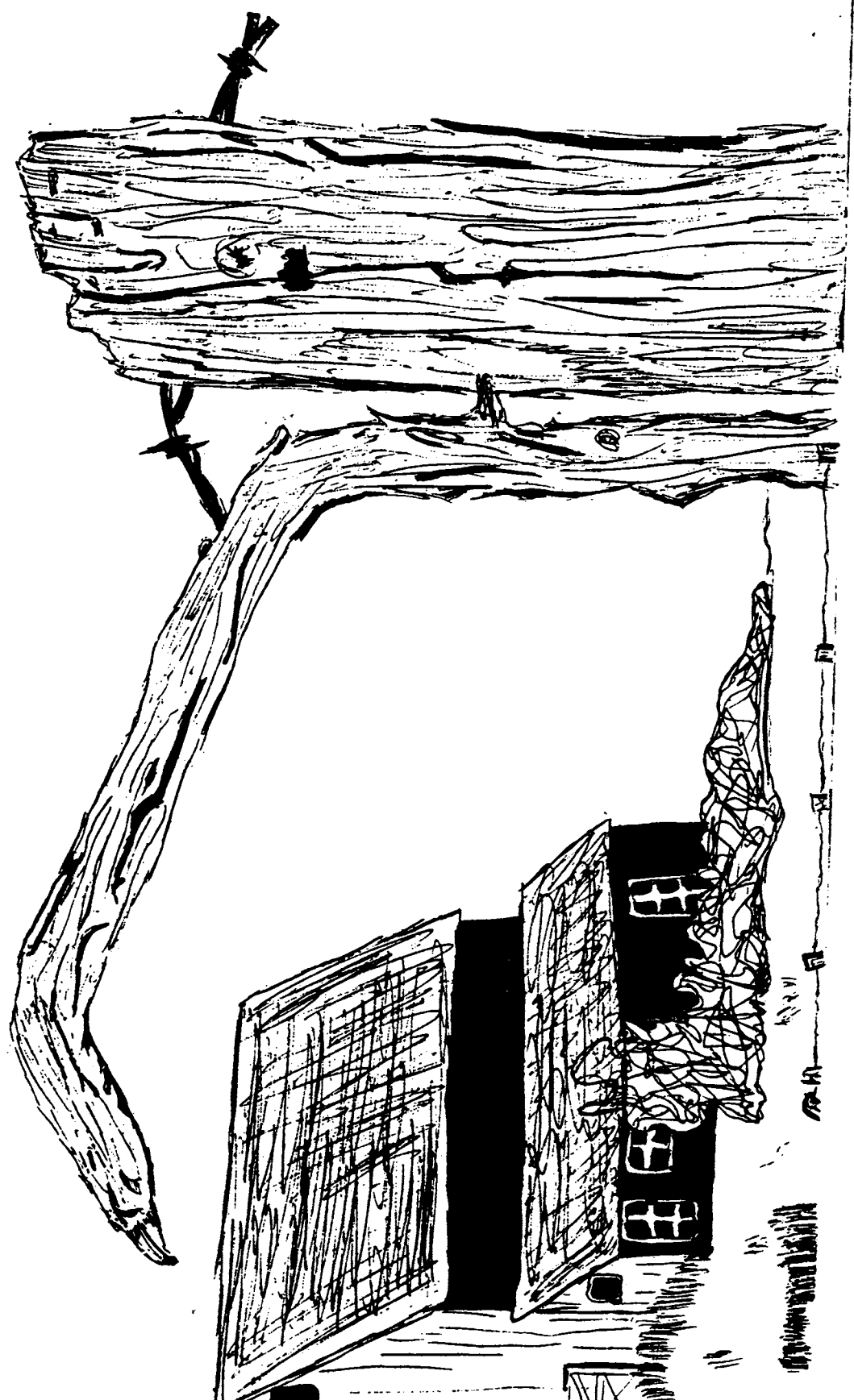
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Rockdale



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Grade: 9

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The Governor

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

Appointments Made June 18, 1991

To be members of the Interstate Oil Compact Commission for terms at the pleasure of the governor. They will replace the current membership. The members with an asterisk by his or her name are being reappointed: Commissioner James Nugent*, Texas Railroad Commission, P.O. Box 12967, Austin, Texas 78711. Mack Wallace*, 111 Congress Avenue, Suite 900, Austin, Texas 78701. William J. Murray, Jr*, 1906 Scenic Drive, Austin, Texas 78703. Jack Strong, P.O. Box 3767, Longview, Texas 75606. Sandy Joseph, Texas Railroad Commission, P.O. Box 12967, Austin, Texas 78711. Ramon Fernandez, Texas Railroad Commission, P.O. Box 12967, Austin, Texas 78711. Lori Wrotenberry, Texas Railroad Commission P.O. Box 12967, Austin, Texas 78711. David Garlick*, Texas Railroad Commission P.O. Box 12967, Austin, Texas 78711. Jerry Mullican*, Texas Railroad Commission P.O. Box 12967, Austin, Texas 78711. George Singletary*, Texas Railroad Commission P.O. Box 12967, Austin, Texas 78711. James Walker, Jr., Texas Railroad Commission P.O. Box 12967, Austin, Texas 78711. Brenda Loudermilk, Texas Railroad Commission, P. O. Box 12967, Austin, Texas 78711. Sandy Boone, Texas Railroad Commission, P.O. Box 12967, Austin, Texas 78711. Jim Bilta, Texas Railroad Commission, P.O. Box 12967, Austin, Texas 78711. Bob Biard, Texas Railroad Commission, P.O. Box 12967, Austin, Texas 78711. Jack Giberson*, Box 357, Buda, Texas 78610. Walt Rosenbush, Stephen F. Austin, Building, 1700 North Congress Avenue, Room 640, Austin, Texas 78701. Don Petty, Stephen F. Austin, Building, 1700 North Congress Avenue, Room 642, Austin, Texas 78701. William Fisher, The University of Texas, Bureau of Economic Geology, Austin, Texas 78712. Marcus Milling*, The University of Texas, University Station, Box X, Austin, Texas 78713-7508. Linward Shivers*, The University of Texas System, 201 West Seventh Street, Austin, Texas 78701. Myron Dorfman*, The University of Texas, Petroleum Engineering Department, Austin, Texas 78712. Jack Howard*, The University of Texas System, 201 West Seventh Street, Room 702, Austin, Texas 78701. Susan Bradshaw, The University of Texas, Office of the General Counsel, 201 West Seventh Street, Sixth Floor, Austin, Texas 78701. Lanvil Gilbert, The University of Texas, Office of the General Counsel, 201

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Appointments Made June 27, 1991

To be the Governor's Commission for Women for terms to expire February 1, 1993. They will be replacing the current membership: Andrea Abel, 3207 B Lafayette Avenue, Austin, Texas 78722-2225. Ada C. Anderson, 5613 Palisada Court, Austin, Texas 78731. Dolores Barzune, 4831 Brookview Drive, Dallas, Texas 75220. Nancy Beren, 2405 Bellefontaine, Houston, Texas 77030. Dolores Briones, 9455 Viscount #509, El Paso, Texas 79925. Irene Cantu, 200 Vera Cruz, Hereford, Texas 79045. Raye Carrington, P.O. Box 50395, Austin, Texas 78763. Mandy Chew, 2435 Mayfield Terrace, El Paso, Texas 79930. Judith Craven, M. D., 3212 Ewing Street, Houston, Texas 77004. Lucinda Flores, 2924 Whitewing Drive, Brownsville, Texas 78521. Karen Matkin, 2824 Rico, Waco, Texas 76710. Judith McDonald, 1615 Redbud, Nacogdoches, Texas 75961. Amalia Rodriguez-Mendoza-Chair, 2710 Addison Avenue, Austin, Texas 78757. Maria Luisa Mercado, 2417 27th Street, Lubbock, Texas 79411. Choco Gonzalez Meza, 302 Leigh, San Antonio, Texas 78210.

Sallye Moore, 1906 San Antonio, Street, Grand Prairie, Texas 75051. Celia Morales, 1008 Neely, Midland, Texas 79705. Betty Nickerson, 409 Crockett Road, Palestine, Texas 75801. Dorothy C. Pettigrew, 621 Moody, Suite 102, Galveston, Texas 77550. Lolita Ramos, Route 2, Box 528, Beaumont, Texas 77705. Janie Reyes, 502 Highland, Houston, Texas 77009. Rosie Ruiz, P.O. Box 1348, Edinburg, Texas 78540. Jesusa Sanchez-Vera, 743 West First, Alice, Texas 78332. Marian Sokol, Ph.D., 16 Grandburg Circle, San Antonio, Texas 78218. Hilda G. Tagle, 229 Country Club Drive, Corpus Christi, Texas 78412. Mary R. Taylor, 1907 Crocker, Houston, Texas 77006. Dorothy Tissue, 5638 Meadow Creek, Houston, Texas 77017. Rosa Walker, AFL-CIO, P.O. Box 12727, Austin, Texas 78711. Ruthe Winegarten, 701 Keasbey, Austin, Texas 78751.

Appointments Made July 2, 1991

To be a member of the Lower Concho River Water and Soil Conservation Authority for a term to expire February 1, 1997: Benjamin O. Sims, Route 1, Box 4, Paint Rock, Texas 76866. Mr. Sims is being reappointed.

To be a member of the Texas Growth Fund Board of Trustees for a term to expire February 1, 1997: Matrice Ellis-Kirk, 928 Stillmeadow, Dallas, Texas 75232. Ms. Ellis-Kirk will be replacing Gary G. Jacobs of Laredo whose term expired.

To be a member of the Texas Funeral Service Commission for a term to expire January 31, 1997: The Reverend Ted Karpf,

6413 Ridgmont Drive, Dallas, Texas 75214-1657. Reverend Karpf will be replacing Dr. Ray Burchette of Austin whose term expired.

To be a member of the Texas Board of Aviation for a term to expire February 1, 1997: Zena Rucker, 650 South Carroll, Grapevine, Texas 76051. Ms. Rucker will be replacing Walter H. Baxter, III of Weslaco whose term expired.

To be a member of the Texas Alcoholic Beverage Commission for a term to expire November 15, 1995: Renee Higginbotham-Brooks, 308 Canyon Creek Trail, Forth Worth, Texas 76112. Ms. Higginbotham-Brooks will be filling the unexpired term of James R. Huffines of Austin who was not confirmed by the Senate.

Appointments Made July 3, 1991

To be Texas' representatives to serve on the membership of Search Group for a term at the pleasure of the governor: Mary Lauderdale, 12908 Oak Bend Drive, Austin, Texas 78727. Ms. Lauderdale is replacing Gene Draper of Austin.

Appointments Made July 8, 1991

To be a member of the Brazos River Authority Board of Directors for a term to expire February 1, 1997: James Jefferson Gibson, P.O. Box 9, Guthrie, Texas 79236. Mr. Gibson is being reappointed.

To be a member of the Brazos River Authority Board of Directors for a term to

expire February 1, 1997: Charles R. Moser, 310 Cedar Circle, Brenham, Texas 77833. Mr. Moser is being reappointed.

To be a member of the Brazos River Authority Board of Directors for a term to expire February 1, 1997: Lyndon L. Olson, Sr., 3800 Greenleaf, Waco, Texas 76710. Mr. Olson is being reappointed.

Appointments Made July 9, 1991

To be a member of the Texas Historical Commission for a term to expire February 1, 1997: Thomas E. Kroutter, Jr., 4301 Lake Arthur, #902, Port Arthur, Texas 77642. Mr. Kroutter will be replacing Mary Ann Perryman of Athens whose term expired.

To be a member of the Board of Tax Professional Examiners for a term to expire March 1, 1997: Ruth Glasgow Clayton, 109 East Hillcrest, San Marcos, Texas 78666. Ms. Clayton will be replacing Robert C. Willis of Livingston whose term expired.

To be a member of the Texas Low-Level Radioactive Waste Disposal Authority for a term to expire February 1, 1997: David Ojeda, Jr., 404 South 16th, Carrizo Springs, Texas 78834. Mr. Ojeda will be replacing Dr. Elbert Whorton, Jr. of Galveston whose term expired.

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

TRD-9108266

Ann W. Richards
Governor of Texas



Emergency Sections

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

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

TITLE 1. ADMINISTRATION

Part IV. Office of the Secretary of State

Chapter 81. Elections

Voting Systems

• 1 TAC §81.54

The Office of the Secretary of State adopts on an emergency basis a directive to facilitate the use of direct recording electronic voting systems. The directive provides for procedures relating to the use of direct recording electronic voting systems. Currently, the Texas Election Code contains no provisions relating to the use of direct recording electronic voting systems.

The amendment is adopted on an emergency basis because a direct recording electronic voting system has recently been certified for use in elections in Texas. Current election law does not adequately or clearly establish guidelines for use of such a voting system. This directive will be proposed for permanent adoption in a later issue of the *Texas Register*.

The secretary of state is required to obtain and maintain uniformity in the application, operation, and interpretation of the Election Code and of the election laws outside the Election code (Texas Election Code, §31.003 Vernon 1986)). To perform this duty, the secretary is required to prepare detailed and comprehensive written directives and instructions relating to and based on the Election Code and the election laws outside the Election Code. *Id.* This directive is adopted to facilitate the use of direct recording electronic voting systems.

The new section is adopted on an emergency basis under the Texas Election Code, §31.003, which provides the secretary of state with authority to obtain and maintain uniformity in the application, operation, and interpretation of election laws, and prepare detailed and comprehensive written directives and instructions relating to election laws.

§81.54. Use of Direct Recording Electronic Voting Systems.

(a) Direct recording electronic voting machine ballot.

(1) Form of direct recording electronic voting machine ballot label.

(A) The printed matter on a direct recording electronic voting machine ballot label must appear on a white or light-colored background in plain, dark type.

(B) The ballot label may contain a distinctive designating number, which may contain letters as well as numerals, for each candidate and for each side of each proposition that corresponds to the number of the registering counter for the same candidate or proposition.

(C) The ballot label must contain a marking that indicates the identity of the voting machine to which it is attached.

(D) The party columns on the ballot label may be arranged vertically or horizontally.

(E) The ballot label must be in "full ballot" format as opposed to "strip ballot" format.

(2) Number of machines for listing ballot. In an election in which direct recording electronic voting machines are used, a voter must be able to use a single machine to vote on all races and measures to be voted on in the election unless the number of items to be voted on exceeds the capacity of a single machine. In that case, as many additional machines as are necessary may be used as long as all candidates for a particular office may be voted on using the same machines.

(3) Paper ballot for precinct offices.

(A) The authority adopting direct recording electronic voting machines for use in an election may provide by resolution, order, or other official action for voting by paper ballot on any precinct offices at a polling place using direct recording electronic voting machines if an additional voting machine would otherwise be necessary to accommodate all the candidates and propositions to be listed.

(B) The paper ballot for precinct offices must conform to the applicable standards governing regular paper ballots, except that the ballot shall be limited to the precinct offices specified in the official action providing for use of the ballot.

(4) Straight party voting. The ballot must be designed so that if a voter votes a straight party vote, and then votes

for an individual candidate of another party or for an independent candidate or a write-in candidate, the machine will automatically count the individual vote for the candidate and count votes for the remaining candidates of the party for which the straight-party vote was cast.

(b) Conduct of voting with direct recording electronic voting machines.

(1) General provisions. The provisions of the Election Code relating to the conduct of voting with voting systems generally (Texas Election Code, §§125.001-125.009 (Vernon 1986)) apply to direct recording electronic voting systems, to the extent practicable.

(2) Inspecting and securing machine before delivery to polling place.

(A) Not earlier than the 30th or later than the fifth day before the first day that a direct recording electronic voting machine is to be used for voting, the authority responsible for distributing the election supplies to the polling places shall inspect the machine to determine whether it is in the proper order for use.

(B) If the voting machine is in the proper order for use, the authority shall secure the machine against operation as prescribed by the secretary of state.

(C) The authority shall prepare a record containing the identification of each machine inspected, the identification of the polling place at which each machine is to be used, a statement that the first test of the machine was successful, and any other information required by the secretary of state. The record shall be preserved for the period for preserving the precinct election records.

(D) Not later than the day before the date of the inspection of machines, the authority shall notify the county chairman of each political party with a nominee on the ballot of the place, date, and hour of the inspection. The county chairman or his designee is entitled to observe the inspection and securing of the machines.

(E) The authority shall post a notice of the place, date, and hour of the

inspection of machines, including a notice that at the conclusion of the inspection, the machines will be tested, on the bulletin board used for posting notices of meetings of the governing body of the political subdivision served by the authority. The notice must remain posted continuously for the 48 hours preceding the beginning of the inspection.

(3) Certification of proper installation at polling place.

(A) Before opening a polling place for voting on election day, the presiding judge shall determine whether each direct recording electronic voting machine that has been delivered to the polling place for use in the election has been delivered to the proper polling place. If the machine is not at the proper polling place, the presiding judge shall have it returned and request delivery of the proper machine.

(B) A machine may not be unsecured until after the presiding judge determines that it is at the proper polling place.

(C) If the voting machine is delivered to the proper polling place, the presiding judge shall unsecure the machine and make an inspection to determine whether the machine is properly installed and in the proper order for voting.

(D) If the voting machine is not properly installed or not in the proper order for voting, the presiding judge shall take appropriate corrective action.

(E) When the presiding judge determines that the machine is properly installed and in the proper order for voting, the judge shall prepare a certificate containing:

(i) a statement that the judge has determined that the machine is in the proper order for use in the election;

(ii) the signature of the judge;

(iii) the signatures of not more than two watchers if one or more watchers are present, with the signatures being from watchers of opposing interests if such watchers are present; and

(iv) any other information required by the secretary of state.

(F) The judge shall attach a copy of the certificate to each copy of the election returns for the polling place.

(4) Securing machine on close of voting.

(A) On the close of voting at each polling place using direct recording electronic voting machines, an election offi-

cer shall secure each machine as prescribed by the secretary of state so that its unauthorized operation is prevented.

(B) After the machine is secured, the presiding judge shall prepare a certificate containing:

(i) statement that the machine is secured;

(ii) the signatures of the presiding judge and at least one election clerk;

(iii) a statement that the second test of the machine was successful;

(iv) the signatures of not more than two watchers if one or more watchers are present, with the signatures being from watchers of opposing interests if such watchers are present; and

(v) any other information required by the secretary of state.

(C) The presiding judge shall attach a copy of the certificate to each copy of the election returns for the polling place.

(c) Preparing returns and related activities.

(1) Contents of returns. The election returns for each polling place using direct recording electronic voting machines must state:

(A) the designating numbers of the candidates and propositions appearing on direct recording electronic voting machine ballot labels, if any;

(B) separate tabulations of the results registered on each machine for each candidate and proposition;

(C) the totals of the results for each candidate and proposition from all the machines installed at the polling place; and

(D) any other information required by the secretary of state.

(2) Entering result on returns. The election returns are entered as follows.

(A) After a voting machine is secured against unauthorized operation, the presiding judge shall detach the printout from the voting machine. The entries on the returns shall be made by using the printout as the source of the election results.

(B) If the identity of the voting machine does not appear on the printout, the presiding judge shall enter the machine's identification number on the printout. The presiding judge and two election clerks shall certify that the printout and the machine correspond by signing the printout.

(C) After the entries are verified and corrected, the presiding judge shall deliver the printout to the general custodian of election records, who shall preserve it for the period for preserving the precinct election records.

(3) Processing write-ins recorded on machine.

(A) The write-in votes that voters record on a direct recording electronic voting machine shall be counted and the results entered on the election returns as prescribed by the secretary of state.

(B) After the write-in results from a voting machine are entered on the election returns, the write-in record from the machine shall be sealed as prescribed by the secretary of state, and preserved by the general custodian of election records for the period for preserving the precinct election records.

(4) Review of election returns and certification.

(A) After the results of the election at a polling place using direct recording electronic voting machines have been entered on the election returns, the presiding judge and at least two election clerks shall review the returns to determine whether they are in proper order.

(B) The presiding judge shall make the appropriate corrections in the election returns.

(C) When the reviewing election officers are satisfied that the election returns are in proper order, they shall sign the returns to certify their accuracy.

(5) Distribution of returns and poll list. Three copies of the election returns and two copies of the poll list from each precinct polling place using direct recording electronic voting machines shall be distributed in the same manner as for a precinct polling place using paper ballots, except that none are placed in Ballot Box Number 3.

(6) Disposition of keys to machine.

(A) After completion of the election returns, the presiding judge shall place the keys to each direct recording electronic voting machine used at the polling place in a separate envelope and seal the envelope.

(B) The presiding judge and two election clerks shall sign their names across the envelope seal. The presiding judge shall enter on the envelope the date of

the election, the identity of the polling place, and any other information required by the secretary of state.

(C) The presiding judge shall deliver the sealed envelope containing the keys to the custodian of the voting machine. The custodian shall preserve the envelope in its sealed condition for the period the voting machine is secured after the election.

(d) Preservation of election results.

(1) Security period for preserving election results.

(A) The election results registered on a direct recording electronic voting machine shall be preserved on the machine for 10 days after election day unless the machine is required for another election before that time expires. In that case, the results shall be preserved for five days after election day or until the local canvass of the returns containing the election results from the machine is completed, whichever is later.

(B) The custodian of the voting machine shall keep the machine secure against unauthorized operation for the period prescribed by Subsection IV (A) (1).

(C) The voting machine may be unsecured and cleared of the election results at any time after the security period prescribed by Subsection IV (A) (1) expires unless the period is extended as provided in Subsection IV (B) or IV (C).

(2) Extension of security period on request.

(A) A direct recording electronic voting machine shall remain secure if, before the security period prescribed by the Texas Election Code, §126.031 expires, the machine's custodian receives a request to maintain security of the machine for an extended period.

(B) A request must be in writing and signed by:

(i) a person eligible to contest the election or obtain a recount; or

(ii) a public authority authorized to conduct a criminal investigation involving use of the voting machine in the election or a person designated by the public authority to make the request.

(C) The request shall be preserved by the machine's custodian for the period for preserving the precinct election records.

(D) To obtain the release of a voting machine secured under this section, the machine's custodian must petition a district court for the release. Venue of the

petition is in the county in which the polling place at which the voting machine was installed is located.

(E) On petition, the court shall issue an order releasing the voting machine unless the party requesting the extended security period establishes that maintaining security of the machine is necessary to the disposition of an election contest, recount, or criminal investigation. In that case, the court shall determine the period for continuing the machine's security and issue an order releasing the machine on expiration of that period. If the machine is required for another election, the court shall order its release for a time before the election that will not interfere with use of the machine in the election.

(F) The voting machine may be unsecured and cleared of election results at any time after the machine is released by the district court.

(G) The requesting party may withdraw the request before a petition is filed under this section by submitting a written retraction to the machine's custodian. If a request is withdrawn, a machine secured by the request may be unsecured and cleared of election results without petitioning a district court for a release. The retraction shall be preserved with the request.

(3) Extension of security period by court.

(A) A court or other tribunal of competent jurisdiction may extend the security period prescribed by the Texas Election Code, §126.031, if the tribunal determines that an extension might be necessary to the disposition of an election contest, recount, or criminal investigation.

(B) If a tribunal extends the security period, the tribunal shall determine the period for continuing the machine's security and issue an order releasing the machine on the expiration of that period. If the machine is required for another election, the tribunal shall order its release for a time before the election that will not interfere with use of the machine in the election.

(C) The voting machine may be unsecured and cleared of election results at any time after the machine is released by the tribunal.

(4) Preservation of ballot label.

(A) The direct recording electronic voting machine ballot label shall be preserved intact on the voting machine during the period that the machine is secured following an election. After that

period expires, the ballot label may be detached from the machine.

(B) If the ballot label is detached from the voting machine before the period for preserving the precinct election records expires, the machine's custodian shall deliver the ballot label to the general custodian of election records.

(C) The ballot label may be discarded or destroyed after the security period expires or the period for preserving the precinct election records expires, whichever is later.

(5) Examination of secured machine.

(A) During the period that a direct recording electronic voting machine is secured following an election, the machine may be examined only as authorized by this code or on the order of a court or other tribunal of competent jurisdiction.

(B) On completion of an examination, the authority that ordered the examination shall have the machine restored to its secured condition. The person in charge of the examination shall replace the keys to the machine in their envelope, seal the envelope, sign his name across the seal and return the sealed envelope to the machine's custodian.

(e) Testing direct recording electronic voting machines.

(1) Test of direct recording electronic voting machines required. Each machine shall be tested as follows.

(2) Testing authorities. The general custodian of election records shall conduct the first test. The presiding judge of the polling place shall conduct the second test at the polling place.

(3) Times for conducting test.

(A) The test shall be conducted two times for each election.

(B) The first test shall be conducted immediately following the conclusion of the inspection of the direct recording electronic voting machine, when a determination has been made that the machine is in the proper order for use, and immediately prior to securing the machine for delivery to the polling place.

(C) The second test shall be conducted immediately after the returns are completed, and before the machine is secured.

(4) Design of test.

(A) The test must be designed to determine whether the direct re-

ording electronic voting machine accurately counts votes and otherwise functions properly.

(B) A group of test votes shall be counted with the machine using the program prepared for processing the votes in the election.

(C) The group of test votes must contain a predetermined number of valid votes for each candidate and for and against each proposition on the ballot for the election. The test group must also contain votes in excess of the allowable number and with other improper votes.

(D) The same test shall be administered each time the equipment is tested for the same election.

(5) Determining success of test.

(A) A test is successful if a perfect count of the test votes is obtained and the direct recording electronic voting machine otherwise functions properly during the counting of the test ballots.

(B) The testing authorities shall determine whether a test is successful.

(6) Conduct of first test.

(A) The general custodian of election records shall publish notice of the time and place of the first test in a newspaper, as provided by general law for official publications by political subdivisions, at least 48 hours before the date of the test.

(B) The test is open to the public.

(C) The direct recording electronic voting machine may not be used to count ballots voted in the election until the first test is successful.

(7) Conduct of second test; void ballot count.

(A) If the initial test conducted during the second test is unsuccessful, the count of votes in the election obtained with the direct recording electronic voting machine is void.

(B) If the initial test is successful, the count of votes in the election is valid for the purpose of certifying the election returns. The presiding judge shall certify in writing that the initial test was successful and the date and hour the test was completed. The certification shall be retained with the test materials.

(C) If the vote count is void under Subsection V (G) (1), the testing authorities must print ballot images for the

second test, hand count the ballot images, and compare the count to the predetermined count of the test deck to determine whether the votes were entered properly.

(D) If the ballot images from the second test indicate that the votes were entered properly, but the count is not correct, images of all ballots cast in the election shall be produced, and the votes shall be counted manually.

(8) Security of test materials.

(A) On completing each test, the presiding judge shall place the test votes and other test materials in a container provided for that purpose and seal the container so it cannot be opened without breaking the seal. The presiding judge, and not more than two watchers, if one or more watchers are present, shall sign the seal. The watchers must be of opposing interests if such watchers are present.

(B) The test materials shall remain sealed for the period for preserving the precinct election records.

(C) The container may not be unsealed unless the contents are necessary to conduct a test under this subchapter, a criminal investigation, election contest, or other official proceeding under this code. If the container is unsealed, the authority in charge of the proceeding shall reseal the contents when not in use.

(9) Custody of test materials. The presiding judge is the custodian of the test materials until they are delivered to the general custodian of election records with the election returns.

(f) Additional count of ballots.

(1) Partial count of direct recording electronic voting system ballots by general custodian.

(A) To ensure the accuracy of the tabulation of direct recording electronic voting system results, the general custodian of election records shall conduct a manual count, using the ballot images produced by the machine, of all the races in at least 1.0% of the election precincts or in three precincts, whichever is greater, in which the voting system was used. The custodian shall select the precincts at random and shall begin the count within 72 hours after the end of the applicable security period for preserving election results prescribed by Section IV.

(B) Each candidate in the election is entitled to be present at the count and is entitled to have a representative present.

(C) Not later than the third day after the date the count is completed, the general custodian of election records shall deliver a written report of the results of the count to the secretary of state.

(D) The secretary of state at any time may waive or reinstate the requirements of this section for a particular political subdivision.

(2) Count of direct recording electronic voting system ballots by secretary of state.

(A) To ensure the accuracy of the tabulation of electronic voting system results, the secretary of state or the secretary's designee may conduct a manual count of any portion of any number of ballot images from any precinct in which the direct recording electronic voting system was used.

(B) The count may be conducted at any time during the period for preserving the applicable precinct election records.

(C) The general custodian of election records is entitled to be present at the count.

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

TRD-9108358

John Hannah, Jr.
Secretary of State
Office of the Secretary of
State

Effective date: July 12, 1991

Expiration date: November 9, 1991

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

◆ ◆ ◆
**TITLE 16. ECONOMIC
REGULATION**
**Part VII. Texas Racing
Commission**

Chapter 301. Definitions

• **16 TAC §301.1**

The Texas Racing Commission adopts on an emergency basis an amendment to §301.1, concerning definitions. The amendment clarifies the definition of a patron. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that the rules of pari-mutuel wagering are in place for pari-mutuel racing currently being conducted.

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

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

Patron—An individual present on association grounds during a race meeting who is eligible to wager on [to wager or to observe] the racing.

Issued in Austin, Texas, on July 12, 1991.

TRD-9108398 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 12, 1991

Expiration date: October 10, 1991

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

◆ ◆ ◆
**Chapter 305. Licenses for
Pari-mutuel Racing**

**Subchapter B. Individual Li-
censes**

General Provisions

• 16 TAC §305.37

The Texas Racing Commission adopts on an emergency basis an amendment to §305.37, concerning restrictions on licensing. The amendment clarifies the limitations on multiple licenses. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that pari-mutuel racing currently being conducted is of the highest integrity and free from conflict of interest.

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

§305.37. Restriction on Licensing.

(a) (No change.)

(b) An individual licensed as a jockey or [,] apprentice jockey [, or farrier] may not be licensed in another capacity.

(c)-(e) (No change.)

[(f) A veterinarian licensed by the commission may also be licensed as an owner of a race animal, provided that the veterinarian does not practice veterinary medicine on an association's grounds where his or her race animal is registered to race.]

Issued in Austin, Texas, on July 12, 1991.

TRD-9108397 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 12, 1991

Expiration date: October 10, 1991

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

**Chapter 309. Operation of
Racetracks**

**Subchapter A. General Provi-
sions**

Facilities and Equipment

• 16 TAC §309.15

The Texas Racing Commission adopts on an emergency basis an amendment to §309.15, concerning restrooms. The amendment clarifies the requirements on an association regarding restroom facilities. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that all racetracks have the necessary facilities and to ensure the health and safety of the persons working at the racetrack.

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

§309.15. Restrooms. An association shall provide and maintain [adequate] restroom facilities which are adequate in number, design, construction, and location for all persons on association grounds [the patrons].

Issued in Austin, Texas, on July 12, 1991.

TRD-91008396 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 12, 1991

Expiration date: October 10, 1991

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

◆ ◆ ◆
**Chapter 313. Officials and
Rules of Horse Racing**

**Subchapter B. Entries, Declara-
tions, and Allowances**

Entries

• 16 TAC §313.107

The Texas Racing Commission adopts on an emergency basis an amendment to §313.107, concerning draw for post position. The amendment clarifies the time in which a trainer must designate the jockey for that race. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that the rules for pari-mutuel racing are in place for pari-mutuel racing currently being conducted.

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

§313.107. Draw for Post Position.

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

(c) No later than scratch time [the time a horse is drawn into a race], the owner or trainer of the horse shall designate the jockey who will ride the horse in the race.

Issued in Austin, Texas, on July 12, 1991.

TRD-9108393 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 12, 1991

Expiration date: October 10, 1991

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

◆ ◆ ◆
**Subchapter D. Running of the
Race**

Jockeys

• 16 TAC §313.408

The Texas Racing Commission adopts on an emergency basis an amendment to §313.408, concerning jockey agents. The amendment clarifies the requirements on a jockey agent. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that the rules of pari-mutuel racing are in place for racing currently being conducted.

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

§313.408. Jockey Agents.

(a) At a given time, a jockey agent may represent not more than two jockeys and one apprentice jockey. A jockey agent shall maintain a record of all engagements for each jockey the agent represents and make the records available for examination by the stewards at any time. The record must specify first or [,] second [, or third] calls for each race.

(b) The stewards or racing secretary shall require a jockey agent to file first or [,] second [, or third] calls with the racing secretary and may require the agent to display the record of engagements.

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

Issued in Austin, Texas, on July 12, 1991.

TRD-9108392 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 12, 1991

Expiration date: October 10, 1991

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

Chapter 319. Veterinary Practices and Drug Testing

Subchapter D. Drug Testing Testing Procedures

• 16 TAC §319.332

The Texas Racing Commission adopts on an emergency basis an amendment to §319.332, concerning procedures for obtaining specimens. The amendment clarifies the procedure for obtaining specimens. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that all trainers are aware of their rights regarding drug testing of animals.

The amendment is adopted under Texas Civil Statutes, Article 179e, §14.03, which allow the commission to adopt rules prohibiting the illegal influencing of the outcome of a race, including, but not limited to, the use of medication, stimulants, or depressants to attempt to or to influence illegally the outcome of a race.

§319.332. Procedure for Obtaining Specimens.

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

(c) The owner, trainer, or kennel owner of a race animal being tested or a designee of the owner, trainer, or kennel owner shall witness or acknowledge the taking of the specimen and shall sign the tag for the specimen. Failure or refusal to

be present and witness the collection of the samples or to sign the specimen tag constitutes a waiver by the owner, trainer, or kennel owner of any objections to the source, collection procedures, and documentation of the specimen. A person signing a specimen tag under this section must be at least 18 years of age and be licensed by the commission.

Issued in Austin, Texas, on July 12, 1991.

TRD-9108395 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 12, 1991

Expiration date: October 10, 1991

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

Chapter 321. Pari-Mutuel Wagering

Subchapter B. Distribution of Pari-Mutuel Pools

• 16 TAC §321.111

The Texas Racing Commission adopts on an emergency basis an amendment to §321.111, concerning twin trifecta. The amendment clarifies the information that is disclosed during the twin trifecta. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure that pari-mutuel wagering is conducted with the utmost integrity.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act; and §11.01 which authorizes the commission to adopt rules to regulate pari-mutuel wagering.

§321.111. Twin Trifecta.

(a)-(p) (No change.)

(q) A person may not disclose the number of tickets sold in the twin trifecta or the number or amount of winning tickets eligible for exchange for the second race of the twin trifecta until after the results of the second race of the twin trifecta are official. The totalisator equipment shall be programmed or constructed to suppress the publication or printing of any such information, except the total number of dollars wagered in the twin trifecta, until after the results of the second race of the twin trifecta are official.

Issued in Austin, Texas, on July 12, 1991.

TRD-9108394 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 12, 1991

Expiration date: October 10, 1991

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

State Board of Insurance Exempt Filing

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

The State Board of Insurance has adopted on an emergency basis, amendments to the Texas Workers' Compensation and Employers Liability Insurance Unit Statistical Plan. The board has approved new codes and definitions for the reporting of losses occurring on or after January 1, 1991, by companies writing workers' compensation and employers liability insurance in the State of Texas. These amendments are revisions to Part IV, Injury Type Code and Benefit Code; Part V, Correction Reports and Classification Code; and Part VIII, Injury Code, Benefit code and Definition of Benefit Type. These amendments are to be effective on an emergency basis, on July 11, 1991, as required by the Texas Insurance Code, Article 5.96(i). These amendments to the Texas Unit Statistical Plan are required as set forth in the Insurance Code, Article 5.58, under Senate Bill 1, approved by the 71st Legislature of Texas.

This notification is made pursuant to the Texas Insurance Code, Article 5.96, which exempts it from the Administrative Procedure and Texas Register Act.

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

TRD-9108281 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: July 11, 1991

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

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

The State Board of Insurance has adopted on an emergency basis, the Texas Workers' Compensation Detailed Claim Information Statistical Plan. The board has approved the Texas Workers' Compensation Detailed Claim Information Statistical Plan for the reporting of specific information on all workers compensation claims with total incurred benefits of \$5,000 or more, including medical only claims, as of six months after the date the claim has been reported to the

insurer. Participation in the plan is required of all insurers or other entities authorized to write workers compensation in the State of Texas. This adoption is to be effective on an emergency basis, on July 11, 1991, as provided in the Texas Insurance Code, Article 5.96(i). Adoption of the plan is necessary to develop and maintain a database for research and cost containment efforts of the Texas Workers Compensation Research Center and the Texas Workers Compensation Commission, in accordance with Senate Bill 1 of the 71st Texas Legislature.

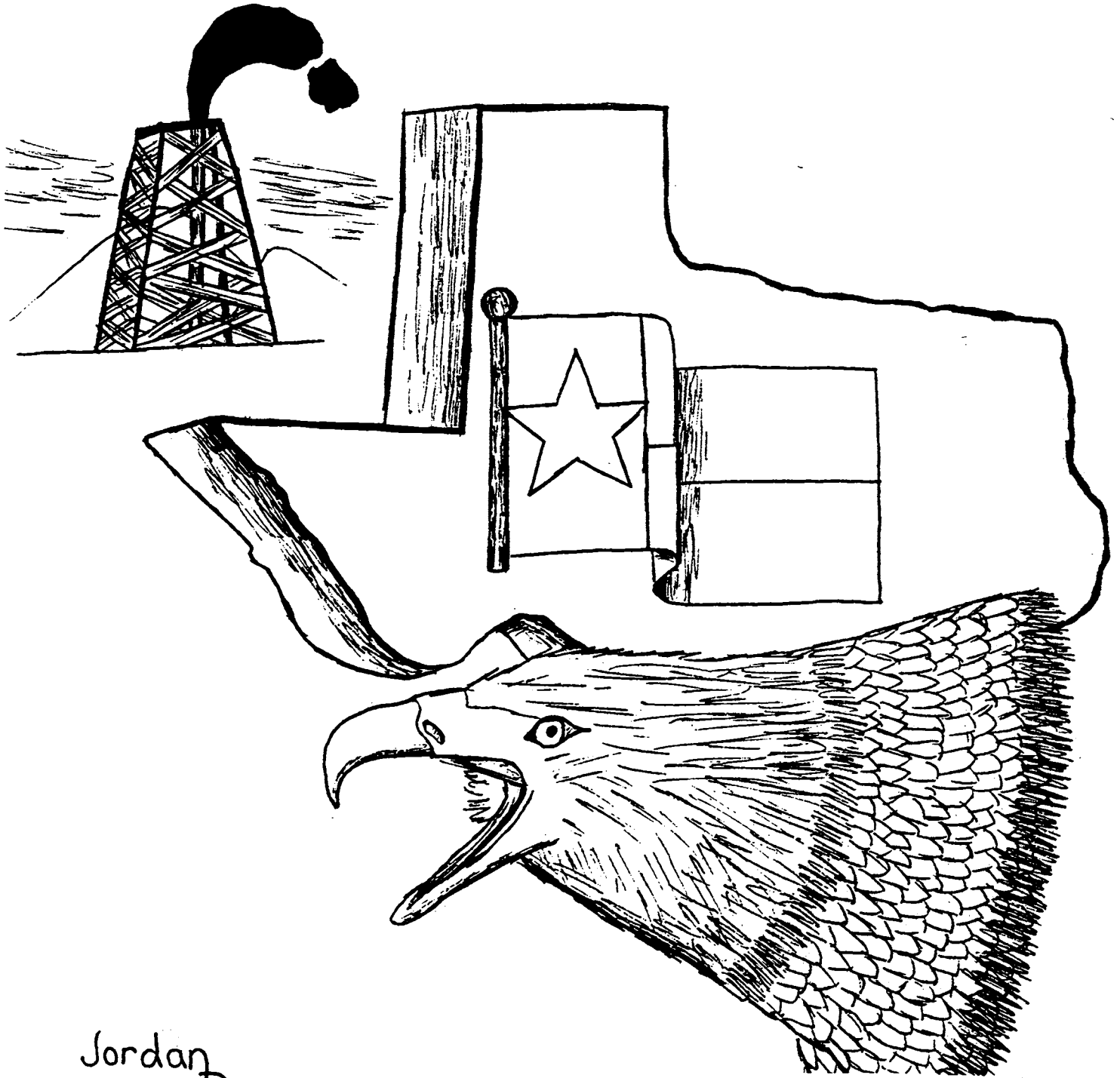
This notification is made pursuant to the Texas Insurance Code, Article 5.96, which exempts it from the Administrative Procedure and Texas Register Act.

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

TRD-9108282 Nicholas Murphy
Chief Clerk
State Board of Insurance

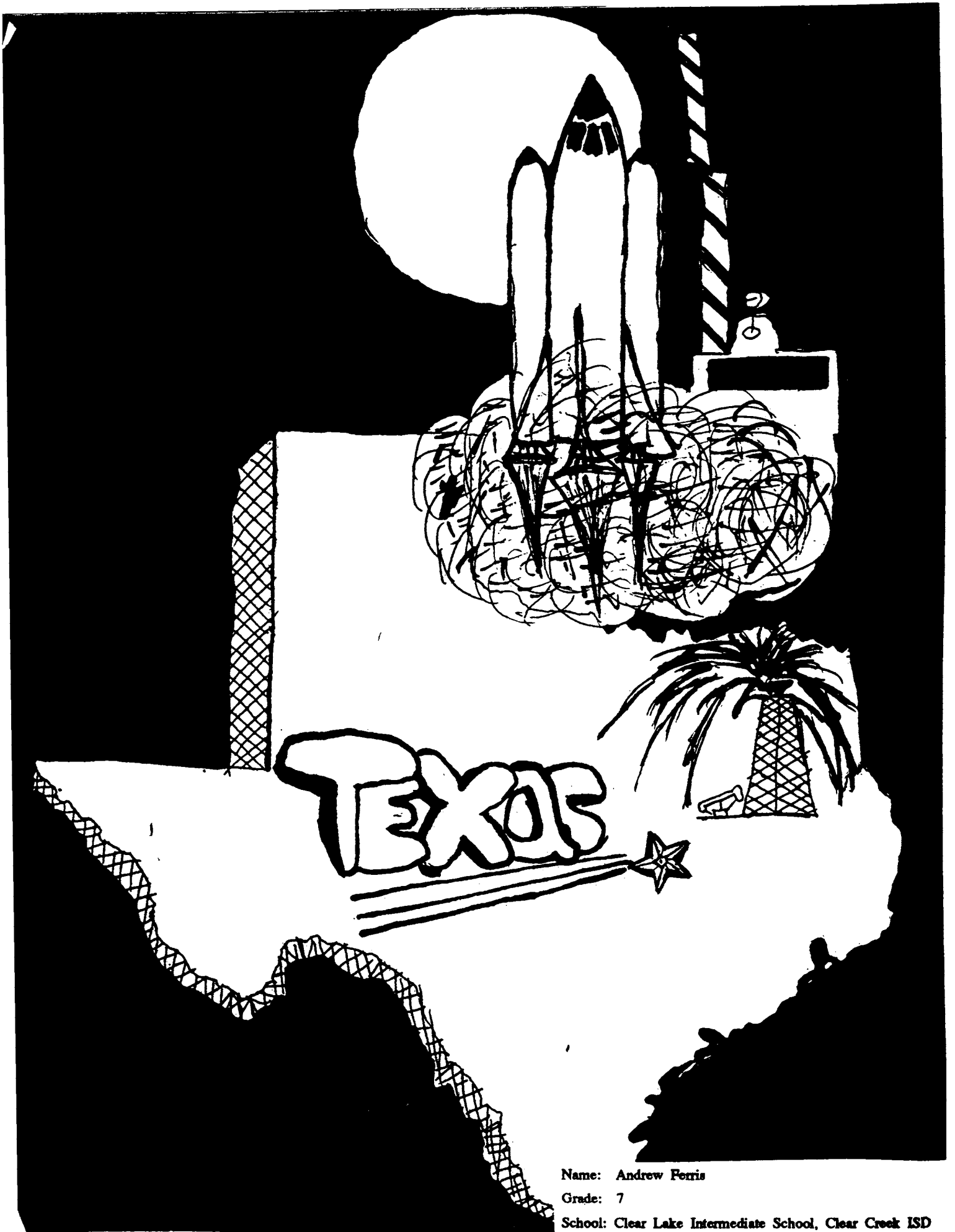
Filed: July 11, 1991

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



Jordan
Bean /90

Name: Jordon Bean
Grade: 7
School: Clear Lake Intermediate School, Clear Creek ISD



Name: Andrew Ferris

Grade: 7

School: Clear Lake Intermediate School, Clear Creek 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 16. ECONOMIC REGULATION

Part VI. Texas Motor Vehicle Commission

Chapter 107. Warranty Performance Obligations

- 16 TAC §§107.2, 107.6, 107.8, 107.9, 107.10, 107.11

The Texas Motor Vehicle Commission proposes amendments to §§107.2, 107.6, 107.8, and new §§107.9, 107.10, and 107.11, concerning a comprehensive revision of the commission's rules pertaining to the implementation and enforcement of warranty performance obligations of manufacturers, distributors, and converters, required by legislative amendments to the lemon law during the 72nd Legislature.

Changes in §107.2(e) provide that the filing fee for a lemon law complaint has been increased to \$75 and that the fee must be received with the complaint in order to trigger an important processing period.

New paragraph (11) under §107.6 sets forth the requirement that consumer complaints be processed expeditiously so that a proposal for decision will issue within 150 days of the filing of the complaint. If the 150-day period is not met, commission staff are required to notify the parties of complainant's right to file a civil action to enforce his rights under the lemon law.

An important change in §107.8(1) provides that a defect or nonconformity in a vehicle that could be the basis of a repurchase order must substantially impair the use or market value of the vehicle, instead of the use and market value as was previously required. New subparagraphs (A) and (B) under paragraph (1) provide that in cases involving defects that create a serious safety hazard, complainants are required to give manufacturers a lesser number of repair attempts in meeting the presumption that a manufacturer has had a reasonable opportunity to repair the defect. It also provides several examples of defects that create a serious safety hazard in accordance with the statutory definition.

Section 107.8(6) incorporates the legislative change providing that in a repurchase situation, a dealer shall be required to reimburse for items or options which he added only if such items or options contributed to the defect that was the basis of the repurchase order.

New §107.9 sets forth specific types of expenses that are to be reimbursed to a complainant if he can prove that they were

incurred due to the defective vehicle upon which his lemon law complaint is based. The current §107.9 relating to compliance is being repealed to renumber the section as §107.10, which provides that manufacturers, distributors, converters, and dealers who are directed to perform certain actions pursuant to a commission order are required to comply. The section also includes the possible sanctions available to the commission when non-compliance occurs.

New §107.11 requires the executive director, who was given final decision-making authority in lemon law cases, to inform the commission of the progress and implementation of the lemon law.

The amendment to §107.8(4) relating to instances in which the general formula for determining a reasonable allowance for use may be disregarded is proposed by the commission in response to a legal challenge of the reasonable allowance for use section. The amendment is intended to provide clarification of situations in which a different formula for calculating the reasonable allowance for use would be appropriate.

Russell Harding, executive director, 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.

Pursuant to Senate Bill 612, Chapter 845, Mr. Harding has determined that for each year of the first five years the sections are in effect, there will be no impact on local employment.

Mr. Harding 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 greater protection afforded complainants by the legislature's expanded coverage of the lemon law and the more expeditious processing of complaints and rendering of decisions in lemon law cases. There will be no effect on small businesses, other than the requirement of becoming familiar with the amended sections in order to insure compliance. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal should be submitted in writing by August 19, 1991, to Ruth Casarez, Assistant Director-Consumer Affairs, Texas Motor Vehicle Commission, Post Office Box 2293, Austin, Texas 78768-2293.

The amendments and new sections are proposed under Texas Civil Statutes, Article 4413(36), §6.07(e), which provide that the commission shall adopt rules for the enforcement and implementation of the Texas Motor Vehicle Commission Code, §6.07.

§107.2. Filing of Complaints.

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

(e) The lemon law complaint filing fee of \$75 [\$35] must be remitted with the complaint by check or money order payable to the Texas Motor Vehicle Commission. The filing fee is nonrefundable, but a complainant who prevails in a lemon law case is entitled to reimbursement of the amount of the filing fee. Failure to remit the filing fee with the complaint will result in delaying the commencement of the 150-day requirement provided in §107.6(11) of this title (relating to Hearings) [a delay in the processing of the complaint].

§107.6. Hearings. Complaints which satisfy the jurisdictional requirements of the Texas Motor Vehicle Code, §6.07, will be set for hearing and notification of the date, time, and place the hearing will be given to all parties by certified mail.

(1)-(10) (No change.)

(11) All hearings will be conducted expeditiously. However, if a commission hearings officer has not issued a proposal for decision within 150 days after the complaint and filing fee were received, commission staff shall notify the parties that complainant has a right to file a civil action in state district court to pursue his rights under the lemon law. The 150-day period shall be extended upon request of the complainant or if a delay in the proceeding is caused by the complainant. The notice of a complainant's right to file a civil action will be sent to the complainant by certified mail, and by regular mail to other interested parties. The notice will inform complainant of his right to continue his lemon law complaint through the commission if he chooses, in which event he will be required to notify commission staff of his election.

§107.8. Decisions. Any decisions by the commission and recommended decision by a hearing officer shall give effect to the presumptions provided in the Texas Motor Vehicle Commission Code, §6.07(d), where applicable.

(1) If it is found that the manufacturer, [or] distributor, or converter is not able to conform the vehicle to an appli-

cable express warranty by repairing or correcting a defect in the complainant's vehicle which substantially impairs the use or [and] market value of the vehicle after a reasonable number of attempts, and that the affirmative defenses provided under the Texas Motor Vehicle Commission Code, §6.07, are not applicable, the commission shall order the manufacturer, [or] distributor, or converter to replace the vehicle with a comparable vehicle, or accept the return of the vehicle from the owner and refund to the owner the full purchase price of the vehicle, less a reasonable allowance for the owner's use of the vehicle.

(A) In a complaint involving a defect or condition that creates a serious safety hazard in the vehicle, an owner shall be deemed to have given the manufacturer, distributor, or converter a reasonable number of attempts to repair the vehicle if he reported and allowed an opportunity to repair the defect or condition at least once during the period of 12 months or 12,000 miles, whichever occurs first, immediately following the date of delivery and at least once more in the period of 12 months or 12,000 miles, whichever occurs first, following the first repair attempt.

(B) A defect or condition that creates a serious safety hazard may include, but is not limited to, the following:

(i) a defect or condition that adversely affects the vehicle's capability to stop, to steer, or to maintain velocity;

(ii) a defect or condition that causes or could cause a fire or explosion in the vehicle;

(iii) a defect or condition that causes or could cause the vehicle to stop unexpectedly while being driven.

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

(4) Except in cases [involving unusual and extenuating circumstances,

supported by a preponderance of clear and convincing evidence,] where clear and convincing evidence shows that the vehicle has a longer or shorter expected useful life than 100,000 miles, the [a] reasonable allowance for the owner's use of the vehicle shall be that amount obtained by adding the following:

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

(5) (No change.)

(6) In any award in favor of a complainant, the executive director [commission] may require the dealer involved to reimburse the complainant, manufacturer, distributor, or converter [owner, lessor, lessee, lienholder, manufacturer, converter, or distributor] for the cost of any [accessories, equipment, or extended service policies sold by the dealer and which were not included in the original price of the vehicle as delivered to the dealer by the manufacturer] items or options added to the vehicle but only to the extent that one or more of such items or options contributed to the defect that served as the basis for the order or repurchase or replacement.

(7)-(9) (No change.)

§107.9. Incidental Expenses.

(a) When a refund of the purchase price of a vehicle is ordered, the complainant shall be reimbursed for certain incidental expenses incurred by the complainant in connection with owning the defective vehicle. The expenses must be verifiable through receipts or similar written documents. Reimbursable incidental expenses include, but are not limited to:

(1) reasonable cost of alternate transportation;

(2) charges for towing;

(3) costs of telephone calls or mail charges directly attributable to contacting the manufacturer, distributor, converter, or dealer regarding the vehicle; and

(4) reasonable costs of meals and lodging necessitated by the vehicle's failure during out-of-town trips and incurred while vehicle was being repaired.

(b) Only reasonable incidental expenses shall be reimbursed to a complainant. Incidental expenses shall be included in the final repurchase price required to be paid by a manufacturer, distributor, or converter to a prevailing complainant or in the case of a vehicle replacement, shall be tendered to the complainant at the time of replacement.

§107.10. Compliance. Compliance with the commission's order will be monitored by the commission.

(1) A complainant is not bound by the commission's decision and order and may either accept or reject the decision.

(2) If a complainant does not accept the commission's final decision, the proceeding before the commission will be deemed concluded and the complaint file closed.

(3) If the complainant accepts the commission's decision, then the manufacturer, distributor, or converter and the dealer to the extent of the dealer's responsibility, if any, shall immediately take such action as is necessary to implement the commission's decision and order.

(4) If complainant's vehicle is replaced or repurchased pursuant to a commission order, the manufacturer, distributor, or converter shall, through its representative dealer, issue a disclosure statement in the format of Attachment 1, which must accompany the vehicle through the first retail purchase after the commission order. In addition, the manufacturer, distributor, or converter must repair the defect or condition in the vehicle that resulted in the repurchase and issue a new basic (12 months/12,000 mile) warranty, which will be provided to the first retail purchaser of the vehicle following the commission order.

DISCLOSURE STATEMENT

THIS VEHICLE, MAKE _____, MODEL _____, YEAR _____
VIN # _____, MILEAGE _____

TO: PROSPECTIVE RETAIL PURCHASER(S)

PURSUANT TO SECTION 6.07(j) OF THE TEXAS LEMON LAW YOU ARE HEREBY NOTIFIED THAT THE ABOVE DESCRIBED VEHICLE WAS REPURCHASED/REPLACED BY THE UNDERSIGNED MANUFACTURER/DISTRIBUTOR/CONVERTER ON _____ DATE

BECAUSE _____ DESCRIBE REASON(S)

WHICH HAS/HAVE BEEN REPAIRED.

AS REQUIRED BY THE LEMON LAW, THE ORIGINAL BASIC WARRANTY ON THE VEHICLE IS EXTENDED 12 MONTHS/12,000 MILES, WHICHEVER COMES FIRST, FROM THE DATE AND MILEAGE AT THE TIME OF DELIVERY TO THE RETAIL BUYER. FOR MORE INFORMATION CONCERNING THE REPURCHASE/REPLACEMENT OF THIS VEHICLE, PLEASE CALL THE TEXAS MOTOR VEHICLE COMMISSION AT 1-800-622-8682.

SIGNATURE OF REPRESENTATIVE OF MANUFACTURER/DISTRIBUTOR/CONVERTER DATE

PRINTED NAME OF REPRESENTATIVE, TITLE & COMPANY

THE UNDERSIGNED DEALER CERTIFIES THAT A COPY OF THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED TO THE PURCHASER OF THIS VEHICLE.

SIGNATURE OF DEALER REPRESENTATIVE, TITLE DATE

NAME OF DEALERSHIP/COMPANY

I ACKNOWLEDGE THAT I WAS INFORMED OF THE PREVIOUS REPURCHASE OF THIS VEHICLE UNDER THE LEMON LAW AND THAT A COPY OF THIS DISCLOSURE STATEMENT WAS GIVEN TO ME AT THE TIME OF PURCHASE.

ACKNOWLEDGEMENT OF RETAIL BUYER DATE OF DELIVERY

(5) The failure of any manufacturer, distributor, converter, or dealer to comply with a decision and order of the commission within the time period prescribed in the order, may subject the manufacturer, distributor, converter, or dealer to formal action by the commission and the assessment of civil penalties or other sanctions prescribed by the Texas Motor Vehicle Commission Code for failure to comply with an order of the commission.

§107.11. Reports to Commission. The executive director shall inform the commission concerning the administration and enforcement of the lemon law. He shall provide monthly reports to the commission which include data about the number of complaints received, number of complaints resolved informally and formally, pursuant to written orders, number of vehicles ordered repurchased, and any other information that may be requested by the commission.

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

Issued in Austin, Texas, on July 15, 1991.

TRD-9108421 Ruth Casarez
Assistant Director-
Consumer Affairs
Texas Motor Vehicle
Commission

Earliest possible date of adoption: August 19, 1991

For further information, please call: (512) 476-3618

◆ ◆ ◆
• 16 TAC §107.9

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

The Texas Motor Vehicle Commission proposes the repeal of §107.9, concerning compliance with commission orders in lemon law cases.

The repeal is proposed in conjunction with a separate proposal which is a comprehensive revision of the commission's lemon law rules to implement changes made by the 72nd Legislature. The section is repropoed as 16 TAC §107.10 in that proposal.

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

Mr. Harding also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal. There will be no effect on small businesses. There is no anticipated economic cost to per-

sons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted in writing to Ruth Casarez, Assistant Director-Consumer Affairs, Texas Motor Vehicle Commission, P.O. Box 2293, Austin, Texas 78768.

The repeal is proposed under Texas Civil Statutes, Article 4413(36), §6. 07(e), which provide the commission with the authority to adopt rules necessary and convenient to effectuate the provisions of the Texas Motor Vehicle Commission Code, §6.07.

◆ ◆ ◆
§107.9. Compliance.

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 July 15, 1991.

TRD-9108420 Ruth Casarez
Assistant Director-
Consumer Affairs
Texas Motor Vehicle
Commission

Earliest possible date of adoption: August 19, 1991

For further information, please call: (512) 476-3618

◆ ◆ ◆
Part VIII. Texas Racing Commission

Chapter 301. Definitions

◆ ◆ ◆
• 16 TAC §301.1

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

The Texas Racing Commission proposes an amendment to §301.1, concerning definitions. The amendment clarifies the definition of a patron.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that the rules of pari-mutuel wagering are in place for pari-mutuel racing currently being conducted. 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 before September 1, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for con-

ducting racing with wagering and for administering the Texas Racing Act.

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

Issued in Austin, Texas, on July 12, 1991.

TRD-9108408 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 19, 1991

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

◆ ◆ ◆
Chapter 305. Licenses for Pari-mutuel Racing

B. Individual Licenses

General Provisions

◆ ◆ ◆
• 16 TAC §305.37

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

The Texas Racing Commission proposes an amendment to §305.37, concerning restrictions on licensing. The amendment clarifies the limitations on multiple licenses.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel wagering currently being conducted is of the highest integrity and free from conflicts of interest. 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 before September 1, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act.

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

Issued in Austin, Texas, on July 12, 1991.

TRD-9108407 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 19, 1991

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

◆ ◆ ◆
Chapter 309. Operation of Racetracks

Subchapter A. General Provisions

Facilities and Equipment

• 16 TAC §309.15

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

The Texas Racing Commission proposes an amendment to §309.15, concerning restrooms. The amendment clarifies the duties of an association regarding restroom facilities.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that all racetracks have the necessary facilities and to ensure the health and safety of the persons working at the racetrack. The effect on small businesses will vary depending on the size, type, and attendance of the racetrack so they cannot be determined at this time. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before September 1, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Commission Act.

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

Issued in Austin, Texas, on July 12, 1991.

TRD-9108406 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 19, 1991

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

◆ ◆ ◆
Subchapter C. Greyhound Racetracks

Facilities and Equipment

• 16 TAC §309.303

The Texas Racing Commission proposes an amendment to §309.303, concerning race-track surface. The amendment clarifies the requirements for the approval and maintenance of a greyhound track surface.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing will be safe for race animals. 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 before September 1, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act.

§309.303. Track Surface.

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

(c) The surface must be approved by the commission before the first race and is subject to periodic inspections and verification by the commission. The executive secretary may require periodic reporting by an association regarding the track surface and may require the reports to contain any information considered by the executive secretary to be essential to evaluating the current status of the track surface.

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 July 12, 1991.

TRD-9108403 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 19, 1991

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

Operations

• 16 TAC §309.353

The Texas Racing Commission proposes an amendment to §309.353, concerning dismissal of kennel. The amendment clarifies the reasons for which a kennel contract may be dismissed from a greyhound racetrack.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing will be conducted with utmost integrity and with fairness to all licensees. 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 before September 1, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act.

§309.353. Dismissal of Kennel.

(a) An association may dismiss a kennel only:

- (1) on revocation by the commission of the kennel owner's license;
- (2) for repeated violations of the Act or a rule of the commission; [or]
- (3) for poor performance, as provided by subsection (b) of this section; or.]
- (4) for failure to maintain an adequate number of greyhounds on the active list, as provided by subsection (c) of this section.

(b) A contract between an association and a kennel owner must include language providing for the [provide a] uniform dismissal of kennels in accordance with this section [clause]. The contract [clause] must state that:

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

(c) The contract must state that the kennel owner is required to maintain on the active list a number of greyhounds in accordance with the following formula:

Subchapter C. Greyhound Racetracks

Operations

• 16 TAC §309.355

The Texas Racing Commission proposes an amendment to §309.355, concerning the grading system. The amendment clarifies the system by which greyhounds are graded.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing will be conducted with utmost integrity and with fairness to all licensees. 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 before September 1, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act.

§309.355. Grading System.

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

(c) The racing secretary shall use seven grades of AA, A, B, C, J, D, and M. Grade M is for maidens and Grade J is for winning maidens.

(d) The racing secretary shall lower a greyhound to the next lower grade, including lowering a Grade J to a Grade D, if the greyhound:

(1) (No change.)

(2) fails to finish in the top three positions [better than third] at least twice [once] in four consecutive starts; or

(3) fails, as a Grade J, to finish in the top four positions in four consecutive starts [fails to finish better than third at least twice in five consecutive starts].

(e) (No change.)

(f) The racing secretary shall advance a greyhound that wins a maiden race to Grade J. The racing secretary shall advance a greyhound that wins a Grade J race to Grade C. On request by a kennel owner or trainer, the racing secretary may advance a greyhound that finishes second, third, or fourth in a maiden or a Grade J race to Grade C. For a greyhound regarded on request under this subsection, an association shall place the letter "M" or "J" after the greyhound's name in the racing program.

(g) An association shall drop a greyhound from further racing at that race meeting if the greyhound fails to finish in the top four positions in four consecutive starts in Grade D. At the discretion of the racing secretary, a greyhound dropped from racing at Grade D may be requalified after a period of 30 days.

(h) A greyhound that falls in a race is considered a starter in that race and shall [may] be lowered a grade, unless lowering the greyhound would require the greyhound to be dropped from further racing in that race meeting.

(i)-(j) (No change.)

(k) During a greyhound's first three starts, the racing secretary may regrade the greyhound only once and only to a next higher or lower grade level.

(l)-(o) (No change.)

(p) If a maiden fails to finish in the top four [three] positions in six consecutive starts, the maiden may not race again at the race meeting until it requalifies. If the maiden fails to finish in the top four [three] positions in the two starts after requalifying, the maiden may not race again at the race meeting.

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 July 12, 1991.

TRD-9108401 Paula Cochran Carter General Counsel Texas Racing Commission

Earliest possible date of adoption: August 19, 1991

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

For purposes of this formula:

(1) A = average number of races per week;

(2) B = number of greyhounds per race;

(3) C = 1.8 (average starts per greyhound per week); and

(4) D = number of kennels.

(d) The contract must state that:

(1) the association may place a kennel on probation by written notice if the kennel owner fails to maintain the required number of greyhounds continuously on the active list for a period of 30 consecutive days; and

(2) the association may dismiss a kennel on probation if the kennel owner fails to increase the number of greyhounds on the active list to equal or exceed the required number before the 60th day after the date the kennel owner was notified of the probation; and

(3) the association may dismiss a kennel if the kennel owner is placed on probation under this subsection twice in one year.

(e)[(c)] A kennel owner may apply to the commission for an exemption from the operation of the uniform dismissal language of the kennel contract [clause]. The kennel owner must demonstrate to the commission that the kennel's failure to perform as required by the contract was due to a force majeure.

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 July 12, 1991.

TRD-9108402 Paula Cochran Carter General Counsel Texas Racing Commission

Earliest possible date of adoption: August 19, 1991

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



Chapter 313. Officials and Rules of Horse Racing

Subchapter B. Entries, Declarations, and Allowances

Entries

• 16 TAC §313.107

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

The Texas Racing Commission proposes an amendment to §313.107, concerning draw for post position. The amendment clarifies the time in which a trainer must designate the jockey for that race.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that the rules for pari-mutuel racing are in place for pari-mutuel racing currently being conducted. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before September 1, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Register Act.

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

Issued in Austin, Texas, on July 12, 1991.

TRD-9108400 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 19, 1991

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

Subchapter D. Running of the Race

Jockeys

• 16 TAC §313.408

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

section is in the Emergency Rules section of this issue.)

The Texas Racing Commission proposes an amendment to §313.408, concerning jockey agents. The amendment clarifies the requirements on a jockey agent.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that the rules of pari-mutuel wagering are in place for racing currently being conducted. 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 before September 1, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act.

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

Issued in Austin, Texas, on July 12, 1991.

TRD-9108399 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 19, 1991

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

Chapter 319. Veterinary Practices and Drug Testing

Subchapter D. Drug Testing Testing Procedures

• 16 TAC §319.332

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

The Texas Racing Commission proposes an amendment to §319.332, concerning procedures for obtaining specimens. The amendment clarifies the procedure for obtaining specimens from race animals.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing currently being conducted is of the highest integrity. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before September 1, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act.

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

Issued in Austin, Texas, on July 12, 1991.

TRD-9108405 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 19, 1991

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

Chapter 321. Pari-Mutuel Wagering

Subchapter B. Distribution of Pari-Mutuel Pools

• 16 TAC §321.111

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

The Texas Racing Commission proposes an amendment to §321.111, concerning twin trifecta. The amendment clarifies the information that is disclosed during the twin trifecta.

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

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel wagering is conducted with the utmost integrity. There may be fiscal implications on small businesses related to reprogramming totalisator equipment, but should be minimal because the particular computer restrictions are already required for another type of pari-mutuel pool. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before September 1, 1991, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §11.01 which authorizes the commission to adopt rules to regulate pari-mutuel wagering.

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 July 12, 1991.

TRD-9108404 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 19, 1991

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part V. General Land Office

Chapter 1. Executive Administration

Fee Schedule

• 31 TAC §1.91

The General Land Office proposes an amendment to §1.91, concerning fees. The amendment changes the fee schedule for certificates of facts. It also provides for alternative formats for certificates of facts. A new, abbreviated format, as defined in the rule, will be available in addition to the traditional narrative format. It is felt that this change will allow a more timely response to requests and provide a cost reduction where a narrative certificate is not needed.

Mr. Spencer Reid, deputy commissioner of the Asset Management Division, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section is in effect will be an estimated reduction in cost of \$17,148 for fiscal years 1992-1996. There will be no fiscal effect on local government.

Mr. Reid also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be improved response time of seven days or less. The effect on small businesses is negligible. The anticipated economic cost to persons who are required to comply with the section as proposed is negligible, if any. It is anticipated that a more efficient operation will save persons and small businesses time and money.

Comments on the proposal may be submitted to Spencer Reid, Deputy Commissioner, Asset Management Division, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The amendment is proposed under the Natural Resources Code, §31.051, which authorizes the commissioner of the General Land Office to make and enforce rules consistent with the law; and §31.064, which instructs the commissioner to determine, set, and collect reasonable fees.

§1.91. Fees. The commissioner is authorized and required to collect the following fees where applicable.

(1) (No change.)

(2) Certificates of facts: certificates of facts, consisting of original award date, patent, deeds of acquittance, classification, and current mineral lease information:

(A) submerged land and upland tracts classified as "dry grazing"- \$75 [one file-\$50];

(B) other upland tracts- \$100 [each additional file-\$10];

(C) (No change.)

(D) narrative certificates of facts-additional charge of \$20/hour for preparation of each certificate.

(3)-(14) (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 July 11, 1991.

TRD-9108309 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption: August 19, 1991

For further information, please call: (512) 463-5235

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter L. Motor Fuels Tax

• 34 TAC §3.175

The Comptroller of Public Accounts proposes an amendment to §3.175, concerning liquefied gas tax decal. The amendment exempts

public school districts and counties in this state from the liquefied gas tax. Public school districts and counties are exempt from prepaying the tax and obtaining a decal for each vehicle powered by liquefied gas.

Senate Bill 417, adopted in the 71st Legislature, 1989, exempts public school districts from the liquefied gas tax. House Bill 1111, adopted in the 72nd Legislature, 1991, exempts counties from the liquefied gas tax.

Both Senate Bill 417 and House Bill 1111 made the exemption of liquefied gas tax effective September 1, 1991. This proposed amendment carries the same effective date.

Tom Plaut, chief revenue estimator, has determined that for the first five-year period the section is in effect there will be no significant revenue impact on the state or local government. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses.

Dr. Plaut 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 in providing new information regarding tax responsibilities. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Lucy Glover, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.175. Liquefied Gas Tax Decal.

(a) Use of decal. A person operating a motor vehicle that is required to be licensed in Texas for use on the public highways of Texas and [that] is powered by natural gas, methane, ethane, propane, butane, or a mixture of those gases, including a motor vehicle equipped to use liquefied gas interchangeably with another motor fuel, must:

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

(b) (No change.)

(c) Exceptions.

(1) The liquefied gas tax does not apply to sales to public school districts and counties in this state.

(2) A Public school district or a county in this state operating a motor vehicle powered by liquefied gas is not required to prepay the liquefied gas tax and obtain a decal for the motor vehicle.

(d)[(c)] Rate schedule.

(1) The following rate schedule (based on mileage driven the previous year) applies:

<u>Registered Gross Weight</u>	<u>Less Than 5,000 Miles</u>	<u>5,000 to 9,999 Miles</u>	<u>10,000 to 14,999 Miles</u>	<u>15,000 Miles and Over</u>
Class A: Less than 4,000 pounds	\$ 30	\$ 60	\$ 90	\$120
Class B: 4,000 to 10,000 pounds	42	84	126	168
Class C: 10,001 to 15,000 pounds	48	96	144	192
Class D: 15,001 to 27,500 pounds	84	168	252	336
Class E: 27,501 to 43,500 pounds	126	252	378	504
Class F: 43,501 and over	186	372	558	744

(2) A special use liquefied gas tax decal and tax is required for the following types of vehicles described as follows. Class T: Transit carrier vehicles operated by a transit company, \$444.

(e)(d) New or newly converted vehicles. A liquefied gas tax decal for a Class A-F motor vehicle initially issued is on the basis of estimated miles that will be driven during the one-year period following the date the decal is issued:

(1) affix the decal to the inside, lower right corner of the windshield (passenger side) of the vehicle; and

(2) remove any invalid liquefied gas tax decal before installing a new decal or transferring ownership of the motor vehicle.

(f)(e) Special use vehicles. Vehicles required to be licensed for highway use but whose main purpose, design, and use is off the highway, may renew a liquefied gas decal for a rate less than the mileage indicated on the odometer if a record or log indicating the miles traveled on the highway by the vehicle is maintained and attached to the renewal application.

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 July 12, 1991.

TRD-9108326
 Martin Cherry
 Chief, General Law
 Section
 Comptroller of Public
 Accounts

Earliest possible date of adoption: August 19, 1991

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



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 24. Reimbursement Methodology for Medical Assistance Programs

Subchapter F. Dispute Resolution

• 40 TAC §24.601

The Texas Department of Human Services (DHS) proposes an amendment to §24.601, concerning reviews and administrative hearings. The purpose of the amendment is to revise an outdated DHS mail code.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that providers will have the correct address for sending their written requests for a hearing. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Questions about the content of this proposal may be directed to Kathy Hall at (512) 450-3702, in DHS's Provider Reimbursement Department. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-184, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

§24.601. Reviews and Administrative Hearings.

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

(d) Administrative hearings. If a provider disagrees with the result of an informal review, the provider may request a formal administrative hearing. The provider

must file a written request for a hearing with the Hearings Department [Hearing Division], Texas Department of Human Services, MC E-605 [113-E], P.O. Box 149030, Austin, Texas 78714-9030, within 15 days after receiving the review panel's decision. A provider may not request an administrative hearing before receiving DHS's written review decision as specified in subsection (c) of this section. The administrative hearing is limited to the issues that were considered in the informal review process. DHS conducts administrative hearings according to the provisions of §§79.1605-79.1614 of this title (relating to Request for a Hearing; Effective Dates of Adverse Actions; Administrative Law Judge; Hearing Guidelines; Withdrawal of Hearing Request and Informal Disposition; Conduct of Hearings General Requirements; Prehearing Procedure; Evidence and Depositions; Deliberation; and Decisions). If there is a conflict between the applicable sections of Chapter 79 and the provisions of this chapter, the provisions of this chapter prevail.

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 July 12, 1991.

TRD-9108441
 Nancy Murphy
 Agency Liaison, Policy and
 Document Support
 Texas Department of
 Human Services

Proposed date of adoption: September 25, 1991

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

◆ ◆ ◆
Chapter 27. Intermediate Care Facility for the Mentally Retarded (ICFs-MR)

Subchapter D. Reimbursement Methodology

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

The Texas Department of Human Services (DHS) proposes the repeal of §27.415 and proposes new §27.415, concerning ICF-MR level of care VIII for persons with related conditions. DHS proposes the repeal and

new section to provide more detail concerning the rate determination for this experimental class. Also, DHS proposes the repeal and new section to make the rule comparable to the Health Care Financing Administration (HCFA) approved Medicaid state plan. New §27.415 delineates the assessment and review procedures for the program.

The proposal describes the ICF-MR/RC rate structure, which consists of a base rate and seven separate supplemental rates. The base rate is intended to reflect the standard costs of providing care and active treatment in a six-bed facility. The base rate is composed of the small facility ICF-MR V rate and estimated additional costs for devices such as personal computers that individuals need to carry on a conversation and make basic needs known. All Medicaid-eligible persons residing in an ICF-MR/RC facility will receive the base rate.

New §27.415 defines the specific criteria, based on the DHS 3652 series form, which are used to determine eligibility for supplemental payments up to a specified maximum rate. The supplemental payments target specific attributes of certain related conditions that require more facility space or equipment, additional staffing, or additional professional staff time.

New §27.415 also provides for reviews and appeals of DHS 3652 series forms. Staff from the Texas Department of Mental Health and Mental Retardation (TDMHMR) will conduct desk reviews and in-depth, on-site reviews of samples of DHS 3652 series forms. If a reviewer finds an error on a form, the reviewer will discuss the error with facility staff and make appropriate corrections. If the correction changes the funds due the ICF-MR/RC facility, DHS will adjust the provider payments. A provider who disagrees with a TDMHMR review must follow procedures for informal reviews and administrative hearings to resolve the differences.

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

Mr. Raiford also has determined that for each year of the first five years the repeal and new section are in effect the public benefit anticipated as a result of enforcing the repeal and new section will be the publication of a complete description of the rate setting methodology for ICF-MR/RC facilities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed repeal and new section.

Questions about the content of the proposal may be directed to Trey Berndt at (512) 450-3169 in DHS's Institutional Programs Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-172, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

• 40 TAC §27.415

The repeal is proposed under the Human Resources Code, Title 2, Chapters 22 and

32, which provides the department with the authority to administer public and medical assistance programs.

§27.415. ICF-MR/RC VIII Experimental Class.

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 July 12, 1991.

TRD-9108442

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

Proposed date of adoption: September 1, 1991

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

◆ ◆ ◆
• 40 TAC §27.415

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

§27.415. ICF-MR/RC VIII Experimental Class.

(a) ICF-MR/RC VIII facility class. The Texas Department of Human Services (DHS) defines as an experimental class community-based facilities that are certified as intermediate care facilities for the mentally retarded/related conditions (ICF-MR/RC VIII) and that have no more than six Medicaid-contracted beds. Cost reports from facilities in this experimental class will not be included in the cost arrays that are used to determine reimbursement rates for other classes of providers.

(1) Facilities in the ICF-MR/RC VIII class receive per diem rates based on pro forma budgets for operation of facilities in this class. DHS staff develop rates for this class of providers on a pro forma budget because of a lack of cost report information about the cost of client care by this class of provider. DHS staff develop pro forma budgets based on a base rate and supplemental amounts.

(2) The base rate is intended to capture the standard costs of providing care and active treatment in a comparable six-bed facility. The base rate is comprised of the small facility ICF-MR V rate and estimated additional costs for augmentative communication devices. Augmentative communication devices supplement or augment speech. These devices help an individual carry on a conversation and make basic needs known. These devices include, but are not limited to, personal computers, communication boards, speech synthesizers, and communication software packages. The base rate and supplemental payments were developed in close consultation with staff of

the Texas Department of Mental Health and Mental Retardation (TDMHMR) and other professionals experienced in direct service delivery and program monitoring.

(3) The supplemental amounts target specific client characteristics that are known to require additional facility space, equipment, staffing intensity, or professional staff time. Costs for additional facility space or equipment are derived from the median cost reported on the most recently submitted ICF-MR provider fiscal year cost reports. Additional staffing costs are estimated from the most recent ICF-MR wage and hour survey. Wage and hour information is collected at least annually in the ICF-MR provider fiscal year cost report. Wage and hour surveys other than those collected in the cost report may be used. As specified in §24.301 of this title (relating to Determination of Inflation Indices), costs from wage and hour surveys and cost reports are projected from the cost report or wage and hour survey base period to the rate period.

(b) ICF-MR/RC VIII rate determination. The Board of Human Services revises ICF-MR/RC VIII rates at least annually based on anticipated cost increases. The board continues to set rates for this class in this manner until enough Medicaid cost-report data become available to determine rates on the basis of cost reports. The base rate and supplemental rates are uniform statewide rates. Payment rates vary by clients, based on their eligibility for supplemental payments.

(c) Supplemental rate determination. In order to obtain a Level-of-Care VIII assignment, the ICF-MR/RC facility must complete DHS's level of care assessment form for every Medicaid client living in the facility. DHS reimbursement rates for the ICF-MR/RC program vary according to the assessed characteristics of each client. Each client is eligible for a base rate. The reimbursement rate for persons whose needs require a significantly greater than normal amount of care is composed of the base rate plus one or more supplemental payment rates. These supplemental payments are determined on an individual basis when criteria are met for selected items on DHS's level of care assessment form.

(1) The supplemental rate classification system. The ICF-MR/RC rate structure consists of a base rate and seven separate supplemental amounts. The base rate is based on the standard costs of providing care and active treatment in a six-bed facility. The supplemental amounts target specific characteristics of certain related conditions that are known to require more facility space or equipment, additional staffing time, or additional professional staff time.

(A) All Medicaid-eligible persons residing in an ICF-MR/RC facility

will receive the base rate. Persons who meet specific criteria based on DHS's level of care assessment form will be eligible for supplemental payments up to a specified maximum rate. The first supplemental payment will pay the cost of all additional services, space, or equipment. The second and successive supplemental payments will pay only for costs other than direct care costs since the necessary direct care costs have already been factored into the first supplemental payment.

(B) The seven supplemental rate classifications are based on the following criteria on DHS's level of care assessment form:

(i) Supplement 514 is applicable when Item 32 equals 5 or 6, and Item 33 equals 5.

(ii) Supplement 515 is applicable when Item 32 equals 5 or 6, and Item 33 equals 6, or Item 52 equals 8.

(iii) Supplement 516 is applicable when Item 37 equals 6.

(iv) Supplement 517 is applicable when Item 39 equals 6, and Item 40 equals 5 or 6 or 7.

(v) Supplement 518 is applicable when Item 82 equals 8 or 9, or Item 83 equals 7 or 8, or Item 85 equals 8 or 9, or Item 86 equals 8 or 9.

(vi) Supplement 519 is applicable when Item 83 equals 9.

(vii) Supplement 520 is applicable when Item 64 equals 3.

(2) Supplemental rate determination effective periods. The effective periods of supplemental rate classifications are as follows:

(A) A supplemental rate classification and associated per diem rate payment remain in effect until the individual's next required continued-stay review, unless one of the following events takes place:

(i) the individual is discharged and subsequently qualifies for a new admission assessment;

(ii) a provider submits an off-cycle assessment as specified in paragraph 3 of this subsection;

(iii) a provider submits an assessment requesting a change in level of care and the Texas Department of Health (TDH) approves it;

(iv) a provider submits an assessment requesting a change in supplemental rate status and the TDH approves it; or

(v) a TDMHMR reviewer revises DHS's level of care assessment and rate classification under the provisions of paragraph 4 of this subsection.

(3) Individual assessment. DHS's level of care assessment form is completed to determine ICF-MR/RC program eligibility. This assessment establishes the rate payment for which the individual is eligible. The continued stay review periods are determined as follows.

(A) The preadmission assessment establishes the rate for the individual and sets a continued stay review period.

(B) A continued stay review assessment establishes a new rate and continued stay review period for the individual.

(C) If an individual's characteristics change to the extent that he qualifies for a different rate category, the provider may submit an off-cycle assessment. Only two off-cycle assessments for any one individual may be submitted by the facility per year, one for the period from January through June, and one from July through December. An off-cycle assessment establishes a new rate classification only if the individual qualifies for a new supplemental rate category. The assessment sets a new continued stay review period.

(D) A DHS level of care assessment form may be submitted for the purpose of allowing a provider to correct errors previously made in the assessment portion of the forms. This does not change the continued stay review period or necessarily change the rate. Corrections must be submitted within 60 days from the date of assessment. Requests for changes after the 60 days will not be accepted. Submit a copy of the DHS level of care assessment form containing the error and a new corrected form to TDMHMR, Attention: ICF-MR Program Director, P.O. Box 12668, Austin, Texas, 78711.

(4) Individual assessment reviews.

(A) TDMHMR Staff conduct desk reviews and in-depth, on-site reviews of samples of DHS's level of care assessment form completed by providers for the ICF-MR/RC program. TDMHMR staff will, at their discretion, perform as many desk reviews and on-site reviews as needed to ensure the integrity of the ICF-MR/RC program.

(B) When a reviewer identifies an error or an inconsistency on an assessment form, the reviewer will discuss the error with facility staff, and make appropriate corrections. The reviewer will verbally inform the facility staff of any changes that he or she makes to DHS's level of care assessment form. The facility administrator will be notified of the changes by certified mail. If, as a result of the

change, there is a reduction in the amount of Medicaid funds due the ICF-MR/RC, DHS shall recoup the funds previously paid to the provider under the incorrect and/or erroneous DHS level of care assessment form. Similarly, if any change in DHS's level of care assessment form increases the amount of Medicaid funds due the ICF-MR/RC facility, DHS will pay the ICF-MR/RC facility the increase. The change and the associated per diem rate become effective with the "effective date" of DHS's level of care assessment form under review. This change is made when the reviewer determines that DHS's level of care assessment form is not substantiated and/or does not accurately reflect the recipient's status. Changes remain in effect until a new assessment is submitted as specified in subsection (c)(3) of this section.

(5) Informal reviews and administrative hearings. In order to resolve any differences, a provider who disagrees with the TDMHMR on-site reviews or adjustments must follow the procedures for informal reviews and administrative hearings set forth in this section. Only contracted providers are permitted to file for informal reviews and administrative hearings. Providers may be represented in these reviews and hearings by attorneys who are currently licensed to practice law in Texas.

(A) Informal reviews. A provider who does not agree with decisions regarding the assignment of a client into a particular supplemental payment rate category may request an informal review of the decision. The review is an informal meeting rather than a formal administrative hearing. Within 15 calendar days following notification of the decision, the provider must request a review by writing: Texas Department of Human Services, Attention ICF-MR Program Specialist, Mail Code W-519, P.O. Box 149030, Austin, Texas 78714-9030. A request for a review must be postmarked within 15 days of the notification of the decision. At the earliest possible date for all parties concerned, DHS will arrange for a review at which the provider may present information supporting his argument with the decisions in question. Staff members from DHS and TDMHMR will consider the provider's case and render a written decision within 30 days of the review by certified mail, return receipt requested. When necessary, DHS or the provider may request the services of an expert in a specific developmental disability to assist in the informal review.

(B) Administrative hearings. If a provider does not agree with the result of an informal review, the provider may request a formal administrative hearing. The provider must file a written request for a hearing with the Hearings Department, Texas Department of Human Services, Mail Code E-605, P.O. Box 149030, Austin,

Texas 78714-9030, within 30 days after receiving the review panel's decision. A provider may not request an administrative hearing before receiving DHS's written review decision as specified in subparagraph (A) of this paragraph. The administrative hearing is limited to the issues that were considered in the informal review process. DHS conducts administrative hearings according to the provisions of §§79.1605 through §79.1614 of this title (relating to Request for a Hearing, Effective Dates of

Adverse Actions, Administrative Law Judge, Hearing Guidelines, Withdrawal of Hearing Request and Informal Disposition, Conduct of Hearings—General Requirements, Prehearing Procedure, Evidence and Depositions, Deliberation, and Decisions). If there is a conflict between the applicable sections of Chapter 79 of this title (relating to Legal Services) and the provisions of this chapter, the provisions of this chapter will prevail.

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 July 12, 1991.

TRD-9108443

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

Proposed date of adoption: September 1, 1991

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

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Withdrawn Sections

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

TITLE 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

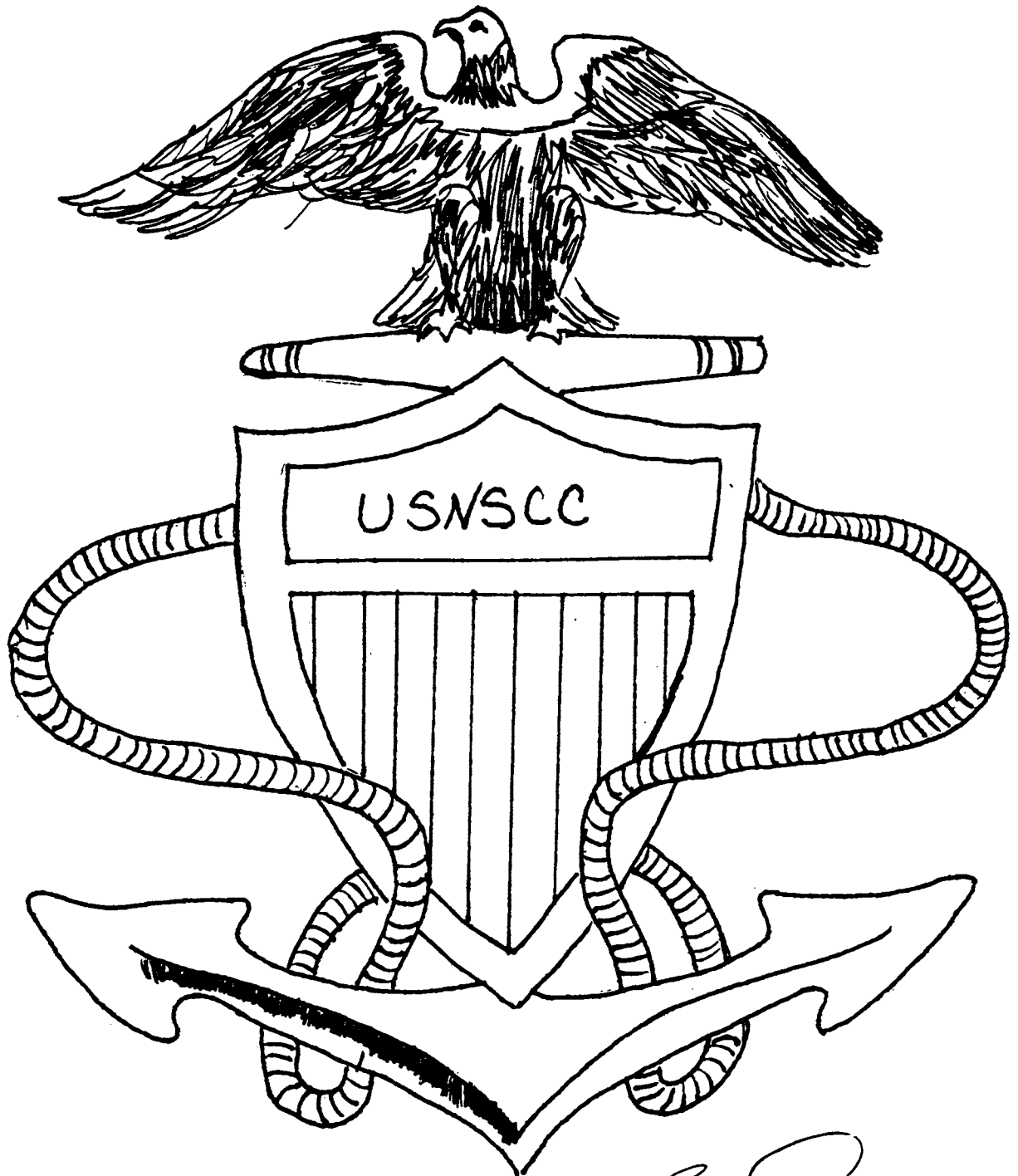
Chapter 183. Small Business Incubator Fund

- 10 TAC §§183.1-183.11

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed new §§183.1-183.11, submitted by the Texas Department of Commerce has been automatically withdrawn, effective July 9, 1991. The new §§183.1-183.11 as proposed appeared in the January 8, 1991, issue of the *Texas Register* (16 TexReg 81).

TRD-9108146





Name: James Guthrie

Grade: 9

School: Rockdale High School, Rockdale ISD

Adopted Sections

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

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

TITLE 1. ADMINISTRATION

Part XII. Advisory Commission on State Emergency Communications

Chapter 251. Regional Plans

• 1 TAC §251.2

The Advisory Commission on State Emergency Communications adopts new §251.2, concerning guidelines for regional plan amendments, with changes to the proposed text as published in the May 7, 1991, issue of the *Texas Register* (16 TexReg 2503).

Each amendment to a 9-1-1 regional plan has required staff and committee consideration, and then commission action. The process has been lengthy and costly in terms of time and travel costs each time amendment approval was necessary. The proposed guidelines help clarify and streamline the amendment process.

The new section will allow a council of government more latitude to make 9-1-1 implementation decisions in its region and allow for enhancements where technically and financially feasible. This also clarifies that the equalization surcharge fund may be used to implement both regional and district plans. The commission will continue to examine the financial impact on the 9-1-1 funds.

Comments made were favorable to the latitude given the councils of governments in their 9-1-1 implementation decision-making process. It was suggested that requests for county volunteer paging systems be considered on a case-by-case basis.

A group or association commenting in favor of adopting the section as proposed was the Freestone County Sheriff's Office.

The new section is adopted under the Health and Safety Code, §§771.056, 771.057, and 771.072, which provides the Advisory Commission of State Emergency Communications with the authority to develop and amend a regional plan for the establishment and operation of 9-1-1 service in accordance with commission standards and procedures. Also, money collected per §771.072 may be allocated to an emergency communications district regardless of their participation in the regional plan.

§251.2. Guidelines for Regional Plan Amendments.

(a) In adopting a goals and philosophy statement on the 9-1-1 regional

plan amendment process, the commission developed guidelines that will govern the amendment process. The guidelines clarify the process and allow more latitude by the councils of governments and the commission staff to make decisions regarding the implementation of 9-1-1 systems in their regions.

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

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

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

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

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

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

(2) Qualitative. Qualitative changes are those changes that change the nature of the service being provided. This category would include changes such as an increase in the number of PSAP locations and the rearrangement of trunking to serve them. The addition of ALI in a PSAP would also fall in this category. A change from direct trunking to selective routing would also fall in this category. Qualitative changes would also include the expansion of facilities approved for one PSAP to other PSAPs. For example, if a printer had been approved for one of three PSAPs in a plan, the provision of printers for the other two PSAPs would not qualify as a quantitative change. This would be a qualitative change.

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

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

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

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

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

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

(i) The descriptions of quantitative and qualitative changes in subsection (b) of this section are not intended to be all inclusive, but are intended to serve as guidelines. If in doubt call the commission staff.

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

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

(2) UPS (uninterrupted power source)—Equipment that is designed to provide a constant power source for electronic systems. It is capable of operating indepen-

dently, for a designated period of time, should public or emergency electrical power sources fail.

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

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

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

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

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

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

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

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

(l) The following are funding parameters.

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

(2) Surge protection. Funding may be approved for surge protection devices when they are used for protection of 9-1-1 specific electronic equipment.

(3) Recorders.

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

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

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

This agency hereby certifies that the 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 July 11, 1991.

TRD-9108345 Mary A. Boyd
Executive Director
Advisory Commission on
State Emergency
Communications

Effective date: August 12, 1991

Proposal publication date: May 7, 1991

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

TITLE 7. BANKING AND SECURITIES

Part VI. Credit Union Department

Chapter 97. Commission Policies and Administrative Rules

Fees

• 7 TAC §97.112

The Credit Union Commission adopts the repeal of §97.112 concerning supervision fees, without changes to the proposed text as published in the May 7, 1991, issue to the *Texas Register* (16 TexReg 2506).

The rule has been replaced by §97.113 which establishes an annual operating fee that will eliminate the requirement for a supervision fee.

The repeal is necessary because the rule is no longer required.

No comments were received regarding adoption of the repeal.

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

This agency hereby certifies that the repeal 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 July 12, 1991.

TRD-9108343 John R. Hale
Commissioner
Credit Union Department

Effective date: August 2, 1991

Proposal publication date: May 7, 1991

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

• 7 TAC §97.113

The Credit Union Commission adopts §97.113, concerning operating fees, with changes to the proposed text as published in the May 7, 1991, issue to the *Texas Register* (16 TexReg 2506). Credit Unions having assets from \$50 million to \$99,999,999.99 had their base operating fee reduced from \$10,240 to \$9,740 and those having assets over \$100 million had their base operating fee reduced from \$18,240 to \$17,740. In addition, the proposed wording of the fee schedule was revised to conform with that recommended by the Texas Credit Union League. The changes from the proposed rules are considered to be minor and their effect will be insignificant.

This annual operating fee will eliminate the requirement for supervision and regular examination fees; thereby, reducing the administration and audit requirements associated with collecting these two fees.

Annually, at the beginning of each fiscal year, each state chartered credit union will be given notice of the requirement that it pay an annual operating fee, to include the fee schedule. The credit union, after the payment of this fee, will only be responsible for the cost of remedial examinations if such are required.

There was one comment received on this rule. The Texas Credit Union League (TCUL) recommended that the commission consider TCUL's proposed wording of the fee schedule; encourage the Credit Union Department to work closely with the credit unions during the transition year to avoid unduly imposing a financial burden on them, and to monitor the actual effects on each credit union to determine if adjustments may be necessary.

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

§97.113. Operating Fees.

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

(b) Calculation of operating fees. The schedule provided in this section shall serve as the basis for calculating operating fees. The base date shall be June 30 of the

year in which operating fees are calculated. The asset base may be reduced by the amount of reverse-repurchase balances extant on the June 30 base date. The commis-

sioner is authorized to increase or decrease the fee schedule annually by amounts not to exceed 10% per year without prior approval of the commission, as needed to match revenue with appropriations.

For Credit Unions with Total Assets Of:

The Operating Fee is:

Less than \$200,000

\$0

\$200,000 but less than \$500,000

\$446 + \$2.23 per \$1,000 of the amount over \$200,000

\$500,000 but less than \$1M

\$1,115 + \$.85 per \$1,000 of the amount over \$500,000

\$1M but less than \$5M

\$1,540 + \$.35 per \$1,000 of the amount over \$1M

\$5M but less than \$10M

\$2,940 + \$.30 per \$1,000 of the amount over \$5M

\$10M but less than \$25M

\$4,440 + \$.12 per \$1,000 of the amount over \$10M

\$25M but less than \$50M

\$6,240 + \$.14 per \$1,000 of the amount over \$25M

\$50M but less than \$100M

\$9,740 + \$.16 per \$1,000 of the amount over \$50M

\$100M and over

\$17,740 + \$.06 per \$1,000 of the amount over \$100M

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

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

(e) Out of state branches. Credit unions operating branch offices in Texas as authorized by §91.211 of this title (relating to Foreign State Credit Union branch offices) shall pay no annual operating fee.

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 July 12, 1991.

TRD-9108344

John R. Hale
Commissioner
Credit Union Department

Effective date: August 2, 1991

Proposal publication date: May 7, 1991

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

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• 7 TAC §97.114

The Credit Union Commission adopts the repeal of §97.114 concerning fees, without changes to the proposed text as published in the May 7, 1991, issue to the *Texas Register* (16 TexReg 2506).

The rule has been replaced by §97.113 which establishes an annual operating fee that will eliminate the requirement for a credit union to pay an examination fee upon completion of a regular examination.

The repeal is necessary because the rule is no longer required.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 2641-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

This agency hereby certifies that the repeal

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 July 12, 1991.

TRD-9108342

John R. Hale
Commissioner
Credit Union Department

Effective date: August 2, 1991

Proposal publication date: May 7, 1991

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

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TITLE 16. ECONOMIC
REGULATION

Part VIII. Texas Racing
Commission

Chapter 307. Practice and
Procedure

Subchapter C. Proceedings by
Stewards and Racing Judges

Exclusion and Ejection

• 16 TAC §307.271

The Texas Racing Commission adopts an

amendment to §307.271, concerning ejection and exclusion, without changes to the proposed text as published in the April 23, 1991, issue of the *Texas Register* (16 TexReg 2266).

The amendment is adopted to ensure that pari-mutuel racing is safe and enjoyable for the patrons, race animals, and licensees.

The amendment clarifies the statutory authority of the commission and its agents to exclude or eject an individual from an association's grounds.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §13.01, which authorize the commission to adopt rules providing for exclusion and ejection; and under Texas Civil Statutes, Article 179e, §14.03, which authorize the commission to adopt rules prohibiting the illegal influencing of a race.

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 July 12, 1991.

TRD-9108391 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: August 2, 1991

Proposal publication date: April 23, 1991

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

Chapter 309. Operation of Racetracks

Subchapter A. General Provisions Operations

• 16 TAC §309.63

The Texas Racing Commission adopts an amendment to §309.63, concerning approval of management and concessionaires, without changes to the proposed text as published in the April 23, 1991, issue of the *Texas Register* (16 TexReg 2266).

The amendment is adopted to ensure that pari-mutuel racetracks are operated with the utmost integrity and the commission performs its statutory duties effectively.

The amendment requires the submission of background information and financial statements by racetrack managers and concessionaires.

No comments were received regarding adoption of the amendment.

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

This agency hereby certifies that the 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 July 12, 1991.

TRD-9108390 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: August 2, 1991

Proposal publication date: April 23, 1991

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

Chapter 311. Conduct and Duties of Individual Licensees

Subchapter A. General Provisions

• 16 TAC §311.15

The Texas Racing Commission adopts an amendment to §311.15, concerning financial responsibility, without changes to the proposed text as published in the April 23, 1991, issue of the *Texas Register* (16 TexReg 2266).

The amendment is adopted to ensure that commission resources for investigating and prosecuting complaints are used efficiently and effectively.

The amendment clarifies the procedure for filing a complaint with the executive secretary regarding racing-related debts.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on July 12, 1991.

TRD-9108389 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: August 2, 1991

Proposal publication date: April 23, 1991

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

Chapter 321. Pari-mutuel Wagering

Subchapter A. Regulation and Totalisator Operations Regulation of Wagering

• 16 TAC §321.71

The Texas Racing Commission adopts an amendment to §321.71, concerning carryover pools, without changes to the proposed text as published in the May 17, 1991, issue of the *Texas Register* (16 TexReg 2697).

The amendment is adopted to ensure the maximization of state revenue from pari-

mutuel racing through the ability of each racetrack to take advantage of its particular market.

The amendment authorizes a licensed pari-mutuel racetrack to designate specific days, dates, or performances at which a carryover pool will be paid out on a mandatory basis.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §11.01, which authorize the commission to adopt rules to regulate pari-mutuel wagering on greyhound races and horse races.

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 July 12, 1991.

TRD-9108388 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: August 2, 1991

Proposal publication date: May 17, 1991

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

TITLE 28. INSURANCE Part II. Texas Workers' Compensation

Chapter 134.

Benefits—Guidelines for Medical Services, Charges, and Payments

Subchapter C. Medical Fee Guidelines

• 28 TAC §134.200

The Texas Workers' Compensation Commission adopts new §134.200, concerning medical fee and durable medical equipment fee guidelines for medical services provided, and durable medical equipment sold or rented, to injured workers under the workers' compensation laws of Texas. The guideline will apply to treatments and services rendered to injured workers, on or after August 1, 1991.

The Guideline has been adopted following extensive public input. In addition to comments received in response to the publication in the *Texas Register*, the staff of the division of medical review received and incorporated suggestions made by the medical advisory committee, created and appointed by the commission according to the Texas Workers' Compensation Act, Article 8308-8.23. Staff also obtained viewpoints of health care providers and other interested persons about the guideline through informal conferences and consultations in accordance with Article 6252-13a, §5(f). A public hearing was held to receive comment on the proposed section, on April 3, 1991.

The costs to providers and carriers of implementing the guideline and reduction of fees will be outweighed by the benefits of implementing the Texas Workers' Compensation

Act, Article 8. It is expected that containment of medical costs related to compensation will be reflected in either stabilized, or reduced, premiums for workers' compensation insurance. Numerous employers are currently leaving the system because of high premiums, leaving their employees without coverage under workers' compensation insurance, and without the lifetime medical benefits that apply to work-related injuries. It is expected that stabilized, or reduced, premiums will cause employers to retain their workers' compensation insurance coverage, and encourage employers without coverage to obtain it again. In adopting this guideline, the commission has considered the increased security of payment to health care providers that is afforded under the Texas Workers' Compensation Act, Article 8308-1.01 et seq.

The new section establishes guidelines for maximum charges made for medical services rendered by health care providers, excluding hospitals and ambulatory surgical centers, and for transfers (rentals or sales) of certain durable medical equipment. The section incorporates by reference the publication of a new fee guideline manual, called the 1991 Texas Workers' Compensation Commission Medical Fee Guideline.

The Medical Fee Guideline uses a relative value scale in conjunction with the 1990 CPT (Physicians' Current Procedural Terminology), a publication of the American Medical Association. The fee guideline is divided into the following sections: medicine, surgery, anesthesia, radiology, pathology, and durable medical equipment with a pharmaceutical fee guideline adopted as \$134.501 included for reference. The section adds ground rules not previously included in fee guidelines and used to administer the medical fee guidelines included under the workers' compensation laws. The section requires that the maximum allowable charge for medical services will be the lesser of the provider's usual fees and charges, or the charge established by use of the Medical Fee Guideline for Services Rendered Under the Texas Workers' Compensation Act, which is published in the manual incorporated into the section. The section states that copies of the guideline may be obtained from Reprographics Department, Texas Workers' Compensation Commission, the Southfield Building, 4000 South IH-35, Austin, Texas 78704.

First, in general comment, many commenters noted that the conversion factors should be restored to the original levels proposed in the medical fee guideline that was published for "old law" in the November 23, 1990, issue of the *Texas Register* (15 TexReg 6734). Commenters noted that fees for medical services for treatment of workers' compensation patients are among the highest in the country. Further, a change in the conversion factors would still result in fair and reasonable reimbursement for services, and achieve effective medical cost control, the goals set forth in the Act, §8.01. The commission agrees, and has changed the conversion factors to be as follows: medicine, to \$6.75; surgery, to \$185, anesthesia, to \$37; and radiology, to \$1.75. The conversion factor for pathology has not been changed.

Medicine Ground Rules and Relative Value Units (RVUs). Numerous comments were received on this section of the Medical

Fee Guideline, in writing and at public hearing. As to modalities and procedures, some commenters requested clearer definitions of modalities, procedures, and physical medicine activities and training; the commission agrees and has included such clarification with reference to CPT codes in Section II (Physical Medicine), (A) (6) of the Medicine Ground Rules. The specific delineation of physical medicine codes will clear up confusion of definitions and enhance understanding of other Ground Rules pertaining to these codes. Several commenters noted that restriction of four modalities/procedures per session was unacceptable; the commission partially agrees and has increased the number of modalities/procedures to eight per day (rather than "session") for the first week of the acute phase, and four per day after the first week of treatment. Several commenters noted concern that the reimbursement rate for modalities and procedures was the same. The commission agrees that modalities require less skill than do procedures, and are basically unattended, and has lowered the relative value units (RVUs) for some modalities to 1.5, and increased the RVUs to 3.0 for procedures. Additionally, code 91745 was increased from 1.0 to 1.5.

Several commenters stated that reimbursement for office visits with manipulations, established patient should be allowed to include additional manipulations and/or procedures. The commission agrees with modifying codes to reflect differences for new patients versus established patients.

When manipulations are performed by a physician during an office visit, they will be coded as follows:

For new patient visit. The doctor may select the office visit which most accurately reflects the level of service provided and the first manipulation is included in the office visit. Code 97261 may be used for each additional manipulation, modality, procedure, physical medicine activity, and training codes. No more than four additional manipulations, modalities, procedures, physical medicine activities, and training codes may be performed at this visit (see Physical Medicine Ground Rules, II.A.5).

For established patients visits. The doctor may select office visits, including manipulation for established patients and bill one of the following two ways: code 90050, for office visit and first manipulation; and a maximum of four other modalities, procedures, manipulations, or physical medicine activities and training codes may be used. If one or more of the previous codes is a manipulation, code 97261 should be used for each manipulation; or code 90030, for office visit; code 97260 for the first manipulation; and a maximum of four other modalities, procedures, manipulations, or physical medicine activity and training codes may be used. If one or more of the codes is a manipulation, code 97261 should be used for each of the subsequent manipulations (see Physical Medicine Ground Rules, II.A.5).

The commission also adopted exceptions to the previous guidelines: any office visit exceeding 90050 on established patients and performed for re-evaluation is limited to one every 30 days and should include manipulation; and development of complications that constitute documented changes in the pa-

tient's treatment plan may require an office visit which exceeds 90050. A report identifying the changes/complications is to be submitted with the bill to support the need for the additional service. No additional charge will be paid for this report.

Note. If an office visit does not include modalities, procedures, manipulations, physical medicine activity and training codes, the doctor may select the office visit which most accurately reflects the level of service provided.

One commenter argues that some providers should be allowed to charge for emergency care provided under a code other than "office visit," noting that the guideline only addressed emergency care administered at an emergency care facility. The commission disagrees, noting that the level of service code indicates level of difficulty, and the adopted fee reflects degree of difficulty.

Several commenters disagreed with the requirement to submit the treatment plan of care to the treating doctor for approval. The commission disagrees with changing this requirement, because the Texas Workers' Compensation Act, §4. 61(b) specifically identifies the treating doctor as the person who must approve or recommend all health care services. Some commenters did not agree that four weeks was an adequate amount of time for work hardening programs, disagreed with the level of reimbursement, and suggested that the treatment plan of care by the physical or occupational therapist should be written and set out definite goals and times for re-evaluation. The commenters stated that payment may be subject to review, requiring submission of documentation to support a level of service going beyond listed procedures. The commission disagrees with increasing the total number of weeks for work hardening generally, but has added a provision for allowing an additional two weeks as approved by the treating doctor (II.(E), (3).(g)), and a further two weeks extension of work hardening may be pre-authorized by the carrier for injuries occurring on or after January 1, 1991. The commission has provided that work hardening treatment plan must also include a medical prognosis. The basis for this is that patients must have the potential to return to work before beginning the Work Hardening Program. If the patient does not have the potential to return to work the positive effects from work hardening may be lost and subsequently at a later date when the patient could return to work duplication of services by another work hardening program may occur. Up to four weeks should be adequate for work hardening in most instances. The use of the CARF criteria will better define the work hardening process. Entrance/admission criteria should enable the program to admit: persons who are likely to benefit from the program; persons whose current level of functioning due to illness or injury interferes with their ability to carry out specific tasks required in the work place; and persons whose medical condition does not prohibit participation in the program. The exit/discharge criteria should include, but not limited to, the person's: returning to work, meeting program goals, declining further services, noncompliance with organizational policies, limited potential to benefit, and requiring further health care interventions. The exit/discharge summary should delineate the

person's: present functional status and potential, and functional status related to the targeted job, alternative occupations, or competitive labor market.

The commission agrees to allow eight hour days of payment for work hardening only for the final week of work hardening (II,(E),(3),(b)). The commission has deleted the daily rate break-down for payment of services and substituted a rate of \$35 per hour.

The commission has clarified that both work hardening and return to work conditioning will not be reimbursed for the same patient. The commission has made clarifications and changes to the section on return to work conditioning (II,(E),(4)) that parallel those made to work hardening ground rules; reimbursement for such services is set at \$25 per hour. The commission notes that patients should be ready for work hardening before beginning such treatment, by having a job to go to immediately, or the patient will become inactive and lose the positive gains from the program. Four weeks of treatment are adequate for the patient who is thus ready.

With regard to other physical medicine services section of the medicine ground rules, some commenters expressed disagreement with how functional capacity tests were to be paid. The commission agrees that clarification is needed, and has noted that reimbursement will be \$100 per 60-minute session (II, (E),(2),(b) for a maximum of two sessions); more than two tests would yield duplicate or unnecessary data, according to staff research. The commission further notes that ongoing evaluation of progress made during work hardening in conjunction with final functional capacity testing should determine the work capacity of the patient upon completion of work hardening. The commenters requested a definition of "functional capacity test." The commission disagrees, noting that placement of a definition may encourage over-utilization by allowing the opportunity to develop a program to fit the definition.

Some physical therapy commenters stated opposition to the limitation of one office visit per week for physical therapy or occupational therapists office evaluation; the commission disagrees, noting that one evaluation per week is reasonable (II,(E),(#)). The commission notes that the therapist provides services form the established treatment plan, so the need for an office visit is not appropriate.

Some commenters disagreed with the omission in the Medical Fee Guideline of coding for mobilization techniques used by physical and occupational therapists; the commission disagrees with the need for this, noting that CPT-4 codes 97139 and 97145 can be used by physical or occupational therapists. The commission notes that addition of specific codes for mobilization techniques would be a duplication of procedures already delineated in the guideline.

Several commenters noted that the provisions on proposed ground rules for body areas (under II,(B)) should be redefined for clarification; the commission agrees, and has redefined body areas to include cervical, thoracic, lumbar, and lower extremity (either right or left), upper extremity (either right or left), rib cage, and abdomen.

One commenter suggested that the RVU for CPT-4 Code 97531 should be raised to that

for 97010. The commission agrees and has raised the RVU to 3.0, to be consistent with reimbursement of the original procedure. Other commenters suggested a differentiation between re-conditioning exercise and kinetic activity. The commission disagrees, and has deleted re-conditioning exercises from the guideline, because there are other codes available to appropriately define this service and because of the confusion between these exercises and kinetic activity. Clarification for kinetic activities have been added in #(D) (14) & (15) of the ground rules.

Several commenters requested an increase in payment rates for Codes 97720 (extremity testing, initial 30 minutes), 97721 (same, each additional 15 minutes), 97500 (orthotics training), and 97110 (therapeutic exercises). The commission disagrees with changing 97720 and 97500, based upon research showing that proposed rates represent fair and reasonable reimbursement. However, the commission agrees to increase the RVU Code 97721 to 3.7, and for Code 97110 to 2.7. The commission notes that the initial 30 minutes of orthotic training is 7.4, so additional 15 minutes should be 50% of that value; also, research of training codes similar to 97110 indicated that an increase to that code would be fair and reasonable.

The commission has also incorporated numerous recommendations by the medical review division staff to clarify the guideline in several areas. These include: provision for reimbursement of telephone consultations (I-General Information and Instructions, (B)); amendments to examples given under the "levels of service" sections under I-General Information and Instructions, to more accurately represent the types of services common to workers' compensation claim treatments; inclusion of payment ground rules for impairment rating examinations and independent medical examinations (I,(H)); inclusion of relevant workers' compensation treatment examples under the Consultation section (I,(E)); clarification of reimbursement for office visits which include manipulation (II, (B)), and description of pertinent exceptions to the guidelines (II,(B),(2)); and clarification of the code for acupuncture (II,(D),(II)) and applications of TENs and sterile whirlpool (II,(D),(13)), (II,(D),(8)). The RVU for Code 64550 has been "zeroed out."

Several commenters argued that doctors of osteopathy should receive greater reimbursement than chiropractors. The commission disagrees, noting that the Act, §1.03(17) defines "doctor" to include both osteopaths and chiropractors. The commission further notes that an attorney general's opinion stated that both disciplines are "doctors;" the commission therefore is the opinion that both types of doctors must be reimbursed according to the same schedule.

Finally, the commission has incorporate revisions suggested by the division of medical review. The revisions include increasing the relative value units in the following procedure Codes: 90000, 90010, 90015, 90017, 90020, 90040, 90050, 90060, 90080, 90200, 90215, 90220, 90225, 90240, 90250, 90260, 90280, 90282, 90292, 90500, 90560, 90570, 90600, 90605, 90620, 90640, 90642, 90643, 90650, 90651, 90652, 90653, 90654, 97260 and 97261. The revisions also include decreasing the relative value units in the following Codes:

90030, 90070, 90260, 90505, 90550, 90580, 90610, 90630, 90641, and 90652.

Comments against the proposed section and medical ground rules and relative value units parts of the guideline were received from the Center for Industrial Rehabilitation, Burleson P.T. Services, Physical Therapy Services, Neighborhood Medical Center, Houston P.T. Service, Commission on Accreditation of Rehabilitation Facilities, Houston Hand Rehabilitation Center, Inc., River Oaks Minor Emergency & Family Practice Clinic, Northside Medical Center, Family Medicine Clinic (Fort Worth), Tyler Physical Therapy Clinic, Access Physical Therapy, Campbell & Associates, Texas Occupational Therapy Association, Texas College of Osteopathic Medicine, Texas Physical Therapy Association, Health South Sports Medicine & Rehabilitation Center, Couch Physical Therapy Clinic, Carrollton Physical Therapy Clinic, P.C., Orthopedic Rehabilitation Associates, Davidson Physical Therapy, Inc., PRNA, Inc., UTMB Senior P.T. Class President, Allied P.T. & Rehabilitation, The Hand Clinic, Mid-Cities Physical Therapy Clinic, North Dallas Physical Therapy Associates, Firra Therapeutics, Camp Bowie Osteopathic Clinic, Workwell, Healthhelp Services group, TCOM Internal Medicine Division, Paris Orthopedic Clinic, Fox Clinic, Inc., Odessa Physical Therapy, P. C., Rehabilitation Services of Lubbock, TOMA, Fitness & Rehabilitation Services, Therapeutic Alternatives, DFW Consultants, C.O.T.A., Health Plus Medical Group, Back & Joint Clinic, Rehabilitation Associates of Northeast Texas, Occupational Therapy Works, Woodridge Family Medicine, EBI Companies, Texas Physical Therapy Associates, Allied P.T. & Rehabilitation, Health Benefit Management, Inc., Fort Bend Hospital, Houston Neurodiagnostic Clinic, Harlingen Bone & Joint Clinic, Arlington Rehabilitation Institute, the Denton Regional Sports & Physical Therapy, Waco Rehabilitation Institute, Abilene Physical Therapy & Sports Rehabilitation Clinic, Work Assessment Center, East Fort Worth Medical Center, South Hills Family Health Care, Orthopedic Rehabilitation Associates, Houston P. T. Service, Fort Worth Family Institute, Liberty Mutual Insurance Company, Healthfocus, McFarland Physical Therapy, AABCO Physical Health Equipment, Brownsville Physical Therapy & Sports Medicine Center, Southwestern Physical Therapy Associates, P.C., Fossil Creek Medical & Surgical Center (Fort Worth), O'Dell Physical Therapy, UTMB Galveston, Rehabitative Care System of America, Western Hills Medical Center, Camp Bowie Medical Center, P.A., The Eye Center, Scenic point Therapy Services, Westside Urology Clinic, P.A., Sun City Rehabilitation Consultants, Inc., Allen Medical Equipment, Care Clinic, Saginaw Family Health, Pitman Creek P.T., Associated Healthfocus, Plano Orthopedics & Sports Medical Center, Inc., Hobbs Physical Therapy Clinic, P.C., Arlington Rehabilitation Institute, Clinic of North Dallas, Alamo Physical Therapy Resources, Inc., Osteopathic Medical Center of Texas, Houston Southwest Physical Therapy Clinic, UTSA Health Science Center (San Antonio), River Oaks Area Minor Emergency & Family Practice Clinic (Ft. Worth), South Hills Family Health Care, Denton Regional Medical Center, and Texas Physical Therapy Associates, as well as various individuals. No comments specifically in favor of the guideline were received.

Surgery Ground Rules and RVUs. Numerous commenters asked for re-evaluation of the inclusion of reimbursement for physician assistants and the reimbursement percentages for "co" surgeons and second procedures. The commission disagrees with changing the guideline's provisions on these matters, noting that the level of reimbursement adopted generates the same pay as if the two major procedures were performed by one surgeon. The commission agrees to include physician assistants in lieu of an assistant surgeon with reimbursement set at 10% of the surgical fee. A new modifier "85" was adopted for this issue.

Some commenters requested Code 62273 be increased. The commission disagrees and believes that the adopted section represents fair and reasonable payment levels based upon staff research.

The commission has incorporated revisions suggested by the division of medical review. These included clarifying amendments to multiple procedure reimbursement rates for unrelated procedures (I-General Information and Instructions, (F)(3)); increased reimbursement under Code 63030 (not delineated as bilateral or unilateral); and decrease of the RVU for procedure Code 12055, wound closure, and Code 50394, injection procedure, to correct a typographical error. The changes in Codes 63031 and 63030 were made to clarify the appropriate coding reimbursement for bilateral laminotomy.

Based upon input from the medical advisory committee, the commission provided that reimbursement for replantation codes will be at 100% for each replantation procedure. Each digit is considered a separate entity. Replantation procedure codes are considered global or all inclusive for each digit. "DOP" is required when extensive complications necessitate additional procedures. In this event, the multiple procedure rule applies.

Other revisions include increasing the relative value units of the following procedure Codes: 22556, 22625, 22630, 22842, 22845, 29815, 29825, 29826, 29830, 29840, 29843, 29844, 29845, 29846, 29847, and 29870. The revisions also include decreasing the relative value units in procedure Code 22554.

Comments in opposition to the surgery ground rules and RVU's sections of the proposed guideline were received from Austin Bone and Joint Clinic, Scurlock Orthopedic Associates, Center for Orthopedic Surgery, Plastic & Reconstructive Surgery Associates, Orthopedic Institute of Texas, Medcheck, Meril Garland Orthopedic Clinic, Texas Medical Association, Southwest Orthopedic Institute, Plano Orthopedic & Sports Medicine, Denton Regional Medical Center, Fondren Orthopedic Group, Inc., Dallas Spine Group, Health Benefits Management Inc., and General Regional Medical Center, as well as several individuals. No comments specifically in favor of this section of the proposed guideline were received.

Anesthesia Ground Rules and RVUs. Several Comments were received on this section of the guideline. The commenters suggested removal of the first sentence of Ground Rule I(F), which declares administration of anesthesia to be the practice of medicine. The commission agrees, noting that the definition serves no practical purpose in the guideline.

Several commenters asked that certified registered nurse anesthetists (CRNA) be compensated at full anesthesia value, because services provided are equal to those practitioners who have prescriptive authority from the State of Texas. Some commenters also asked for reduction in the conditions of coverage for CRNA services as stated in Ground Rules I(H)(1)(C). The commission disagrees, noting that the lack of prescriptive authority is established by scope of practice. The commission has no authority to address scope of practice. The commission was attempting to allow for reimbursement of services provided by CRNA to correct the previous deletion of these providers in the previous official fee guidelines established by the Industrial Accident Board. The commission feels that the lack of prescriptive authority of CRNAs, established by scope of practice, justifies a lower level of allowable charge for the anesthesiologists who have prescriptive authority. Some commenters requested changes to Ground Rule V(A) or VI(B) to allow payment for a provider of anesthesia, whose services are deemed necessary by a surgeon who administered a regional anesthesia. The commission agrees, and has added a modifier of "-47" for this clarification. Some commenters sought clarification of payment for situations of concurrent supervision. The commission agrees and has added modifiers of "-41" through "-44" for clarification.

The commission has added, in Ground Rules VI(A) and (B), clarification for payment of certain anesthesia procedures performed by surgeons, at the suggestion of the staff of the division of medical review.

Comments in opposition to this section of the proposed guideline were received from the Texas Association of Nurse Anesthetists (TANA), Jasper Memorial Hospital, Blue Cross/Blue Shield, Texas Tech University Health Science Center, River City Anesthesia, Raecom, and IntraCorp (Carrollton), as well as numerous individuals. No comments specifically in favor of this section of the proposed guideline were received.

Radiology Ground Rules and RVUs. Some commenters requested clarification of procedure Codes 72240, 74421, 61055, and 62284. The commission agrees and has clarified these codes with use of modifiers. Some commenters asked for inclusion of a technical component for fluoroscopy. The commission agrees and has added an RVU of 37.0 for this. Comments were received concerning payment for contrast material. The commission agrees and added reimbursement for contrast material to ground rules.

In addition, the commission has incorporated numerous suggestions of the staff of the division of medical review, relating to clarification of values and modifiers for injection procedures, Ground Rule I(D)(1),(2), and (3); addition of a definition of "complete procedure;" revisions or reimbursement for CAT Scan and Magnetic Resonance Imaging Services, and revisions to RVUs (some allowable charges are raised, some are lowered, as a result); correction of various typographical errors to the RVUs for Codes 72266, 72271, 73041, 75662, 75741, 75969, and 760871; increase in RVUs for Codes 70336, 72110, 72114, 72120, 72125, 72126, 72127, 72131, 72132, 72133, 72192, 72193, 72194, 73020, 73200, 73201, 73203, 73700, 73701, 74150,

and 76000; decrease in RVUs for Codes 70450, 70460, 70470, 70480, 70481, 70486, 70487, 70488, 70490, 70491, 70492, 71250, 71260, 71270, 72128, 72129, 72130, 73080, 73110, 73130, 73140, 73562, 73630, 73650, 73660, 73702, 74160, 74170, and 76087, in order to equalize reimbursement for films of comparable size.

Comments in opposition to the radiology sections of the proposed guideline were received from Radiology Consultants of El Paso, Orthopedic Institute of Texas (Hurst), American Chiropractic Clinic (Austin), St. Paul Southwest Surgery Center, Health Benefit Management, Inc., Texas Chiropractic Association, Back & Joint Clinic (Bryan), Perry Chiropractic Clinic, UT Southwestern Medical Center, St. Paul Southwest Imaging Center, Neuro-Skeletal Center (Tyler), Arlington Imaging, and Radiological Associates, as well as a few individuals. No comments specifically favoring this section of the proposed guideline were received.

Pathology Ground Rules and RVUs. One commenter noted that the conversion factor in this section was too low, at least 6.0% below the national average. The commission disagrees, noting that codes offered as examples by the commenter are typically not used in services to workers' compensation patients, and that the conversion factor used in the fee guideline is fair and reasonable.

The commission added section (E) to the ground rules regarding billings for panel tests, to recognize the difference between panel tests and chemistry tests (SAMC). Professional and Technical RVUs for Code 81000 (urinalysis with microscopy) were increased. The following procedure codes are decreased in the fee guideline: 81020, 81030, 81099, 86130, 86136, 86137, 86318, and 86319.

The Texas Society of Pathologists, Inc., commented in opposition to this section of the proposed guideline; no comments specifically in favor of this section were received.

Durable Medical Equipment (DME). Several commenters noted that allowable charges for TENs unit purchase and rental were too high. The commission agrees, and recommends maximum allowable charge for all TENs purchases of \$495, and for rentals of \$85 per month, as fair and reasonable. One commenter expressed desire for quality rating of TENs units; the commission disagrees with this, because there are no currently established parameters to monitor the quality of TENs units (USFDA will not approve individual devices). Some commenters requested classifications for TENs units-all are "CLASS II" devices according to FDA. However, the commission added provision for payment of the CES unit, at wholesale price + 100% markup.

Three commenters requested that quarterly billings be allowed for TENs units. The commission disagrees, as applicable rules require monthly billings. One commenter asked that the guideline add the assurance that the patient has free choice of DME vendor. The commission disagrees with changing the DME ground rules, noting that this is addressed in ground rule concerning sole right of selection, so no additional clarification is needed. Some commenters suggested 16 additions to the DME list, four allowable charge increases, and three decreases. The com-

mission has incorporated all of the proposed additions, and all of the suggested changes. Some commenters asked that pre-authorization be deleted. The commission notes that pre-authorization is not included in this guideline, but is included in §134.600 of this title, so no change in this guideline is required.

The commission has added some clarification suggested by the staff of the medical review division, including identification of DME rentals by "RT", notation that reimbursement for unlisted supplies and equipment will be made at a fair and reasonable rate under Code 99070, and establishment of an allowable charge for a continuous passive motion unit, under certain conditions.

Comments against this section of the proposed guideline were received from Texas Association of Medical Equipment Dealer (TAMED), Texas TENS, Inc., Hammerman & Gainer, Allstate Insurance Company, and EBI Orion. Comments specifically in favor of the DME section of the proposed guideline were received from ITT Hartford.

Pharmaceutical Fee Guideline (PFG). Two commenters noted that this section of the guideline was inappropriate because it created financial incentives incompatible with the best medical treatment. One commenter noted that the billing and collection process for hospitals was thereby increased without regard to the volume of workers' compensation patients treated. The commenters noted that the PFG provided insufficient revenue. One commenter noted that the 30-day period was insufficient to completely evaluate the PFG. The commission disagrees with all comments, noting that the average wholesale price includes over 15% markup; generic reimbursement encourages use of generic brands; and the 30-day comment period is in accordance with the Administrative Procedures and Texas Register Act (APTRA).

Methodist Hospitals of Dallas, Texas Pharmaceutical Association, Health Benefit Management, Inc., and HEB Grocery Company commented against this section of the proposed guideline. No comments specifically in favor of this guideline were received.

General Comments on the Medical Fee Guideline. Several commenters noted that the Medical Fee Guideline negatively impacts health care providers who attempt to keep costs down. The commission partial agrees, and allowable charges for more skilled procedures in the medicine section were increased, while those for less skilled modalities were decreased. Another commenter favored adoption of the guideline as proposed at this time, with revisions for the future. The commission disagrees and adopts the guideline, subject to revisions made in response to comments summarized herein. Some commenters charged that insurance companies were deliberately cutting fees and disregarding the 50% payment rule. The commission notes that such problems will be addressed in other sections of this title, but not in this guideline. Some commenters stated that providers should be able to charge for emergency care rendered at a location other than an emergency care facility, under a code other than "office visit." The commission disagrees, noting that the level of service code indicates level of difficulty service. Another commenter was against use of the

HCFA 1500 form for billing as adding an additional cost to the provider. The commission disagrees, noting that use of a consistent form enhances information gathering by the commission for medical data base, as well as ease of payment by carriers.

Employers Casualty Company, Texas TENS Inc., Odessa Physical Therapy, P.C., EBI Companies, AABCO Physical Health Equipment, H.E.B. Grocery Company, Allen Medical Equipment, Associated Healthfocus, TAMED, Denton Regional Medical Center, ITT Hartford, Medical Cost Consultants, Health Benefit Management Inc., Alliance of American Insurers, The Neuro-Skeletal Center, and Austin Occupational Health Center, as well as various individual providers and persons commented against the proposed guideline. The Texas Association of Business commented in favor of adoption of the proposed guideline. Kemper National Services, Inc. commented in favor of a guideline but against some general aspects of the incorporated guideline.

The new section is adopted under Texas Civil Statutes, Article 8308, §8. 01(a), which authorizes the commission to establish by rule medical policies and fee guidelines governing the provision and payment of medical services; and §8. 21(a) and (b), which authorizes the commission to establish rules that include fair and reasonable guidelines relating to the payment of fees for specific medical treatment or services; and §2.09(a), which authorizes the commission to adopt rules necessary to implementation and enforcement of the Texas Workers' Compensation Act.

§134.200. Medical Fee Guideline.

(a) The maximum allowable charge under the "Medical Fee Guideline for services Rendered Under the Texas Workers' Compensation Act" is the lesser of:

(1) the provider's usual fees and charges; or

(2) the fees and charges established by use of a relative value scale adopted under subsection (c) of this section.

(b) The allowable charge for the purchase or rental of durable medical equipment is the lesser of:

(1) the provider's usual fees and charges; or

(2) the fees and charges established in the durable medical equipment section of the Medical Fee Guideline, which is incorporated herein by reference.

(c) The Commission will publish and adopt by reference herein a relative value scale used in conjunction with the 1990 CPT (Physicians' Current Procedural Terminology) as part of the "Medical Fee Guideline for Services rendered Under the Texas Workers' Compensation Act." The guideline is published as the 1991 Texas Workers' Compensation Commission Medical Fee Guideline, which is incorporated herein by reference. The guideline shall be effective for all medical services rendered, and durable medical equipment prescribed,

after August 1, 1991. Copies of the guideline may be obtained from the Reprographics Department of the Texas Workers' Compensation Commission, 4000 South IH-35, Southfield Building, Austin, Texas 78704.

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 July 11, 1991.

TRD-9106289

Susan M. Kelley
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Texas Workers'
Compensation
Commission

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

◆ ◆ ◆ Subchapter F. Pharmaceutical Fees

• 28 TAC §134.501

The Texas Workers' Compensation Commission adopts new §134.501, concerning pharmaceutical fee guidelines for brand-name and generic pharmaceuticals prescribed for injured workers in accordance with the workers' compensation laws of Texas, with one change to the proposed text as published in the March 1, 1991, issue of the *Texas Register* (16 TexReg 1350).

The new section implements pharmacy fee guidelines for maximum allowable charges for pharmaceuticals, excluding those prescribed in inpatient health care facilities. The new section tells how to compute the allowable charge both for brand name and generic pharmaceuticals. This guideline will be used to price all pharmaceuticals prescribed after August 1, 1991. For cross reference the billing procedures to be followed are described in the Medical Fee Guideline incorporated under §134.200 of this title (relating to Medical Fee Guideline).

Several comments in response to the proposed section were received. One commenter indicated that the section should be one to encourage utilization of lower cost generic products; the commenter proposed a three-level system for computing maximum allowable charge that would adequately cover the expenses of the pharmacist associated with filing Workers' Compensation claims. Other commenters also noted that the expenses associated with filing comp claims were not recovered in the guideline. The commission disagrees; it is felt that the two-level system set forth in the section encourages the use of generics where they exist. Further, the commission's staff's study showed evidence that the average wholesale price (AWP) includes over 15% markup; the brand name calculation provides adequate reimbursement, it is felt, to cover expense. The commission notes that staff has worked to revise the billing form promulgated through §134.800 of this title (relating to Health Care Provider Billing) in order to streamline information requested and make the form easier to automate.

One commenter stated that the guideline created financial incentives that conflict with the best medical decisions for the patient, did not provide sufficient revenue to cover all of a hospital's outpatient cost, and that the billing and collection process of hospitals would be complicated irrespective of the volume of workers' compensation patients treated. The commenter further noted that the section did not recognize the difference between retail pharmacies and hospital outpatient services, because hospitals must cover losses for uncompensated services. The commission disagrees with changing this section, for reasons noted in the preceding response. In addition, it is felt that different amounts for the same drugs cannot be allowed under the law based upon the identity of provider group.

One commenter noted that a 30-day comment period was not long enough. While the commission notes that this period meets the legal requirements of the Administrative Procedures Act, the commission did consider comments received after this period of time.

One comment commended the proposed adoption of guidelines, noting that, throughout the country, objections to fee guidelines parallel those heard in Texas. The commenter further noted that the study performed in Massachusetts by the Workers' Compensation Research Institute found that lower fees to providers for treatment of workers' compensation patients did not result in reduced access to medical services for such patients. The commission agrees with the comments. The same commenter asked that a modifier resulting in a 10% reduction of fees from the previous guideline be reinstated. At this point, the commission disagrees, pending development of data on the effect of this adopted guideline.

The Alliance of American Insurers commented in favor of the proposed section. Methodist Hospitals of Dallas, the Texas Pharmaceutical Association, H.E.B. Grocery Company, and Health Benefit Management, Inc., commented against the proposed pharmaceutical fee guideline.

The new section is adopted under Texas Civil Statutes, Article 8308, §8. 01(a)(a)(1990), which authorize the commission to establish by rule medical policies and fee guidelines governing the provision and payment of medical services; and §8.21(a) and (b) which authorize the commission to establish rules that include fair and reasonable guidelines relating to payment of fees for specific medical treatments or services; and §2.09(a), which authorize the commission to adopt rules necessary for implementation and enforcement of the Texas Workers' Compensation Act.

§134.501. Pharmaceutical Fee Guideline.

(a) The maximum allowable charge for pharmaceuticals under the "Pharmaceutical Fee Guideline for Services Rendered Under the Texas Workers' Compensation Act" is the lesser of:

- (1) the provider's usual charge;
- or
- (2) the fees established by the formulas for brand-name and generic pharmaceuticals as described in subsection (c) of this section.

(b) This section applies to the dispensing of all pharmaceuticals, excluding the inpatient health care facility setting. The fees established by this section apply to pharmaceuticals prescribed after August 1, 1991.

(c) The formulas for establishing fair and reasonable fees and charges for brand-name and generic pharmaceuticals are:

(1) brand-name pharmaceutical formula: average wholesale price (AWP) times 1.09 plus \$4.00;

(2) generic pharmaceutical formula: average wholesale price (AWP) times 1.38 plus \$7.50.

(d) The average wholesale price (AWP) shall be determined with the monthly publication of Medispan. The publication that shall be used for the calculation shall be the same month that includes the date of service. When an AWP is changed during the month, the provider shall still use the AWP from the monthly publication. The two Medispan publications to be used are:

- (1) Prescription Pricing Guide;
- or
- (2) Generic Buying and Reimbursement Guide.

(e) When a generic pharmaceutical costs more than a brand-name pharmaceutical, according to the formulas described in subsection (c) of this section, the commission will consider the fair and reasonable price to be the brand-name equivalent, as calculated under subsection (c)(1) of this section.

(f) When there is no national drug code (NDC) number listed in the Medispan Generic Buying and Reimbursement Guide for a manufacturer, or when the provider fails to list the NDC number for each generic pharmaceutical on the bill submitted to the insurance carrier, the commission will determine the fair and reasonable reimbursement for generic pharmaceuticals by the following formula: generic equivalent average price (GEAP) times 1.38 plus \$7.50.

This agency hereby certifies that the section 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 July 12, 1991.

TRD-9108386

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Effective date: August 2, 1991

Proposal publication date: March 1, 1991

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



TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 1. Central Administration

Practice and Procedure

• 34 TAC §1.42

The Comptroller of Public Accounts adopts an amendment to §1.42, concerning definitions, with changes to the proposed text as published in the June 11, 1991, issue of the *Texas Register* (16 TexReg 3179).

The change was the deletion of the phrase "a special reporting procedure" from the definition of applicant. This special reporting procedure was generally referred to as the "three factor formula" under the Tax Code, Chapter 171. The three factor formula is no longer available to franchise taxpayers because of a change in the Tax Code.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the Comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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

Administrative law judge—An individual appointed by the Comptroller to conduct hearings on matters within the Comptroller's jurisdiction and to prepare proposed decisions to properly resolve such matters.

Agency—The Office of the Comptroller of Public Accounts.

Applicant—A party seeking a license or permit from the agency, or seeking an exemption.

Authorized representative—An individual who represents a party in a contested case and may be any individual other than the party.

Determination—A written notice from the agency that a person is required to pay to the State of Texas a tax, fee, penalty, or interest.

Hearings attorney—An attorney assigned to represent the tax division in a contested case.

Licensing—The agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a permit.

Party—Any person filing a petition or claim with the agency or asked by the agency to respond; the agency, acting through its tax division; and any other person admitted as a party under §1.36 of this title (relating to Interested Parties).

Permit—The whole or any part of a license, certificate, approval, registration, or similar form of permission, the issuance,

renewal, amendment, suspension or revocation of which is within the jurisdiction of the agency.

Person—Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character. It may also include an estate, trust, receiver, assignee for benefit of creditors, trustee, trustee in bankruptcy, assignee, or any other group or combination acting as a unit.

Petition—A request for official action by the agency regarding the rights, duties or privileges accorded to the person making the request under a statute administered or enforced by the agency. If the request is made orally, it must subsequently be reduced to writing.

Petitioner, claimant, or taxpayer—Any person who files a petition seeking redetermination of a liability, a refund of monies paid, or determination of rights under any license or permit granted by the agency.

Pleading—Any document filed by a party concerning the position or assertions in a contested case.

Respondent or taxpayer—Any person to whom a notice of a show cause hearing for the suspension or revocation of a license has been issued.

Tax division—The divisions within the agency responsible for the particular action or actions that are the subject of the contested case.

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 July 12, 1991.

TRD-9108327 Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: August 2, 1991

Proposal publication date: June 11, 1991

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



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 29. Purchased Health Services

Subchapter G. Hospital Services

• 40 TAC §29.606

The Texas Department of Human Services (DHS) adopts an amendment to §29.606, concerning reimbursement methodology for inpatient hospital services, without changes to the proposed text as published in the May 28, 1991, issue of the *Texas Register* (16 TexReg 2948).

The purpose of the amendment is to revise the methodology for establishing the standard dollar amount of out-of-state children's hospitals. The standard dollar amount for out-of-state children's hospitals is calculated by dividing the overall average cost per discharge for in-state children's hospitals by the average relative weight of admissions from in-state children's hospitals. The adjusted cost per discharge is updated by a cost-of-living index and the department's budgetary reduction factor. The resulting product will be the standard dollar amount to be used for payment of claims.

The amendment will function by providing continued access of children to medical care as a result of more equitable reimbursement to out-of-state children's hospitals.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on July 12, 1991.

TRD-9108317

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

Effective date: September 1, 1991

Proposal publication date: May 28, 1991

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



Chapter 48. Community Care for Aged and Disabled

Waiver Program for Medically Dependent Children

• 40 TAC §48.2501

The Texas Department of Human Services (DHS) adopts an amendment to §48.2501, without changes to the proposed text as published in the June 4, 1991, issue of the *Texas Register* (16 TexReg 3031).

Justification for the amendment is to ease the eligibility requirements for applicants.

The amendment will function by requiring that an applicant to the program reside in Texas and increasing the number of days a family has to submit an application.

No comments were received regarding adoption of the amendment.

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

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

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

TRD-9108260 Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: September 1, 1991

Proposal publication date: June 4, 1991

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



State Board of Insurance Exempt Filing

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 the Code, Chapter 5, Subchapter L. 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, 333 Guadalupe, Austin.)

The State Board of Insurance has approved a filing by Employers Casualty Company and affiliated companies reaffirming the existing rates for Employee Benefits Coverage Endorsement Occurrence Form used with the Commercial General Liability Coverage Part,

in compliance with the Texas Insurance Code, Article 5.15(h).

This filing is approved to become effective August 1, 1991, in accordance with the following rule of application.

These changes are applicable to all policies effective on or after August 1, 1991. No policy effective prior to August 1, 1991, shall be endorsed or cancelled and rewritten to take advantage of or to avoid the application of these changes except at the request of the

insured and using the cancellation procedures applying on the date of such request.

This notification is filed pursuant to the Insurance Code, Article 5.97, 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 July 12, 1991.

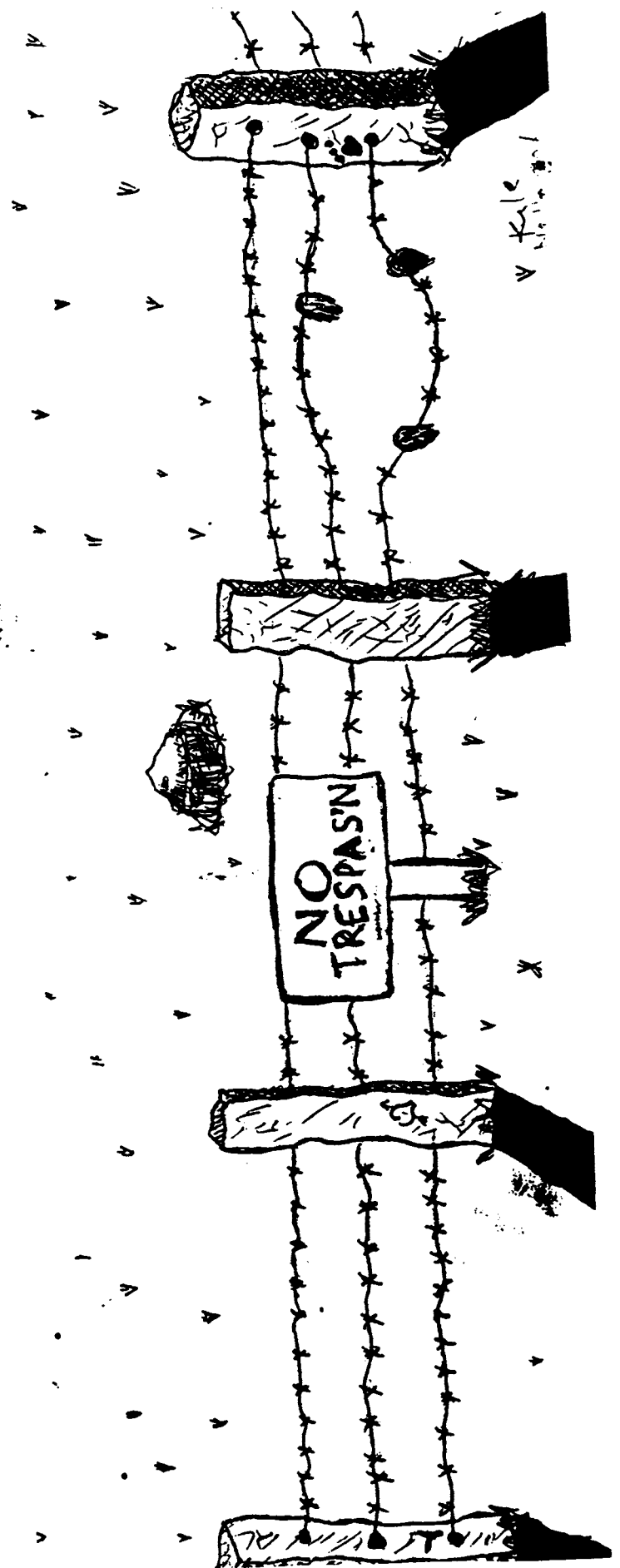
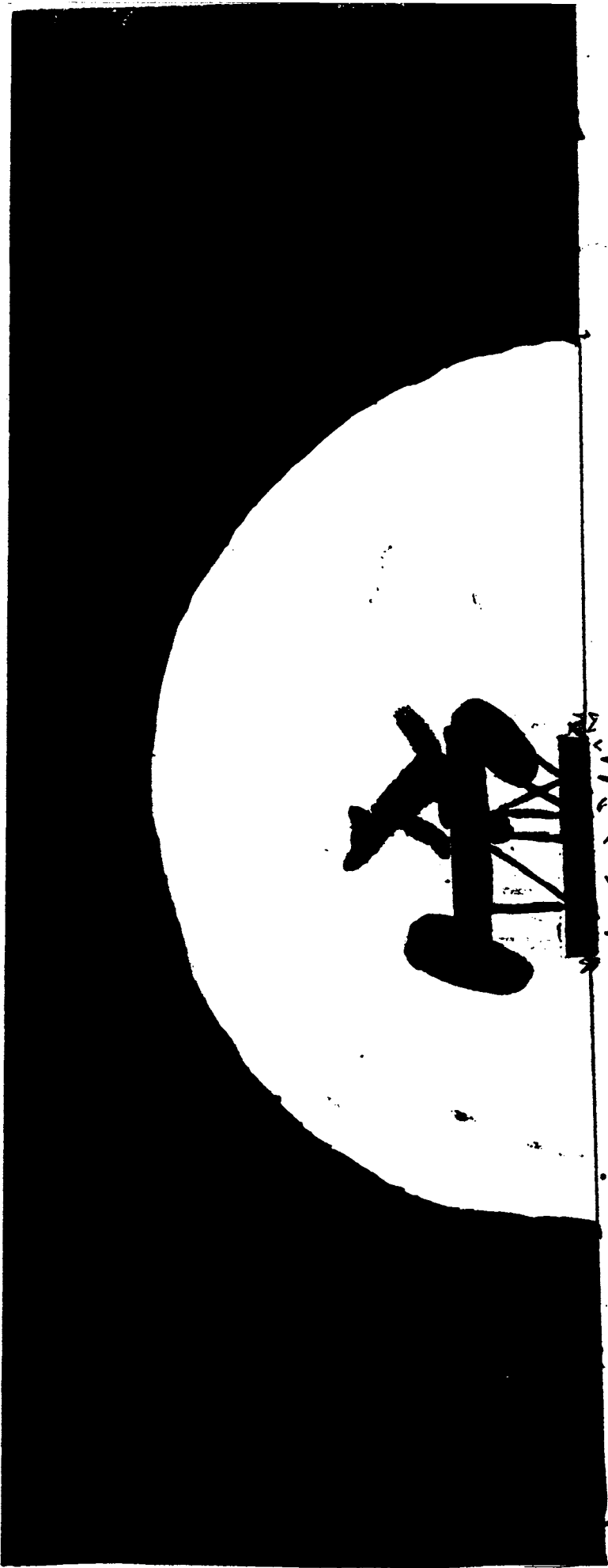
TRD-9106341

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: August 1, 1991

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

◆ ◆ ◆



Name: Kyle Hallmark

Grade: 7

School: Clear Lake Intermediate School, Clear Creek 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 Criminal Justice

Monday-Friday, July 22-26, 1991, 10 a.m. The Texas Department of Criminal Justice will meet at 2503 Lake Road, Suite #9, Huntsville. According to the agenda summary, a panel of Texas Department of Criminal Justice Board of Pardons and Paroles (composed of 3 board members) will meet on a daily basis to receive, review and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 458-2744.

Filed: July 11, 1991, 11:56 a.m.

TRD-9108268



Monday-Friday, July 29-August 2, 1991, 10 a.m. The Texas Department of Criminal Justice will meet at 2503 Lake Road, Suite #9, Huntsville. According to the agenda summary, a panel of Texas Department of Criminal Justice Board of Pardons and Paroles (composed of 3 board members) will meet on a daily basis to receive, review and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 458-2744.

Filed: July 11, 1991, 11:56 a.m.

TRD-9108267



Interagency Council on Early Childhood Intervention

Wednesday, July 24, 1991, 9 a.m. The Interagency Council on Early Childhood Intervention will meet at the Texas Depart-

ment of Health, 1100 West 49th Street, Room G-107, Austin. According to the complete agenda, the council will approve minutes of previous meeting; consider and possibly act on fiscal year 1992 contract for delivery of services in Tarrant County; Public Law 101-467 application for funding; amendment to rule (25 TAC §621.25) to approve equipment purchases by early childhood intervention providers; criteria for awarding advances for fiscal year 1992 contracts; hiring consultant to develop software for high priority infant transitional services project; election of chair and vice chair; proposed rules and policies on early childhood prevention program; and discuss legislative issues.

Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673.

Filed: July 12, 1991, 4:01 p.m.

TRD-9108368



Texas Education Agency

Thursday, July 18, 1991, 10 a.m. The Ad Hoc Committee on Redistricting of the Texas Education Agency held an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the complete agenda, the committee considered redistricting recommendations. The emergency status was necessary in order for the State Board of Education to respond to the posting of meetings of the House Redistricting Committee. The House Redistricting Committee was scheduled to meet July 16-18, 1991.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9682.

Filed: July 15, 1991, 2:26 p.m.

TRD-9108438

Friday, July 19, 1991, 8:30 a.m. The Commission on Standards for the Teaching Profession-Committee of the Whole of the Texas Education Agency will meet at William B. Travis Building, Room 1-110, 1701 North Congress Avenue, Austin. According

to the agenda, the committee will discuss: adoption of the agenda; review and recommendation of proposed teacher education programs; development of indicators for use by members of visiting evaluation teams; study and review of currently adopted 1987 Standards for Teacher Education.

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

Filed: July 11, 1991, 3:16 p.m.

TRD-9108286

Tuesday-Wednesday, July 23-24, 1991, 10 a.m. and 8:30 a.m. respectively. The Software Advisory Committee of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 6-101, Austin. According to the agenda summary, the committee will review and discuss status of the membership into the State Consortium for improving software selection; training on the educational software selector (TESS) database; planning for the training, distribution, and use of the EPIE (Educational Products Information Exchange) products; planning for the dissemination of information about the consortium membership and EPIE products; and discussion of long-range plans, future milestones, and the next meeting agenda.

Contact: Karen Kahan, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9087.

Filed: July 15, 1991, 2:27 p.m.

TRD-9108439



Advisory Commission on State Emergency Communications

Thursday, July 18, 1991, 2 p.m. The Public Education and Training Committee of the Advisory Commission on State Emergency Communications held an emergency meeting at 500 Throckmorton, Suite 2706, Fort Worth. According to the agenda, the meeting included the following: call to order and recognition of guests; hearing of public comment (individuals were encour-

aged to provide comment after each agenda item or before committee action); discussion regarding public education budget projections for fiscal year 1992; consideration of any new business; and adjournment. The emergency status was necessary to prepare budget for fiscal year 1992.

Contact: Glenn Roach, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78746, (512) 327-1911.

Filed: July 12, 1991, 1:36 p.m.

TRD-9108346

Employees Retirement System of Texas

Monday, July 22, 1991, 1:30 p.m. The ERS Audit Committee, ERS Board of Trustees of the Employees Retirement System of Texas will meet at the ERS Board Room, ERS Building, 18th and Brazos Streets, Room 401, Austin. According to the complete agenda, the committee and board will review and discuss status report of fiscal year 1991 internal auditing plan; proposed fiscal year 1992 internal auditing plan; status of state auditor's reports for fiscal years 1989 and 1990; discussion of recent internal auditing projects: member accounts, eligibility and enrollment, contract compliance, investment trading; set future meeting dates; and adjournment.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3336.

Filed: July 12, 1991, 3:59 p.m.

TRD-9108366

Monday, July 22, 1991, 3 p.m. The ERS Organization and Compensation Committee, ERS Board of Trustees of the Employees Retirement System of Texas will meet at the ERS Board Room, ERS Building, 18th and Brazos Streets, Room 401, Austin. According to the complete agenda, the committee and board will consider appropriate retirement benefits; set future meeting dates; and adjourn.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3336.

Filed: July 12, 1991, 3:59 p.m.

TRD-9108367

Tuesday, July 23, 1991, 8:30 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet at the ERS Building, ERS Auditorium, 18th and Brazos Streets, Austin. According to the agenda summary, the board will review and approve minutes; hear appeals of contested cases; final adoption of amendment to Trustee Rule 34 TAC §81.1 concerning definition of eligible dependent; group insurance advisory committee recommendation that short term disability benefits not be coordinated with social security benefits;

consideration of Texas Performance Review Report; certification of trustee election results; hear executive director's report; set next trustee meeting date; and adjourn.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3336.

Filed: July 15, 1991, 9:52 a.m.

TRD-9108419

Texas Employment Commission

Tuesday, July 23, 1991, 8:30 a.m. The Texas Employment Commission will meet at the TEC Building, 101 East 15th Street, Room 644, Austin. According to the agenda summary, the commission will consider prior meeting notes; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 30; and set date of next meeting.

Contact: Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: July 15, 1991, 4:17 p.m.

TRD-9108453

Governor's Office

Friday, July 19, 1991, 9 a.m.-2 p.m. The Task Force on Economic Transition of the Governor's Office will meet at Teacher's Retirement System Building, Henry Bell Board Room, 1000 Red River, Austin. According to the agenda, mission of the Task Force on Economic Transition will be introduced.

Contact: Jean Winsome, 201 E. 14th Street, Room 706, Austin, (512) 463-1814.

Filed: July 11, 1991, 5:07 p.m.

TRD-9108290

Texas Department of Health

Friday, July 19, 1991, 8 a.m. The Strategic Planning Committee of the Texas Board of Health of the Texas Department of Health will hold an emergency meeting at Texas Department of Health Building, Room M-739, 1100 West 49th Street, Austin. According to the agenda, the committee will consider and possibly act on: report from the Texas Performance Review document titled, "Breaking the Mold"; selection of facilitator for long-range planning; long-range strategic planning; analysis of House Bill 2009 concerning state agency strategic plans; emergency and proposed vital statistics rules concerning fees and legislation; and proposed vital statistics rules concern-

ing general administrative procedures. The emergency status was necessary due to unforeseeable circumstances.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 12, 1991, 4:02 p.m.

TRD-9108372

Friday, July 19, 1991, 1 p.m. The Disease Control Committee of the Texas Board of Health of the Texas Department of Health will hold an emergency meeting at Texas Department of Health Building, Room M-652, 1100 West 49th Street, Austin. According to the agenda, the committee will consider and possibly act on: proposed HIV Medication Program rules to expand formulary and eligibility criteria; emergency and proposed rules concerning delegation of authority to give informed consent for immunization of a minor; final adoption of rules concerning immunization requirements in childcare facilities, elementary and secondary schools and institutions of higher education, and repeal of existing rules; dissolution and restructuring of tuberculosis advisory committee. The emergency status was necessary due to unforeseeable circumstances.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 12, 1991, 4:02 p.m.

TRD-9108373

Friday, July 19, 1991, 2 p.m. The Hospital and Ambulatory Care Services Committee of the Texas Board of Health of the Texas Department of Health will hold an emergency meeting at the Texas Department of Health, 1100 West 49th Street, Room M-741, Austin. According to the complete agenda, the committee will consider and possibly act on final adoption of amendments to rules concerning hospital licensing standards; proposed repeal of rules concerning construction and modernization of hospitals and other medical facilities; and appointments to the State Primary Care Services Advisory Committee. The emergency status is necessary due to unforeseeable circumstances.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 12, 1991, 4:02 p.m.

TRD-9108374

Friday, July 19, 1991, 3 p.m. The Chronically Ill and Disabled Children's Services and Maternal and Child Health Committee of the Texas Board of Health of the Texas Department of Health will hold an emergency meeting at the Texas Department of Health, 1100 West 49th Street, Room M-652, Austin. According to the complete agenda, the committee will consider and possibly act on final adoption of amend-

ments to the special senses and communications disorder rules; final adoption of the rule concerning the special supplemental food program for women, infants and children; report from the maternal and child health advisory committee; chronically ill and disabled children's update (plan for home health pilot); and maternal and child health block grant application for fiscal year 1992. The emergency status is necessary due to unforeseeable circumstances.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 12, 1991, 4:03 p.m.

TRD-9108375

Friday, July 19, 1991, 4 p.m. The Environmental Health Committee of the Texas Board of Health of the Texas Department of Health will hold an emergency meeting at the Texas Department of Health, 1100 West 49th Street, Room M-739, Austin. According to the complete agenda, the committee will consider and possibly act on final adoption of rules concerning certification of waterworks operators; proposed amendments to Texas regulations for control of radiation concerning the use of radiation machines in the healing arts and veterinary medicine; appointments to the municipal solid waste management and resource advisory committee; and sanitary landfills. The emergency status is necessary due to unforeseeable circumstances.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 12, 1991, 4:03 p.m.

TRD-9108376

Saturday, July 20, 1991, 8 a.m. The Executive Committee of the Texas Board of Health of the Texas Department of Health, 1100 West 49th Street, Room M-749, Austin. According to the complete agenda, the committee will consider and possibly act on items of procedure for the July 20, 1991, Texas Board of Health meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 12, 1991, 4:03 p.m.

TRD-9108378

Saturday, July 20, 1991, 8:30 a.m. The Budget and Finance Committee of the Texas Board of Health of the Texas Department of Health, 1100 West 49th Street, Room M-741, Austin. According to the complete agenda, the committee will consider and possibly act on approval of purchase of telephone system for new Austin lease; adoption of revised internal audit policy; approval of transfer of fiscal year 1990 unexpended balances in the communicable disease line item; approval of transfer of unexpended fiscal year 1991 general revenue appropriations to the maternal and child

health appropriation item; and job description for the budget and finance committee.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 12, 1991, 4:04 p.m.

TRD-9108379

Saturday, July 20, 1991, 9 a.m. The Public Health Promotion Committee of the Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-721, Austin. According to the complete agenda, the committee will consider and possibly act on current monthly update of three-year public information plan; overview of the public health promotion division; and future directions and response to the Andersen consulting report.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 12, 1991, 4:04 p.m.

TRD-9108380

Saturday, July 20, 1991, 9:30 a.m. The Health Provider, Licensure and Certification Committee of the Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-652, Austin. According to the complete agenda, the committee will consider and possibly act on proposed amendments to the licensed professional counselors rules concerning the use of projective techniques by counselors; final adoption of amendments to the licensed professional counselors rules concerning licensing and ethical issues; final adoption of amendments to the licensed professional counselors rules concerning licensing issues affecting military personnel, and conformance with House Bill 1393; petition to adopt an amendment to the rules concerning medical radiologic technologists; and appointment to the medical radiologic technologist certification.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 12, 1991, 4:04 p.m.

TRD-9108382

Saturday, July 20, 1991, 10:30 a.m. The Long Term Care Committee of the Texas Board of Health of the Texas Department of Health will meet at 1100 West 49th Street, Room M-741, Austin. According to the complete agenda, the committee will consider and possibly act on final adoption of the rules concerning local health authority involvement in the licensure process for nursing homes, custodial care homes, facilities serving persons with mental retardation and related conditions, adult day care and adult day health care facilities, and personal care facilities; appointment to the advisory committee on nursing facility affairs; and

appointments to the advisory committee on mental retardation facilities.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 12, 1991, 4:04 p.m.

TRD-9108383

Saturday, July 20, 1991, 11 a.m. The Personnel Committee of the Texas Board of Health of the Texas Department of Health will meet at 1100 West 49th Street, Room M-652, Austin. According to the complete agenda, the committee will consider and possibly act on in open session the selection of the Commissioner of Health; appointment to the medical radiologic technologist advisory board; appointments to the advisory committee on nursing facility affairs; appointment to the advisory committee on mental retardation facilities; approval of the restructuring of the CIDC advisory committees and by-laws; approval of dissolution, restructuring, and renaming of the current tuberculosis advisory committee; termination of member on the HIV education, prevention and risk reduction advisory committee.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 12, 1991, 4:03 p.m.

TRD-9108377

Saturday, July 20, 1991, noon. The Texas Board of Health of the Texas Department of Health will meet at 1100 West 49th Street, Room M-739, Austin. According to the agenda summary, the board will approve minutes of previous meeting; hear acting commissioner's report; approve resolution; consider and possibly act on rules (grants and contracts for professional services; qualification of Commissioner of Health; advisory committees; special senses and communication disorders; special supplemental food program for women, infants and children; HIV medication; informed consent for immunization of minor; immunization; waterworks operators; radiation; professional counselors; medical radiologic technologists; hospital licensing; long term care; vital statistics); committee reports (purchase of telephone system; internal audit policy; transfer of funds for maternal and child health and communicable disease; advisory board/committee appointments and restructuring; termination of advisory committee member); Texas Performance Review Report; selecting facilitator for long range planning; discussion in executive session and possible action in open session on selection of Commissioner of Health; and announcements and comments not requiring board action.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: July 12, 1991, 4:02 p.m.

TRD-9108371

Monday, July 22, 1991, 9 a.m. The Asbestos Advisory Committee of the Texas Department of Health will meet at Texas Department of Health Building, Room 103, 4200 North Lamar Boulevard, Austin. According to the agenda, the committee will conduct a workshop on rules to implement Senate Bill 1341, 72nd Legislature, 1991.

Contact: L. Don Thurman, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7541.

Filed: July 12, 1991, 4:01 p.m.

TRD-9108369

Wednesday, July 24, 1991, 8 a.m. The Advisory Board of Athletic Trainers of the Texas Department of Health will meet at the Sheraton Centre Park Hotel, World Series Rooms I and II, 1550 Stadium Drive East, Arlington. According to the agenda summary, the board will approve minutes of previous meeting; hear reports of executive secretary and program administrator; consider and possibly act on: competencies in athletic training survey; applications; ratification of physical therapists apprenticeship applications approved by administrative services committee; requests to complete an apprenticeship not enrolled as a student; letter regarding board licensure practices; violations of Texas Civil Statutes, Article 4512d by unlicensed person(s); amendments to Physical Therapy act by House Bill 925, 72nd Legislature, 1991; proposed changes to rules in 25 TAC Chapter 313; settlement concerning individual; Texas Performance Review; elect officers; and hear announcements and comments not requiring board action.

Contact: Becky Berryhill, 1100 West 49th Street, Austin, Texas 78756, (512) 459-2952.

Filed: July 15, 1991, 4:07 p.m.

TRD-9108452

Friday, July 26, 1991, 8:30 a.m. The Municipal Solid Waste Management and Resource Recovery Advisory Council of the Texas Department of Health will meet at 1100 West 49th Street, Room T-607, Austin. According to the complete agenda, the council will hear announcements; approve minutes of previous two meetings; issue certificate of appreciation to Garey W. Gilley; consider and possibly act on report of Chief of Bureau of Solid Waste Management concerning status of advisory council appointments, regional solid waste plans and grants, public education contracts and grants, and technical assistance and implementation grants; report on legislation; communication about landfill regulations; proposed interagency memorandum of agreement on conference planning; yard waste/composting study, including possible committee appointments; and rule changes required by legislation.

Contact: Glendon Eppler, 1100 West 49th Street, Austin, Texas 78756, (512)

458-6617.

Filed: July 12, 1991, 4:02 p.m.

TRD-9108370

Saturday, July 27, 1991, 10 a.m. The Credentialing Committee of the Texas Department of Health will meet at the Hyatt West Tower, DFW Airport. According to the complete agenda, the committee will consider and possibly act on; goals and objectives; draft of revised rules concerning 25 TAC §143.14 (relating to violations, complaints and subsequent actions).

Contact: Donna Hardin, 1100 West 49th Street, Austin, Texas 78756, (512) 459-2965.

Filed: July 15, 1991, 4:06 p.m.

TRD-9108451

Texas High Speed Rail Authority

Wednesday, July 24, 1991, 10 a.m. The Texas High Speed Rail Authority will meet at 823 Congress Avenue, 15th Floor Conference Room, Austin. According to the agenda summary, the authority will approve minutes; hear reports; resolutions; FY 1992 operating budget; and meet in executive session.

Contact: Allan Rutter, 823 Congress Avenue, Suite 1502, Austin, Texas 78701, (512) 478-5484.

Filed: July 15, 1991, 11:05 a.m.

TRD-9108427

Texas Historical Commission

Thursday, July 25, 1991, 1 p.m. The Old San Antonio Road Preservation Commission of the Texas Historical Commission will meet at Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda, the commission will call to order and discuss: Senate Bill 101 status; \$10,000 appropriation status; State Department of Highway and Transportation updates, reports, and signage-highway panels, Boy Scouts and education packets; national Trail Designation; OSR Tricentennial activities; future proposals for the OSR; other business; and adjourn.

Contact: Curtis Tunnell, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: July 11, 1991, 2:01 p.m.

TRD-9108273

Friday, July 26, 1991, 8:15 a.m. The Department of Archeological Planning and Review of the Texas Historical Commission will meet at the Guest Quarters Hotel, 15th Street Cafe, 303 West 15th Street, Austin. According to the complete agenda, the com-

mission will discuss and review AP&R departmental activities.

Contact: James E. Bruseth, P.O. Box 12276, Austin, Texas 78711, (512) 463-6096.

Filed: July 15, 1991, 10:36 a.m.

TRD-9108425

Friday, August 2, 1991, 12 p.m. The Texas Archaeological Awareness of the Texas Historical Commission will meet at Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda, the commission will: review for 1991 Awareness Week; 1992 Theme *Crossroads to the Past*; carry out the theme with research in their Areas on the Contact with Europeans; member agencies contributions; Poster Committee; Project Funding Committee; Review Committee; and adjourn.

Contact: Curtis Tunnell, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: July 11, 1991, 2:02 p.m.

TRD-9108274

Texas Department of Human Services

Tuesday, July 16, 1991, 8 a.m. The Texas Department of Human Services held an emergency meeting at 701 West 51st Street, 1st Floor, East Tower, Public Hearing Room, Austin. According to the agenda, the board heard a presentation by the consulting firm of Lewin/ICF regarding its evaluation of the Texas Purchased Health Services program. The emergency status was necessary because of a need to promptly assess and implement possible fiscal savings in the administration of the Medicaid program identified by the consulting firm of Lewin/ICF and the unforeseen unavailability of the consultant at the next regularly scheduled board meeting.

Contact: Sherron Heinemann, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3048.

Filed: July 11, 1991, 10:50 a.m.

TRD-9108263

State Board of Insurance

Tuesday, July 23, 1991, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether Investors Mortgage Insurance Company should be ordered to take appropriate action or whether its Certificate of Authority should be revoked. Docket Number 11216.

Contact: Lisa Lyons, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: July 15, 1991, 4:19 p.m.

TRD-9108454

Tuesday, July 23, 1991, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether Investors Equity Insurance Company, Inc. should be ordered to take appropriate action or whether its Certificate of Authority should be revoked. Docket Number 11217.

Contact: Wendy L. Ingham, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: July 15, 1991, 4:20 p.m.

TRD-9108456

Tuesday, July 23, 1991, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Western Reinsurance Company, San Antonio, to acquire control of Citizens Fidelity Insurance Company, Waco. Docket Number 11239.

Contact: James W. Norman, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: July 15, 1991, 4:20 p.m.

TRD-9108455

Wednesday, July 24, 1991, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Melvin Edwin Warrior, Dallas, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Local Recording Agent's license. Docket Number 11218.

Contact: J. C. Thomas, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: July 15, 1991, 4:20 p.m.

TRD-9108457

Board of Nurse Examiners

Tuesday-Thursday, July 23-25, 1991, 8 a.m. The Board of Nurse Examiners will meet at Radisson Plaza Hotel, 700 San Jacinto, Austin. According to the revised agenda, the board will consider the reinstatement petition of Brian Desmond Dooley, TX #4-44435 in the afternoon of

July 23, 1991. Mr. Dooley's name was inadvertently omitted from the agenda previously filed.

Contact: Louise Waddill, P.O. Box 140466, Austin, Texas, (512) 835-8650.

Filed: July 12, 1991, 11:15 a.m.

TRD-9108337

Texas Optometry Board

Thursday, August 8, 1991, 10 a.m. The Texas Optometry Board will meet at the Guest Quarters Hotel, Houston Room, 303 West 15th Street, Austin. According to the agenda summary, the board will conduct a public hearing to hear comments regarding proposed Rule 280 relating to therapeutic optometry, and implementation of Senate Bill 774. This rule was published for comment in the June 25, 1991, issue of the Texas Register. Requests for copies of the proposed rule may be obtained from the Texas Optometry Board office. The public is encouraged to attend the hearing and to present testimony regarding the proposed rule. The board would appreciate receiving a copy of all written testimony at least ten (10) days before the hearing. Testimony will be limited to five (5) minutes per individual. Persons representing organizations of 25 persons or more may be granted additional time for testimony provided that a request for additional time is made to the board seven (7) days prior to the hearing.

Contact: Lois Ewald, 9101 Burnet Road, Suite 214, Austin, Texas 78758, (512) 835-1938.

Filed: July 15, 1991, 2:06 p.m.

TRD-9108434

Texas Public Finance Authority

Wednesday, July 17, 1991, 1 p.m. (revised agenda). The Board of the Texas Public Finance Authority held an emergency meeting at the Brown-Healy Building, 4900 North Lamar Boulevard, Room 1430, Austin. According to the complete agenda, the board called the meeting to order; may have approved minutes; considered technical amendment of 1986 escrow deposit agreement to permit restructuring of escrow account; considered selection of firm to implement restructuring of escrow account; considered selection of firm to implement master equipment finance program (representatives from Grigsby Brandford Powell, Lehman Brothers, J. P. Morgan/Estrada Securities/Walton Johnson, Rauscher Pierce and Merrill Lynch will make presentations); considered request for financing from TDCJ for issuance of GO Bonds; considered selection of bond counsel; and adjourned. The emergency status was necessary to permit final action by the

board regarding restructuring of escrow account, thereby realizing savings for the state.

Contact: Pamela Scivicque, 1201 Brazos Street, Suite 313, Austin, Texas 78701, (512) 463-5544.

Filed: July 15, 1991, 4:26 p.m.

TRD-9108458

Wednesday, July 17, 1991, 1 p.m. The Board of the Texas Public Finance Authority held an emergency board meeting at the Brown-Healy Building, Room 1430, 4900 North Lamar Boulevard, Austin. According to the agenda, the board called to order; discussed approval of minutes; considered selection of firm to implement restructuring of Escrow Account; selection of firm to implement master equipment finance program (Representatives from Grigsby Brandford Powell, Lehman Brothers, J. P. Morgan/Estrada Securities/Walton Johnson, Rauscher Pierce and Merrill Lynch will make presentations.); request for financing from TDCJ for issuance of GO Bonds; selection of bond counsel; and adjournment. The emergency status was necessary because of the change in original posting of board meeting due to unforeseen space problems.

Contact: Pamela Scivicque, 1201 Brazos Street, Suite 313, Austin, Texas, (512) 463-5544.

Filed: July 12, 1991, 2:43 p.m.

TRD-9108355

Public Utility Commission of Texas

Monday, July 22, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the division will hold a prehearing conference scheduled in Docket Number 10462-application of Tex-La Electric Cooperative of Texas, Inc. for authority to change rates.

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

Filed: July 11, 1991, 2:59 p.m.

TRD-9108284

Monday, July 22, 1991, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, a prehearing conference will be held in Docket Number 10473-notice of intent of Houston Lighting and Power Company for a certificate of convenience and necessity for Dupon Project, Webster Units 1 and 2 refurbishment project, and Greens Bayou Units 3 and 4 refurbishment project.

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

Filed: July 12, 1991, 3:32 p.m.

TRD-9108361

Tuesday, July 23, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the division will hold a prehearing conference scheduled in Docket Number 10375-petition of Southwest Arkansas Telephone cooperative, Inc. for approval of replacement tariffs.

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

Filed: July 12, 1991, 3:33 p.m.

TRD-9108362

Wednesday, July 24, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10365-application of Alenco Communications, Inc. to consolidate the Alenco and Knippa tariffs and establish a tariff for the Delores exchange.

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

Filed: July 15, 1991, 2:49 p.m.

TRD-9108446

Thursday, July 25, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the division will hold a prehearing conference scheduled in Docket Number 10440-report by Pedernales Electric Cooperative, Inc. concerning refund of net benefits of Lower Colorado River Authority's transmission lease payment.

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

Filed: July 12, 1991, 3:33 p.m.

TRD-9108363

Monday, July 29, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10425-application of United Telephone Company of Texas, Inc. to revise local exchange tariff for the New London Exchange.

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

Filed: July 15, 1991, 2:49 p.m.

TRD-9108445

Wednesday, September 25, 1991, 10 a.m.(rescheduled from Tuesday, July 16, 1991, 10 a.m.) The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the division will hold a hearing in Docket Number 10096-application of Southwestern Bell Telephone Company for revisions to the access service tariff.

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

Filed: July 12, 1991, 3:32 p.m.

TRD-9108359

Monday, October 7, 1991, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the division will hold a hearing on the merits in Docket Number 10389-application of Southwestern Bell Telephone Company to revise tariff in compliance with Substantive Rule Section 23.54.

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

Filed: July 12, 1991, 3:32 p.m.

TRD-9108360

State Purchasing and General Services Commission

Tuesday, July 23, 1991, 9:30 a.m. The State Purchasing and General Services Commission will meet at 1711 San Jacinto Street, Central Services Building, Conference Room 402, Austin. According to the agenda summary, the commission will review and discuss proposed amendments to §§113.81-113.85, and §113.87 regarding cooperative purchasing program; final adoption of amendment to §113.1; delegating purchasing authority to TDMHMR; delegating leasing authority to Texas Woman's University; approval to expend funds for PC LAN resources; response to Texas Performance Review; status of Sunset legislation; 3. 09 report; construction project report; operating budget report; activity report; meet in executive session regarding the status of the purchase of real property; status of all pending litigation; and consider personnel matters.

Contact: Judith Monaco Porras, 1711 San Jacinto Street, Austin, Texas 78701, (512) 463-3583.

Filed: July 15, 1991, 10:10 a.m.

TRD-9108422

Railroad Commission of Texas

Monday, July 22, 1991, 9 a.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room (12-126), Austin. Agendas follow.

The Commission will consider and act on the Investigation Division Director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6828.

Filed: July 12, 1991, 10:58 a.m.

TRD-9108330

The commission will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7251.

Filed: July 12, 1991, 10:59 a.m.

TRD-9108331

The commission will consider and act on the Office of the Executive Director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions; commission chairmanship; and appointment, reassignment and/or termination of various positions, including division directors. Consideration of reorganization of the well plugging program. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel and pending litigation.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: July 12, 1991, 10:59 a.m.

TRD-9108332

The commission will consider category determinations under Sections 102(c)(1) (B), 102(c)(1)(C), 103, 107 and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: July 12, 1991, 10:59 a.m.

TRD-9108333

The commission will consider and act on the Administrative Services Division Director's report on division administration, budget, procedures and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: July 12, 1991, 10:59 a.m.

TRD-9108334

The commission will consider and act on the Office of Information Services Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6710.

Filed: July 12, 1991, 11 a.m.

TRD-9108335

The commission will consider various matters within the 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 action, including, but not limited to scheduling an item in its entirety or for particular action at a future time or date. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session as authorized by the Open Meetings Act, including to receive legal advice regarding pending and/or contemplated litigation.

Contact: Cue Boykin, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7033.

Filed: July 12, 1991, 11:01 a.m.

TRD-9108336

The commission will consider and act on the Personnel Division Director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7187.

Filed: July 12, 1991, 10:58 a.m.

TRD-9108329

Texas Real Estate Commission

Monday, July 22, 1991, 9 a.m. The Texas Real Estate Commission will meet at Hyatt Regency, Medina Room, B Level, 123 Losoya Street, San Antonio. According to the agenda summary, the commission will meet to discuss: legislation and budgetary matters; Texas Agency Performance Review report; possible action to create Agency Task Force; possible action to adopt proposed amendments to 22 TAC §§535.91, concerning renewals; to adopt

§535.17, concerning appraisals and new §539.81, concerning funded reserves; to propose amendments to 22 TAC §§537.11, 537.13, 537.23, 537.28, 537.29 and 537.33, concerning standard contract forms; repeal of §§544.1-544.9, concerning certified appraisers; amendment to §531.18, concerning consumer information form; to propose amendments to 22 TAC §§535.66, concerning educational programs and new §535.69, concerning additional core real estate courses; to set MCE exemption fee under Section 7A, Article 6573a; to support request for Attorney General's Opinion on MCE option; MCE Committee meeting; possible action on appointment of TREC-REC Liaison Committee; possible action to appoint interim inspector advisory committee; possible action to approve implementation of new inspector programs; to approve MCE providers and courses; or to approve accredited schools or courses; executive session to discuss pending litigation pursuant to Texas Civil Statutes, Article 6252-17, §2(e); authorization of payment of claims against the Real Estate or Inspection Recovery Fund without contest; possible action on any matter discussed in executive session; motions for rehearing and/or probation; entry of orders in contested cases; and rehearing in Number 89-74-88705 in the Matter of William Michael Scudder.

Contact: Camilla Shannon, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: July 12, 1991, 10:37 a.m.

TRD-9108321

State Securities Board

Tuesday, August 13, 1991, 10 a.m. The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda summary, the commissioner will hold a hearing for the purpose of determining whether an order should be issued revoking registration of Gulfstar Corporation and Vega Financial Corporation as securities dealers; revoking registration of Carl William Holler as designated officer of Gulfstar Corporation; denying registration of Thomas Andrew Carriello, Alfred Anthony Elsner, Walter Frank Ritthaler and Roger Wayne Shelton as agents of Vega Financial Corporation and denying the registration of Johnnie Ray Feazel, Jr., Raul Martinez Garcia, Diane Mildred Gussie, Gary Paul Hinsley, Columbus Leon Hoskins, John William Massie, Jr., Michael Lee McClendon, Perry Cornelius Schoenfeld and Michael Paul Smith as agents of Gulfstar Corporation; and whether an order should be issued prohibiting the sale of securities issued by Gulfstar Corporation and prohibiting Phillip Andrews, Luther A. Jasper, Robert A. Hunter, Bruce A. Hurwick, Robert L. Riedel, Robert Palfreeman, Stanley L. Davis, T. Josephine

James, Joe B. Mullins, Bruce Parten, Thomas Horton Campbell, Gerardo Cantu, John Luna, Jimmie L. "Rocky" Pfeffer, G. J. Beck, David Willis, Chuck Conser, Bill Phillips, Rayma Ross, Robert David Whittington, Cole Reese, Michael Salinas, Chris Lynch, Mitchel Dillman, Scott Carlisle, Rick Boswell, Wesley W. Westbrook, Tony Boswell, Clay Smith, R. B. "Bill" McGuffie, James Hinton, and Deborah Dunavent from dealing in securities.

Contact: John Morgan, 1800 San Jacinto Street, Austin, Texas 78701, (512) 474-2233.

Filed: July 12, 1991, 4:41 p.m.

TRD-9108387

Board for Lease of State-owned Lands

Wednesday, July 24, 1991, 11 a.m. The Board for Lease of Texas Parks and Wildlife Lands of the Board for Lease of State-owned Lands will meet at the Stephen F. Austin Building, General Land Office, Room 833, 1700 North Congress Avenue, Austin. According to the revised agenda summary, the board will consider easement of applications of Hemphill and Freestone Counties.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, (512) 463-5016.

Filed: July 11, 1991, 11:15 a.m.

TRD-9108264

Texas Southern University

Thursday, July 25, 1991, 4 p.m. The Finance Committee of the Texas Southern University will meet at Texas Southern University, Hannah Hall, Room 117, 3100 Cleburne Avenue, Houston. According to the agenda, the committee will consider: matters relating to financial reporting systems and budgets; fiscal reports from the administration; investments; and informational items.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas, 77004, (713) 529-8911.

Filed: July 12, 1991, 8:58 a.m.

TRD-9108301

Thursday, July 30, 1991, 4 p.m. The Academic Affairs and Personnel Committee of the Texas Southern University will meet at Texas Southern University, Hannah Hall, Room 117, 3100 Cleburne Avenue, Houston. According to the agenda, the committee will discuss report on progress of academic activities and programs and personnel actions.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas, 77004, (713) 529-8911.

Filed: July 12, 1991, 8:52 a.m.

TRD-9108298

◆ ◆ ◆
Wednesday, July 31, 1991, 4 p.m. The Building and Grounds Committee of the Texas Southern University will meet at Texas Southern University, Hannah Hall, Room 117, 3100 Cleburne Avenue, Houston. According to the agenda, the committee will consider: construction change orders; payment to architects, contractors, and engineers; authorization and ratification of contracts and awards; and review of on going construction and current contractual relations.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas, 77004, (713) 529-8911.

Filed: July 12, 1991, 8:53 a.m.

TRD-9108299

◆ ◆ ◆
Wednesday, July 31, 1991, 5 p.m. The Development Committee of the Texas Southern University will meet at Texas Southern University, Hannah Hall, Room 117, 3100 Cleburne Avenue, Houston. According to the agenda, the committee will consider reports from the administration on University fund raising.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas, 77004, (713) 529-8911.

Filed: July 12, 1991, 8:53 a.m.

TRD-9108300

◆ ◆ ◆
Friday, August 9, 1991, 8:30 p.m. The Board of Regents of the Texas Southern University will meet at Texas Southern University, University Library, 5th Floor, 3100 Cleburne Avenue, Houston. According to the agenda, the committee will consider: minutes; budget changes; investments; budgets for restricted and/or grants and projects funds; construction change orders; authorization and ratification of contracts awards; review of on going construction and current contractual relations; personnel actions; report on progress of academic activities and programs; report of the president; executive session; and performance evaluation of personnel.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas, 77004, (713) 529-8911.

Filed: July 12, 1991, 8:54 a.m.

TRD-9108303

University of Houston System Board of Regents

Wednesday, July 17, 1991, 6 p.m. The Executive Committee of the University of Houston System Board of Regents met at 1600 Smith Street, 34th Floor, Conference Room I, University of Houston. According to the agenda, the committee met to discuss and/or act upon agreement between the University of Houston System and HUB Direct Marketing-University of Houston System.

Contact: Peggy Cervenka, 1600 Smith Street, Suite 3400, Houston, Texas 77002, (713) 754-7442.

Filed: July 11, 1991, 2:16 p.m.

TRD-9108280

University of Texas Health Center at Tyler

Thursday, July 18, 1991, 12 p.m. The Animal Research Committee of the University of Texas Health Center at Tyler met at University of Texas Health Center at Tyler, Chaplain's Conference Room, Highways 155 and 271 North, Tyler. According to the agenda, the committee discussed: approval of minutes from June meeting; chairman's report; veterinarian's report; old business-Animal Committee Handbook; and addenda.

Contact: Dr. Barry Peterson, P.O. Box 2003, Tyler, Texas 75710, (903) 877-7012.

Filed: July 11, 1991, 1:14 p.m.

TRD-9108269

Texas Water Commission

◆ ◆ ◆
Wednesday, July 24, 1991, 9 a.m. The Texas Water Commission will meet at Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, 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 Texas Water 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: July 12, 1991, 7:42 a.m.

TRD-9108292

Wednesday, July 24, 1991, 3 p.m. The Texas Water Commission will meet at Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider various matters within

the regulatory jurisdiction of the commission, specifically the adoption of new or amended agency regulations. 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 Texas Water 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) 463-7905.

Filed: July 12, 1991, 7:37 a.m.

TRD-9108291

Monday, August 26, 1991, 10 a.m. The Texas Water Commission will meet at Stephen F. Austin Building, Room 1028A, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will meet for a hearing before a hearings examiner on a water rate increase of Holly Ranch Water Co., Inc.

Contact: Bill Zukauckas, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 463-7875.

Filed: July 12, 1991, 7:51 a.m.

TRD-9108294

Monday, August 26, 1991, 10 a.m. The Texas Water Commission will meet at Stephen F. Austin Building, Room 1030, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will meet for a hearing before a hearings examiner on an application by Grapevine Lake Estates Water Supply Corporation for a water certificate of convenience and necessity (CCN) and for decertification of a portion of the City of Grapevine's CCN Number 10084. The CCN applied for by Grapevine Lake Estates Water Supply Corporation would authorize the provision of water utility service to a proposed service area approximately 5 miles northwest of downtown Grapevine, Tarrant County, and generally bounded on the north by Lakeshore and Lakeridge, on the south by Ridge Lane and High Drive, on the east by High Drive, and on the west by Oakwood Drive.

Contact: Carol Wood, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 463-7875.

Filed: July 12, 1991, 7:50 a.m.

TRD-9108293

Texas Water Development Board

◆ ◆ ◆
Thursday, July 18, 1991, 2 p.m. The Texas Water Development Board met in an emergency meeting at Stephen F. Austin Building, Room 513-F, 1700 North Congress Avenue, Austin. Board members may attend a meeting of a group to discuss is-

sues relating to the funding of colonias. The proposed agenda is: project status/update; project financing-the engineer's prospective; legislative history of Senate Bill 2; and November referendum. The emergency status was necessary because the potential for attendance of a quorum of the board was not foreseen; health conditions relating to the colonias posed an imminent public health problem which the board wished to consider.

Contact: Craig Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: July 12, 1991, 9:27 a.m.

TRD-9108306

Regional Meetings

Meetings Filed July 11, 1991

The Bastrop Central Appraisal District Appraisal Review Board met at the Bastrop Central Appraisal District, 1200 Cedar Street, Bastrop, July 18, 1991, at 7 p.m. Information may be obtained from Dana Ripley, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9108276.

The Bastrop Central Appraisal District Appraisal Review Board will meet at the Bastrop Central Appraisal District, 1200 Cedar Street, Bastrop, July 23, 1991, at 7 p.m. Information may be obtained from Dana Ripley, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9108277.

Bastrop Central Appraisal District Appraisal Review Board will meet at the Bastrop Central Appraisal District, 1200 Cedar Street, Bastrop, July 25, 1991, at 7 p.m. Information may be obtained from Dana Ripley, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9108278.

Bastrop Central Appraisal District Appraisal Review Board will meet at the Bastrop Central Appraisal District, 1200 Cedar Street, Bastrop, July 30, 1991, at 7 p.m. Information may be obtained from Dana Ripley, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9108279.

The Burnet County Appraisal District Board of Directors met at 223 South Pierce Street, Burnet, July 18, 1991, at 6:30 p.m. Information may be obtained from Barbara Ratliff, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291. TRD-9108285.

The Central Counties Center for Mental Health and Mental Retardation Services Board of Trustees met at 304 South 22nd Street, Temple, July 18, 1991, at 7:45 p.m. Information may be obtained from Michael Muegge, P.O. Box 518, Temple, Texas 76501, (817) 778-4841. TRD-9108283.

The Colorado River Municipal Water District Board of Directors met at the

Hilton Hotel, Odessa, July 14, 1991, at 7 p.m. Information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79721, (915) 267-6341. TRD-9108271.

The Golden Crescent Service Delivery Area Private Industry Council, Inc. met at 2401 Houston Highway, Victoria, July 17, 1991, at 6:30 p.m. (revised agenda). Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9108275.

The Rio Grande Council of Governments Board of Directors will meet at 1014 North Stanton Street, Main Conference Room, El Paso, July 19, 1991, at 9:30 a.m. (MST). Information may be obtained from Cecile C. Gamez, 1014 North Stanton Street, Suite 100, El Paso, Texas 79902, (915) 533-0998. TRD-9108270.

The Sabine River Authority of Texas Board of Directors will meet at the Fredonia Hotel, Nacogdoches, July 19, 1991, at 10 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, (409) 746-3200. TRD-9108288.

The Wise County Appraisal District Appraisal Review Board met at 206 South State Street, Decatur, July 16, 1991, at 9 a.m. Information may be obtained from Peggy Price, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9108287.

Meetings Filed July 12, 1991

The Archer County Appraisal District Appraisal Review Board met at the Appraisal District Office, 211 South Center Street, Archer City, July 17, 1991, at 9 a.m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9108354.

The Atascosa County Appraisal District Board of Directors met at Fourth and Avenue J, Poteet, July 18, 1991, at 1:30 p.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065-0139, (512) 742-3591. TRD-9108340.

The Austin-Travis County Mental Health and Mental Retardation Center Finance and Control Committee met at 1430 Collier Street, Austin, July 17, 1991, at noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9108348.

The Central Texas Council of Governments Central Texas Private Industry Council will meet at 302 East Central, Belton, July 25, 1991, at 10 a.m. Information may be obtained from Susan Kamas, P.O. Box 729, Belton, Texas 76513, (817) 939-3711. TRD-9108297.

The Bastrop Central Appraisal District Board of Directors met at the Bastrop Central Appraisal District, 1200 Cedar Street, Bastrop, July 17, 1991, at 7:30 p.m. Information may be obtained from Dana Ripley, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9108409.

The Colorado River Municipal Water District Board of Directors held an emergency meeting at the Odessa Country Club, Odessa, July 17, 1991, at 7 p.m. (Rescheduled from July 16, 1991, at 7 p.m.). The emergency status was necessary as the New York people could not get schedule (travel) to enable Tuesday meeting. Information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79721, (915) 267-6341. TRD-9108365.

The Comal Appraisal District Board of Directors will meet at 430 West Mill Street, New Braunfels, July 22, 1991, at 7 p.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9108296.

The Comal Appraisal District Appraisal Review Board will meet at 430 West Mill Street, New Braunfels, July 22, 1991, at 9 a.m. (revised agenda). Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9108295.

The Dallas Area Rapid Transit Minority Affairs Committee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, July 16, 1991, at 10 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Suite 500, Dallas, Texas 75202, (214) 658-6237. TRD-9108319.

The Dallas Area Rapid Transit Ethnic Policy Review Ad Hoc Committee met at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, July 16, 1991, at 11:30 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Suite 500, Dallas, Texas 75202, (214) 658-6237. TRD-9108320.

The Dallas Area Rapid Transit Operations Subcommittee on Special Services met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, July 16, 1991, at noon. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Suite 500, Dallas, Texas 75202, (214) 658-6237. TRD-9108318.

The Dallas Area Rapid Transit Budget and Finance Committee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, July 16, 1991, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Suite 500, Dallas, Texas 75202, (214) 658-6237. TRD-9108323.

The Dallas Area Rapid Transit Planning and Development Committee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, July 16, 1991, at 3 p.m.

Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Suite 500, Dallas, Texas 75202, (214) 658-6237. TRD-9108322.

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 North Stemmons Freeway, Dallas, July 19, 1991, at 11 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9108328.

The East Texas Council of Governments East Texas Private Industry Council met at the ETCOG Offices, Kilgore, July 18, 1991, at 9:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9108349.

The Ellis County Appraisal District Board of Directors will meet at 406 Sycamore Street, Waxahachie, July 23, 1991, at 7:30 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 848, Waxahachie, Texas 75165, (214) 937-3552. TRD-9108381.

The Erath County Appraisal District Appraisal Review Board met at 1390 Harbin Drive, Board Room, Stephenville, July 17, 1991, at 9 a.m. Information may be obtained from Trecea Perales, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9108352.

The Gonzales County Appraisal District Appraisal Review Board met at 928 St. Paul Street, Gonzales, July 16, 1991, at 9 a.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9108412.

The Gonzales County Appraisal District Appraisal Review Board met at 928 St. Paul Street, Gonzales, July 17, 1991, at 9 a.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9108411.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul Street, Gonzales, July 18, 1991, at 5 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9108410.

The Hunt County Tax Appraisal District Appraisal Review Board met at the Hunt County Tax Appraisal District, Board Room, 4801 King Street, Greenville, July 17, 1991, at 9:30 a.m. Information may be obtained from Melda Hart or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510. TRD-9108338.

The Hunt County Tax Appraisal District Appraisal Review Board met at the Hunt County Tax Appraisal District, Board Room, 4801 King Street, Greenville, July 18, 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-9108339.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3700 Lake Austin Boulevard, Austin,

July 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9108310.

The Lower Colorado River Authority Natural Resources Committee met at 3700 Lake Austin Boulevard, Austin, July 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9108311.

The Lower Colorado River Authority Energy Operations Committee met at 3700 Lake Austin Boulevard, Austin, July 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9108312.

The Lower Colorado River Authority Finance and Administration Committee met at 3700 Lake Austin Boulevard, Austin, July 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9108313.

The Lower Colorado River Authority Audit and Budget Committee met at 3700 Lake Austin Boulevard, Austin, July 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9108314.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, Austin, July 17, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9108315.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, Austin, July 18, 1991, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9108316.

The Mills County Appraisal District met at the Mills County Commissioners Courtroom, Goldthwaite, July 18, 1991, at 6:30 p.m. Information may be obtained from Doran E. Lemke, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253. TRD-9108304.

The Nortex Regional Planning Commission Executive Committee met at the Wichita Falls Activities Center, Room 214, 10th and Indiana Street, Wichita Falls, July 18, 1991, at noon. (revised agenda). Information may be obtained from Dennis Wilde, 2101 Kemp Boulevard, Wichita Falls, Texas 76309, (817) 322-5281. TRD-9108351.

The North Central Texas Council of Governments North Central Texas Job Training Consortium Private Industry Council met at the North Central Texas Council of Governments, Arlington, July 18, 1991, at 10 a.m. Information may be obtained from Mike Gilmore, P.O. Drawer

COG, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9108353.

The South Texas Development Council Regional Review Committee will meet at 600 South Sandman, Conference Room, Building S-1, Laredo, July 19, 1991, at 10 a.m. Information may be obtained from Juan Vargas, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995. TRD-9108350.

The Scurry County Appraisal District Board of Directors met at 2612 College Avenue, Snyder, July 17, 1991, at 8 a.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549. TRD-9108324.

The South Plains Association of Governments Regional Review Committee met at 1323 58th Street, Lubbock, July 17, 1991, at 1:30 p.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9108302.

The Texas Municipal League Group Benefits Risk Pool Board of Trustees, Group Benefits Risk Pool will meet at the Sheraton South Padre Resort Hotel, South Padre Island, July 18-20, 1991, at 1 p.m. Information may be obtained from Rhonda Ruckel, 211 East Seventh Street, Suite 1100, Austin, Texas 78701, (512) 320-7861. TRD-9108347.

The Texas Municipal League Group Benefits Risk Pool Board of Trustees, Group Benefits Risk Pool will meet at the Sheraton South Padre Resort Hotel, South Padre Island, July 18-20, 1991, at 1 p.m. Information may be obtained from Rhonda Ruckel, 211 East Seventh Street, Suite 1100, Austin, Texas 78701, (512) 320-7861. TRD-9108347.

The Tyler County Appraisal District Appraisal Review Board met at 806 West Bluff, Woodville, July 17, 1991, at 11:30 a.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9108325.

The West Central Texas Municipal Water District met at 401 Cypress Street, Suite 300, Abilene, July 17, 1991, at 9:30 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254. TRD-9108385.

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Meetings Filed July 15, 1991

The Austin-Travis County Mental Health and Mental Retardation Center Operations and Planning Committee will meet at 1430 Collier Street, Board Room, Austin, July 19, 1991, at 7:30 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9108428.

The Bexar Appraisal District Appraisal Review Board will meet at 535 South Main Street, San Antonio, July 19, 1991, at 10 a.m. Information may be obtained from Walter Stoneham, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9108416.

The Bexar Appraisal District Board of Directors will meet at 535 South Main Street, San Antonio, July 22, 1991, at 4:30 p.m. Information may be obtained from Walter Stoneham, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9108415.

The Brazos Valley Development Council Regional Review Committee will meet at the Council Office, 3006 East 26th Street, Suite Two, Bryan, July 23, 1991, at 9:30 a.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805, (409) 776-2277. TRD-9108413.

The Central Appraisal District of Nolan County Appraisal Review Board will meet at the Nolan County Courthouse, Third Floor, Sweetwater, July 22, 1991, at 1:30 p.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9108433.

The Central Counties Center for Mental Health and Mental Retardation Services Board of Trustees met at 304 South 22nd Street, Temple, July 18, 1991, at 7:45 p.m. (revised agenda). Information may be ob-

tained from Michael Muegge, P.O. Box 518, Temple, Texas 76501, (817) 778-4841. TRD-9108437.

The Central Appraisal District of Taylor County held an emergency meeting at 1534 South Treadaway, Abilene, July 16, 1991, at 1:30 p.m. The emergency status was necessary due to litigation of TV Cable Service Company, Inc. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9108450.

The Central Texas Council of Governments Executive Committee will meet at 302 East Central Street, Belton, July 25, 1991, at 12:30 p.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1903. TRD-9108417.

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 North Stemmons Freeway, Dallas, July 19, 1991, at 11 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9108418.

The Deep East Texas Regional Mental Health and Mental Retardation Services Board of Trustees will meet at the Ward R. Burke Community Room, 4101 South Medford Drive, Lufkin, July 23, 1991, at 3:30 p.m. Information may be obtained from Sandy Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9108435.

The Hansford Appraisal District Appraisal Review Board met at 709 West Sev-

enth Street, Spearman, July 18, 1991, at 9 a.m. Information may be obtained from Alice Peddy, P.O. Box 567, Spearman, Texas 79081, (806) 659-5575. TRD-9108436.

The Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, July 24, 1991, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9108447.

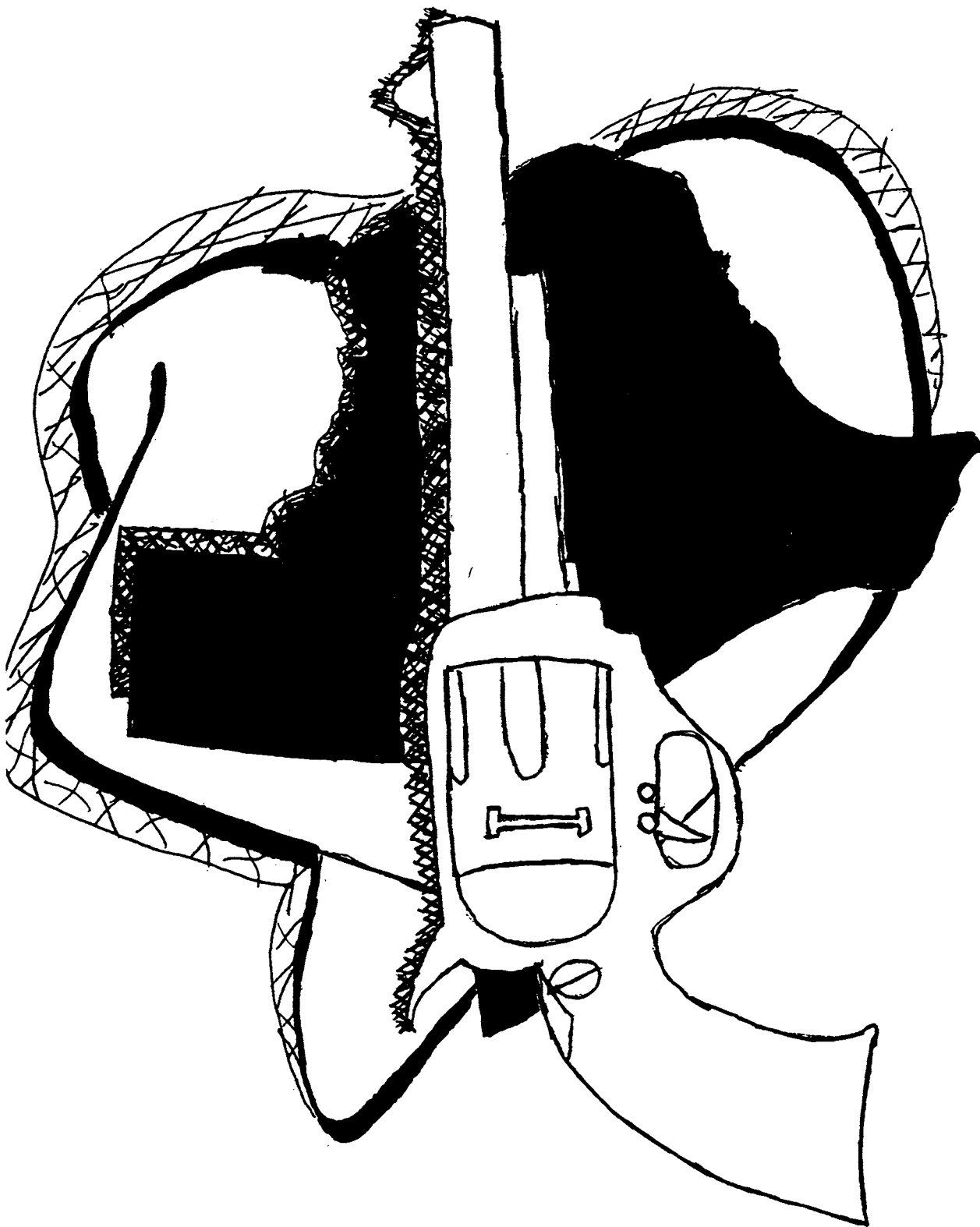
The Henderson County Appraisal District Board of Directors will meet at 1751 Enterprise Street, Athens, July 22, 1991, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9108423.

The Hunt County Tax Appraisal District Appraisal Review Board met at the Hunt County Tax Appraisal District, Board Room, 4801 King Street, Greenville, July 18, 1991, at 2 p.m. (Rescheduled from 4 p.m.). Information may be obtained from Melda Hart or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510. TRD-9108424.

The Northeast Texas Municipal Water District Board of Directors will meet at Highway 250 South, Hughes Springs, July 22, 1991, at 10 a.m. Information may be obtained from J. W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9108414.

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Eric Simmons



Name: Eric Simmons

Grade: 7

School: Clear Lake Intermediate School, Clear Creek 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 Contested Case Hearing Number 283

An examiner for the Texas Air Control Board (TACB) will conduct a contested case hearing to consider whether or not a permit should be issued to Formosa Plastics Corporation, Texas (the applicant) to construct a marine terminal facility consisting of a tank farm to be located on Matagorda Street between Alamo Street and FM 1593 in Point Comfort, Calhoun County, Texas 77978 and a dock facility to be located at FM 1593 South in Point Comfort, Calhoun County, Texas 77978.

Deadline for Requesting to be a Party. At the hearing, only those persons admitted as parties and their witnesses will be allowed to participate. Presently, the only prospective parties are the applicant and the TACB staff. Any person who may be affected by emissions from the proposed facility who wants to be made a party must send a specific written request for party status to Hearings Examiner Bridget C. Bohac and make sure that this request is actually received at the TACB Central Office, 12124 Park 35 Circle, Austin, Texas 78753 by 5 p.m. on July 23, 1991. The examiner cannot grant party status after that deadline, unless there is good cause for the request arriving late. Hearing requests, comments, or other correspondence set to the TACB before publication of this notice will not be considered as a request for party status. The examiner will decide on party status at the prehearing conference.

Prehearing Conference. The examiner has scheduled a prehearing conference at 1:30 p.m. on Tuesday, August 6, 1991, at the TACB Central Office, Room 143E, 12124 Park 35 Circle, Austin. At this conference, the examiner will consider any motions of the parties, but may grant contested motions for continuance only upon proof of good cause. The examiner will also establish a specific date prior to the hearing on the merits for the exchange of written and documentary evidence.

Time and Place of Hearing. The examiner has set the hearing to begin at 1:30 p.m. on Monday, September 9, 1991, at the TACB Central Office, Room 143E, 12124 Park 35 Circle, Austin.

What the Applicant Must Prove. This hearing is a contested case hearing under the Administrative Procedure and Texas Register Act, §13, Texas Civil Statutes, Article 6252-13a. It is generally conducted like a trial in district court. The applicant must demonstrate, by a preponderance of the evidence, that the proposed facility will meet the requirements of the Texas Clean Air Act, §382.051, Chapter 382, Health and Safety Code (the Act), and TACB §116.3. These requirements include compliance with all applicable TACB and federal regulations, including the requirement that the proposed facility will use the best available control technology, considering the technical practicability and economic reasonableness of reducing or eliminating emissions.

Public Attendance and Testimony. Members of the general public may attend the prehearing conference and the hearing. Those who plan to attend are encouraged to telephone the TACB Central Office in Austin, Texas at (512) 908-1770, a day or two prior to the prehearing conference and the hearing dates in order to confirm the settings, since continuances are sometimes granted. Any persons who wants to give testimony at the hearing, but who does not want to be a party, may call the TACB Hearings Section at (512) 908-1770, to find out the names and addresses of all persons who may be contacted about the possibility of presenting testimony.

Information About the Application and TACB Rules. Information about the application and copies of the TACB's rules and regulations are available at the TACB Regional Office located at 1231 Agnes Street, Suite 103, Corpus Christi, Texas 78401, the TACB Central Office located at 12124 Park 35 Circle, Austin, Texas 78753, and at the Point Comfort City Hall office located at 108 Jones Street, Point Comfort, Texas 77978.

Legal Authority. This hearing is called and will be conducted under the authority of the Act, §§382.029, 382.030, 382.031, 382.051, and 382.056 and TACB §§103.11(3), 103.31, and 103.41.

Issued in Austin, Texas, on July 9, 1991.

TRD-9108262 Steve Spaw, P.E.
Executive Director
Texas Air Control Board

Filed: July 11, 1991

For further information, please call: (512) 908-1772

◆ ◆ ◆ Notice of Contested Case Hearing Number 284

An examiner for the Texas Air Control Board (TACB) will conduct a contested case hearing to consider whether or not a permit should be issued to Berridge Manufacturing Company (the applicant) to construct a coil-coating plant to be located at 6515 Pratt Road, San Antonio, Bexar County, Texas 78218.

Deadline for Requesting to be a Party. At the hearing, only those persons admitted as parties and their witnesses will be allowed to participate. Presently, the only prospective parties are the applicant and the TACB Staff. Any person who may be affected by emissions from the proposed facility who wants to be made a party must send a specific written request for party status to Hearings Examiner Cindy Hurd and make sure that this request is actually received at the TACB Central Office, 12124 Park 35 Circle, Austin, Texas 78753 by 5 p.m. on August 9, 1991. The examiner cannot grant party status after that deadline, unless there is good cause for the request arriving late. Hearing requests, comments, or other correspondence sent to the TACB before publication of this notice will not be considered as a request for party status. The examiner will decide on party status at the prehearing conference.

Prehearing Conference. The examiner has scheduled a prehearing conference at 1:30 p.m. on Thursday, August 15, 1991, at the TACB Central Office, Room 143-E, 12124 Park 35 Circle, Austin. At this conference, the examiner will consider any motions of the parties, but may grant contested motions for continuance only upon proof of good cause. The examiner will also establish a specific date prior to the hearing on the merits for the exchange of written and documentary evidence.

Time and Place of Hearing. The examiner has set the hearing to begin at 1:30 p.m. on Tuesday, September 10, 1991, at the TACB Central Office auditorium, Room 144-E, 12124 Park 35 Circle, Austin.

What The Applicant Must Prove. This hearing is a contested case hearing under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §13. It is generally conducted like a trial in district court. The applicant must demonstrate, by a preponderance of the evidence, that the proposed facility will meet the requirements of the Texas Clean Air Act, Chapter 382, §382.051, Health and Safety Code (the Act), and TACB Rule 116.3. These requirements include compliance with all applicable TACB and federal regulations, including the requirement that the proposed facility will use the best available control technology, considering the technical practicability and economic reasonableness of reducing or eliminating emissions.

Public Attendance and Testimony. Members of the general public may attend the prehearing conference and the hearing. Those who plan to attend are encouraged to telephone the TACB Central Office in Austin, at (512) 908-1770, a day or two prior to the prehearing conference and the hearing date in order to confirm the settings, since continuances are sometimes granted. Any person who wants to give testimony at the hearing, but who does not

want to be a party, may call the TACB Hearings Section at (512) 908-1770, to find out the names and addresses of all persons who may be contacted about the possibility of presenting testimony.

Information About the Application and TACB Rules. Information about the application and copies of the TACB's Rules and Regulations are available at the TACB Regional Office located at 4335 Piedras West, Suite 101, San Antonio, Texas 78228, the TACB Central Office located at 12124 Park 35 Circle, Austin, Texas 78753, and at the San Antonio City Hall located at 100 Military Plaza, San Antonio, Texas 78205.

Legal Authority. This hearing is called and will be conducted under the authority of the Act, §§382.029, 382.030, 382.031, 382.051, and 382.056 and TACB Procedural Rules 103.11(3), 103.31, and 103.41.

Issued in Austin, Texas, on July 9, 1991.

TRD-9108305 Steve Spaw
Executive Director
Texas Air Control Board

Filed: July 12, 1991

For further information, please call: (512) 908-1772

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Article 1.04, as amended (Texas Civil Statutes, Articles 5069-1.04.

<u>Types of Rate Ceilings</u>	<u>Effective Period</u> (Dates are Inclusive)	Consumer ⁽¹⁾ /Agricultural/ Commercial ⁽²⁾ thru \$250,000	Commercial ⁽²⁾ over \$250,000
Indicated (Weekly) Rate - Art. 1.04(a)(1)	07/15/91-07/21/91	18.00%	18.00%

⁽¹⁾Credit for personal, family or household use. ⁽²⁾Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on * 1991.

TRD** Al Endsley
Consumer Credit Commissioner

Filed: July 11, 1991

For further information, please call: (512) 479-1280

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Texas Growth Fund Request for Proposals

The Texas Growth Fund (TGF) is issuing a request for proposals (RFP) to assist TGF in employing an executive director. TGF will engage a consultant to conduct an extensive nationwide search for candidates for the position, identifying qualified persons interested in accepting the position, recommending five-10 such persons to TGF for consideration and conducting background checks, evaluating, and developing resumes for each of the recommended candidates.

In identifying and evaluating candidates the consultant must work closely with TGF to develop and apply approved criteria and qualifications for the position. The consultant must report regularly on its progress and be available through a designated contact to consult with TGF by telephone, in writing, or in person as requested during the contract period.

Activities under an accepted proposal should begin on or about September 11, 1991, and should terminate on or about December 2, 1991.

Persons who respond to the RFP (applicants) should obtain a copy of the complete RFP, which may be obtained by writing or calling A. W. Riter, Jr., Texas Growth Fund, 1406 NCNB Center Tower, 110 North College, Tyler, Texas 75702, (903) 535-5510. Answers to questions about the RFP may be obtained in writing from Mr. Riter at the preceding address.

The deadline for receipt of proposals in response to the RFP is 5 p.m., August 14, 1991.

To be considered, applicants should demonstrate superior recognized expertise in conducting searches for chief executives and administrators for pension plans, trust funds, mutual funds, venture capital funds, state agencies, or similar institutions. It is anticipated that applicants may be private companies or partnerships, nonprofit organizations, or individuals.

Proposals must include complete descriptions of services and activities to be undertaken, the costs of such services and activities, and the relevant experiences and qualifications of the applicant.

The RFP encourages applicants to include different levels of services at varying costs.

A proposal will be selected based upon the conformance of the proposal with the RFP; an evaluation of the quality and appropriateness of the proposal; an evaluation of the experience, qualifications, and capability of the applicant; and the cost of the services and activities.

The TGF reserves the right to reject any or all proposals submitted. The selected consultant must execute a contract acceptable to TGF. The TGF specifically reserves the right to vary any or all provisions set forth at any time prior to execution of the contract where TGF deems it to be in the best interest of TGF. The TGF shall not be responsible for costs of applicants in responding to the RFP or in negotiating project terms.

Issued in Austin, Texas, on July 12, 1991.

TRD-9108430

A. W. Ritter, Jr.
Member, Board of Trustees and Executive
Director Search Committee
Texas Growth Fund

Filed: July 15, 1991

For further information, please call: (903) 535-5510

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State Department of Highways and Public Transportation Requests for Proposals

In the April 23, 1991, issue of the *Texas Register* (16 TexReg 2332), the State Department of Highways and Public Transportation published a request for applications pursuant to Texas Civil Statutes, Article 4413 (56), Oil Overcharge Restitutionary Act. The following notice is an amendment to the original with the only changes being the response date and the percentage of reimbursable costs for equipment from 20% to 60%.

Notice of Invitation. The State Department of Highways and Public Transportation (SDHPT), in conjunction with the Governor's Energy Management Center (GEMC), is issuing this request for applications. The applications shall be in the form of a completed Grant Application which is available from local SDHPT district offices. The United States Department of Energy recently approved a state-wide Traffic Light Synchronization (TLS) program submitted by the GEMC. This program will provide to local city governments across the state the sum of \$5 million for the optimization of traffic signal timing plans and the replacement and/or installation of equipment necessary for the implementation of signal systems. These funds will help traffic engineers reduce unnecessary vehicle stops and delays through improved traffic signal timing. Significant fuel savings and a reduction in vehicle emissions should also be realized.

The TLS funds will be expended through the SDHPT on projects proposed by local city governments. Projects will

be selected to help assure an equitable distribution of funds to urban and rural areas of the state. There will be three major funding categories: large cities (cities with populations over 200,000); medium-sized cities (cities with populations ranging between 50,000 and 200,000); and small cities (cities with populations under 50,000). Populations will be based on final 1990 Census Bureau figures. Funds will be distributed as follows: 50% of available funds will be expended in large cities, with each of the eight cities presently over 200,000 population eligible for an allotment proportional to its population provided viable projects are submitted; the remaining 50% of available funds will be evenly distributed (25%-25%) between medium-sized cities and small cities. Projects submitted by medium-sized cities and small cities will compete with each other for funds within their respective categories and the total amount proposed for reimbursement within an individual project in these two categories must not exceed \$120,000. Funds will be moved from one population category to another if they cannot be fully expended. Funding allotments for cities over 200,000 population can be obtained from local SDHPT district offices.

Up to 75% of project costs are eligible for reimbursement. However, not more than 60% of reimbursable costs can be earmarked for equipment. If a project is funded, the local government or the SDHPT must pay a minimum 25% of the total direct costs of the project in matching funds and/or in-kind services. The SDHPT will provide a local match when a project contains traffic signals that are maintained and operated by the SDHPT, unless the local government and the SDHPT agree otherwise. However, the city must first obtain approval of the proposed project from the local SDHPT district office. The SDHPT local match will be proportional to project costs attributable to SDHPT traffic signals.

Costs eligible for reimbursement under the program include: training local staff and/or consultants in the use of computer technology for the retiming of traffic signals; data collection; development and implementation of timing plans; replacement and/or installation of equipment necessary for the implementation of signal systems (modernization of signal poles and mast arms are not eligible); and preparation of "before" and "after" studies.

TLS program monies shall not be used to supplant or replace existing funds earmarked for specific signal projects. That is, if existing funds are authorized for signal expenditures, those funds may not be released and then replaced by TLS funds.

The TLS program will target traffic control systems currently coordinated and controlled in a manner that permits implementation of multiple timing plans (i.e., timing plans that match traffic needs at different times of day). By focusing on traffic signal systems that currently have coordination capabilities, maximum energy savings can be realized with the available funds. However, isolated signals are also eligible under this program. Projects which propose the installation of signals where none presently exist will not be eligible.

Additional information concerning TLS program is included in the Grant Application Manual which is available from local district offices.

Agency contact. Additional information concerning the request for applications may be obtained by writing your local SDHPT district offices, or by contacting the Maintenance and Operations Division, 11th and Brazos, Austin, Texas (512) 465-6356.

Response Date. The completed Grant Application must be received by local SDHPT district offices on or before

August 16, 1991. Applicants will be notified of selection or non-selection on or about October 31, 1991.

Selection Criteria. Projects will be ranked and recommended for funding using the following criteria: operational characteristics of the traffic signal system—operational characteristics such as delay, average travel speed, average daily traffic, etc., will be considered to determine the amount of benefit improved signal timing can produce; availability of local staff to implement timing plans—having local staff available will allow the knowledge gained through the technical training to be retained and encourage future retiming efforts to be undertaken by local city governments; average signal spacing—the greater the concentration of signals, the more important synchronization and optimal signal timing become. A signal must be no further than one mile from an adjacent signal for it to be considered part of a signal system; other criteria such as recent growth in the project area, date of last retiming effort, level of expansion over current effort, and certification that TLS funds will supplement and not supplant existing funds—these criteria will aid in determining where the need for TLS funds is greatest and where maximum benefit can be achieved.

Issued in Austin, Texas, on July 12, 1991.

TRD-9108307 Diane L. Northam
Legal Administrative Assistant
State Department of Highways and Public
Transportation

Filed: July 12, 1991

For further information, please call: (512) 463-8630

Houston-Galveston Area Council Request for Proposals

The purpose of this project is to determine the average vehicle occupancy (AVO) in the "severe" ozone nonattainment area, which includes the Houston-Galveston-Brazoria consolidated metropolitan statistical area (CMSA) and Chambers County. As part of this study, a vehicle classification count will also be conducted for the same study area. A copy of the detailed scope of work will be furnished upon request. Anyone wishing to submit a proposal must do so by 5 p. m. on August 19, 1991, at the address listed following.

The proposed professional services contract would involve the development of survey instruments, extracting statistically significant survey samples and pilot testing for the AVO element, collecting the survey data, survey data coding and data entry, selected survey data analysis, conducting vehicle classification counts, and analyzing data obtained from the vehicle classification counts. Funding for this project will be provided through grants from the Urban Mass Transportation Administration, the Federal Highway Administration, and the Texas Air Control Board (pending).

The proposals will be evaluated on the following criteria: comprehension of the project requirements and methodologies; qualifications of personnel assigned; demonstrated knowledge of the study areas; management plan; and previous related work experience.

Further inquiries as to the scope of work should be directed to: Veronica Baxter, Senior Transportation Planner, Houston-Galveston Area Council, P.O. Box 22777, Houston, Texas 77227.

Issued in Austin, Texas, on July 12, 1991.

TRD-9108429 Jack Steele
Executive Director
Houston-Galveston Area Council

Filed: July 15, 1991

For further information, please call: (713) 627-3200

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 June 7, 1991, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of Lower Colorado River Authority to amend certificate of convenience and necessity for proposed distribution line within Bastrop County, Docket Number 10401 before the Public Utility Commission of Texas.

The Application: In Docket Number 10401, Lower Colorado River Authority requests approval of its application to construct approximately 1.66 miles of distribution line outside of certificated service area boundaries in Bastrop 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 Public Information Division at (512) 459-0223, or (512) 458-0227 within 15 days of this notice.

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

TRD-9108229 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 10, 1991

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

Notice of Petition For Waiver of Substantive Rule 23.41(a)(5)

Notice is given to the public of the filing with the Public Utility Commission of Texas of a petition on July 2, 1991, to waive a provision of Public Utility Commission Substantive Rule 23.41(a)(5).

Docket Title and Number: Application of Lower Colorado River Authority for exemption from Substantive Rule 23.41(a)(5), Docket Number 10472 before the Public Utility Commission of Texas.

The Application: In Docket Number 10472, the Lower Colorado River Authority files a petition seeking waiver of a provision of Public Utility Commission Substantive Rule 23.41(a)(5).

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

Public Information Division at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf before August 2, 1991.

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

TRD-9108364 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 12, 1991

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

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Texas Racing Commission
Notice of Application Period

The Texas Racing Commission announces that on November 3, 1991-December 31, 1991, the commission will accept application documents in support of a Class 1 pari-mutuel racetrack license in the Dallas and Tarrant County Area.

Under Texas Racing Commission rules, the commission may designate an application period of not more than 60 days, in which application documents for a racetrack license may be filed.

On July 1, 1991, the Texas Racing Commission's Horse Racing Section established a new 60-day application period. The designated period begins at 8 a. m., November 3, 1991, and ends at 5 p.m., December 31, 1991. Pursuant to the Texas Racing Act, §6.02(b), Texas Civil Statutes, Article 179e, a Class 1 racetrack may be located in Dallas or Tarrant Counties or in a county adjacent to either county.

For more information contact Shannon McBride, Legal Assistant, at (512) 794-8461. The Texas Racing Commission offices are located at 9420 Research, Echelon III, Suite 200, Austin, Texas 78759 or write P.O. Box 12080, Austin, Texas 78711.

Issued in Austin, Texas, on July 12, 1991.

TRD-9108241 Paula Cochran Carter
General Counsel
Texas Racing Commission

Filed: July 10, 1991

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

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Notice of Public Hearing

Pursuant to Texas Civil Statutes, Article 179e, §18.02, a hearings examiner for the Texas Racing Commission, Horse Racing Section, will conduct an administrative hearing on TxRC Cause Number 90-R1-0039, the application for the pari-mutuel Class 1 horse racetrack license for Bexar County. The hearing will begin at 9 a.m. on Wednesday, August 14, 1991, at 9420 Research Boulevard, Echelon Building III, Austin, Texas 78759, in either Suite 260 or Suite 110. All interested persons are welcome to attend.

The applicant, Retama Park Association, asserts that it is qualified to receive the only license available for that geographic region under Texas Civil Statutes, Article 179e, §6.04 and 16 Texas Administrative Code §305.62.

The hearing will be conducted in accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and Chapter 307 of the Texas Racing Commission Rules, 16 Texas Administrative Code §307.1, et seq.

Questions regarding this matter should be directed to Shannon McBride, Legal Assistant, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711, (512) 794-8461.

Issued in Austin, Texas, on July 12, 1991.

TRD-9108239 Paula Cochran Carter
General Counsel
Texas Racing Commission

Filed: July 10, 1991

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

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Texas Water Development Board
Applications Received

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the board.

Texas Water Resources Institute, Texas A&M University, College Station, Texas 77843-2118, received June 21, 1991, application for funding from the research and planning fund.

Isaacson Municipal Utility District, P.O. Box 81, El Campo, Texas 77437, received April 19, 1991, application for financial assistance in the amount of \$275,000 from the state water pollution control revolving fund.

City of San Saba, P.O. Box 788, San Saba, Texas 78677, received June 20, 1991, application for an increase from \$560,000 to \$1,300,000 in existing commitment from the water quality enhancement account of the Texas water development fund.

Fayette County WCID, P.O. Box 164, La Grange, Texas 78945, received May 2, 1991, application for financial assistance in the amount of \$375,000 from the water supply account and \$175,000 from the water quality enhancement account, both of the Texas water development fund.

City of Hondo, 1600 Avenue M, Hondo, Texas 78861, received June 20, 1991, application for financial assistance in the amount of \$970,000 from the water supply account of the Texas water development fund and \$1,690,000 from the state water pollution control revolving fund.

City of Corrigan, 101 West Ben Franklin, Corrigan, Texas 75939, received June 20, 1991, application for financial assistance in the amount of \$275,000 from the water quality enhancement account of the Texas water development fund.

City of Lovelady, P.O. Box 83, Lovelady, Texas 75857, received March 21, 1991, application for financial assistance in the amount of \$490,000 from the state water pollution control revolving fund.

City of Westover Hills, 5824 Merrymount, Westover Hills, Texas 76107, received June 21, 1991, application for financial assistance in the amount of \$675,000 from the water supply account of the Texas water development fund and \$125,000 from the state water pollution control revolving fund.

Additional information concerning this matter may be obtained from Craig D. Pedersen, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

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

TRD-9108238 Craig D. Pedersen
Executive Administrator
Texas Water Development Board

Filed: July 10, 1991

For further information, please call: (512) 463-7981



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 IN- DEX	
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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