

Texas Register

Volume 16, Number 92, December 13, 1991

Page 7119-7269

In This Issue...

Attorney General

Open Records Decisions

7133- ORD-597 (RQ-23)

7133- ORD-598 (RQ-44)

Opinions

7133- DM-45B (RQ-65)

7133- DM-58 (RQ-176)

7133- DM-59 (RQ-185)

7133- DM-60 (RQ-146)

7133- DM-61 (RQ-104)

7133- DM-219 (RQ-62)

Request for Opinions

7133- (RQ-228)

7133- (RQ-229)

7133- (RQ-230)

7134- (RQ-231)

7134- (RQ-232)

7134- (RQ-233)

7134- (RQ-234)

7134- (RQ-235)

7134- (RQ-236)

7134- (RQ-237)

7134- (RQ-238)

7134- (RQ-239)

7134- (RQ-240)

7134- (RQ-241)

7134- (RQ-242)

7134- (RQ-243)

7134- (RQ-244)

7134- (RQ-245)

7134- (RQ-246)

7134- (RQ-247)

7134- (RQ-248)

7134- (RQ-249)

7134- (RQ-250)

7134- (RQ-251)

CONTENTS CONTINUED INSIDE

Texas Register

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Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

Texas Department of Health

7135–Food and Drug

Texas Department of Insurance

7135–State Fire Marshal

Texas Water Commission

7135–Regional Assessments of Water Quality

Texas Department of Criminal Justice

7137–Standards

7138–Court Reports and Documentation

Texas Department of Human Services

7139–Family Self-Support Services

Proposed Sections

Office of the Secretary of State

7141–Corporations

Texas Higher Education Coordinating Board

7141–Agency Administration

7142–Program Development

7143–Campus Planning and Physical Facilities Development

7145–Student Services

7146–Administrative Council

7147–Retirement Annuity Programs

Texas Education Agency

7150–Adaptations for Special Populations

7151–Teacher Education

Board of Nurse Examiners

7152–Nurse Education

Texas Department of Insurance

7152–General Administration

7153–Life, Accident, and Health Insurance and Annuities

7161–Agent's Licensing

Comptroller of Public Accounts

7163–Tax Administration

Texas Department of Criminal Justice

7166–Standards

7167–Parole

7167–Mandatory Supervision

7168–Court Reports and Documentation

Texas Department of Human Services

7168–Family Self-Support Services

Withdrawn Section

Public Utility Commission of Texas

7171–Substantive Rules

Texas Department of Health

7171–Solid Waste Management

Adopted Sections

Advisory Commission on State
Emergency Communications

7173–Regional Plans

7173–Finance

Texas Incentive and Productivity
Commission

7173–State Employee Incentive Program

7174–Productivity Bonus Program

Public Utility Commission of Texas

7174–Practice and Procedure

Texas Education Agency

7175–Curriculum

Texas Department of Health

7195–Solid Waste Management

Texas Department of Insurance

7196–Corporate and Financial Regulation

7201–Title Insurance

7201–Surplus Lines Insurance

Texas Parks and Wildlife Department

7202–Fisheries and Wildlife

Texas Air Control Board

7205–General Rules

7205–Control of Air Pollution from Sulfur Compounds

Texas Water Commission

7206–Consolidated Permits

7211–Regional Assessments of Water Quality

Texas Department of Criminal Justice

7217–General Allocation Rules

Commission on Jail Standards

7217–Medical Services in County Jails

Texas Department of Human Services

7217-Community Care for Aged and Disabled

Texas Department of Insurance

7218-Notification Pursuant to the Texas Insurance Code, Chapter 5, Subchapter L

Open Meetings

7221-Texas Department of Agriculture

7221-Texas Commission on Alcohol and Drug Abuse

7221-Texas Alcoholic Beverage Commission

7221-State Banking Board

7221-State Bar of Texas

7221-Texas Bond Review Board

7222-Texas Department of Criminal Justice, Board of Pardons and Paroles

7222-Interagency Council on Early Childhood Intervention

7222-East Texas State University

7222-Task Force on Economic Transition

7222-Texas Education Agency

7222-Texas Employment Commission

7222-General Services Commission

7223-Texas Growth Fund

7223-Texas Guaranteed Student Loan Corporation

7223-Texas Department of Health

7224-Texas Department of Housing and Community Affairs

7224-Texas Department of Insurance

7225-Texas Commission on Jail Standards

7225-Texas Juvenile Probation Commission

7226-Lamar University System

7226-Texas Department of Mental Health and Mental Retardation

7226-Texas Optometry Board

7226-Texas State Board of Pharmacy

7226-Texas State Board of Examiners of Psychologists

7227-Public Utility Commission of Texas

7228-Railroad Commission of Texas

7228-School Land Board

7229-Teacher Retirement System of Texas

7229-Texas Appraiser Licensing and Certification Board

7229-The University of Texas at Austin

7229-University of Texas Health Science Center at San Antonio

7229-Texas Water Commission

7230-Texas Water Development Board

7230-Texas Workers' Compensation Commission

7230 Texas Workers' Compensation Insurance Facility

7230-Regional Meetings

In Addition

Texas Air Control Board

7235-Notice of Contested Case Hearing Number 290
Office of the Attorney General

7235-Notice of Application for Federal Grant-Social Security Act of 1935

7236-Texas Clean Air Act Enforcement Settlement Notice
Texas Department of Banking

7236-Notice of Application

7236-Notice of Hearing
Office of Consumer Credit Commissioner

7236-Notice of Rate Ceilings
Employees Retirement System of Texas

7237-Employees Retirement System of Texas Fiscal Report
Office of the Governor

7259-Correction of Error
Texas Department of Health

7259-Examination of Code Enforcement Officers Request for Proposal

7259-Notice of Revocation of Certificates of Registration
Texas Department of Human Services

7259-Notice of Funding Assistance Available for Judicial and Attorney Training on Child Abuse Issues
Texas State Board of Examiners of Psychologists

7260-Correction of Error
Public Utility Commission of Texas

7260-Notice of Application to Change Depreciation Rates

7260-Notice of Intent to File Pursuant to PUC Substantive Rule 23.27

Teacher Retirement System of Texas

7260-Report of Fiscal Transactions, Accumulated Cash and Securities, and Rate of Return on Assets

Texas Water Commission

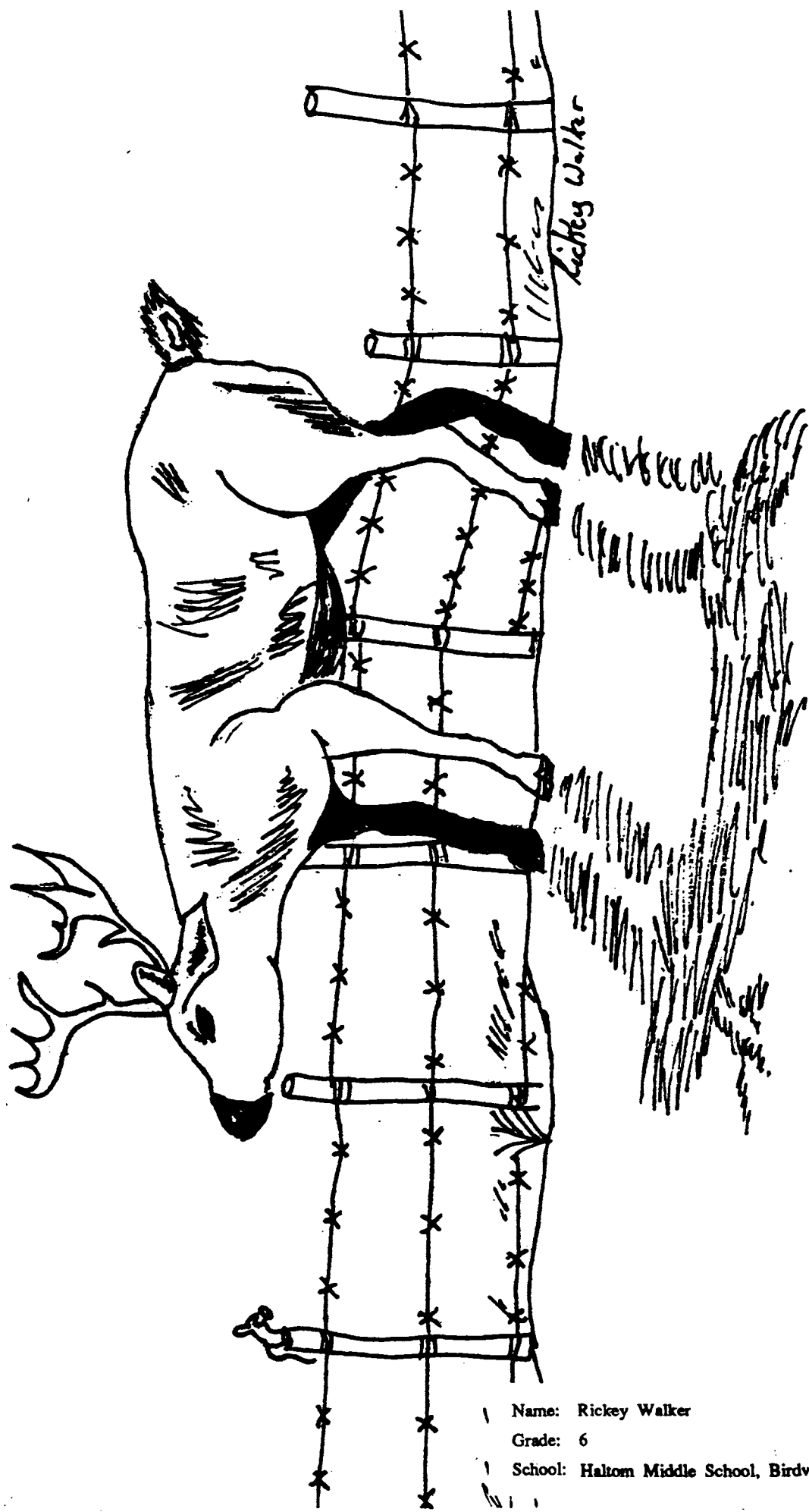
7266-Enforcement Orders

7267-Notice of Application For Waste Disposal Permit

7268-Notice of "1991 Update to the Groundwater Section of the Nonpoint Source Pollution Management Report for the State of Texas

Texas Water Development Board

7269-Applications Received



Name: Rickey Walker
Grade: 6
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TAC Titles Affected

TAC Titles Affected—December

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

TITLE 1. ADMINISTRATION

Part IV. Secretary of State

1 TAC §79.18—7141

Part V. General Services Commission

1 TAC §121.10—6981

1 TAC §§125.1, 125.3, 125.5, 125.7, 125.9, 125.11, 125.13, 125.17, 125.19, 125.21, 125.23—6981

Part XII. Advisory Commission on State Emergency Communications

1 TAC §251.1—7173

1 TAC §255.1—7173

Part XIII. Texas Incentive and Productivity Commission

1 TAC §§275.1, 275.6, 275.13, 275.17—7174

1 TAC §§273.1, 273.7, 273.9—7173

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §§29.1-29.13—7005

TITLE 7. BANKING AND SECURITIES

Part VI. Credit Union Department

7 TAC §91.211—7089

7 TAC §91.402—6984, 7003

7 TAC §91.701—7067

Part VII. State Securities Board

7 TAC §101.4—6985

7 TAC §101.5—6986

7 TAC §105.10—7007

7 TAC §109.14—7007

7 TAC §115.1—6986

7 TAC §115.4—6986

7 TAC §133.1—6987

7 TAC §133.2, §133.3—6987

7 TAC §133.15—6988

7 TAC §133.17, §133.19—6988

7 TAC §§133.20, 133.23, 133.24—6988

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Housing and Community Affairs

10 TAC §§9.2, 9.4-9.6, 9.8—7008

TITLE 13. CULTURAL RESOURCES

Part I. Texas State Library and Archives Commission

13 TAC §1.21—7010

13 TAC §1.23, §1.31—7010

13 TAC §1.72—7010

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

16 TAC §3.5—6989

16 TAC §5.32—7011

16 TAC §5.625—6991

16 TAC §11.221—6991

Part II. Public Utility Commission of Texas

16 TAC §21.28—7174

16 TAC §23.32—7171

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

19 TAC §1.6—7141

19 TAC §§5.390-5.393—7142

19 TAC §17.44—7143

19 TAC §17.45—7143

19 TAC §17.46—7144

19 TAC §17.68—7144

19 TAC §17.81—7145

19 TAC §§21.53, 21.54, 21.55, 21.62—7145

19 TAC §§21.251, 21.254, 21.260—7146

19 TAC §§25.1-25.10—7147

19 TAC §§25.1-25.18—7146

19 TAC §§25.31-25.58—7149

19 TAC §§25.71-25.78—7150

Part II. Texas Education Agency

19 TAC §75.21-75.29—7011

19 TAC §75.21-75.32—7089

19 TAC §§75.41-75.44, 75.47-75.51—6011

19 TAC §75.52—7015

19 TAC §§75.61-75.65, 75.67-75.70, 75.85—7175

19 TAC §89.41—7150

19 TAC §137.559—7151

19 TAC §141.2, §141.3—7016

19 TAC §141.41, §141.43—7016

19 TAC §141.42—7016

19 TAC §175.15—7016

TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

22 TAC §1.9—7067

22 TAC §§1.21, 1.22, 1.25—7067

22 TAC §1.67, §1.69—7068

22 TAC §1.70—7068

22 TAC §§1.81, 1.82, 1.84-1.86, 1.88—7069

22 TAC §1.103—7072

22 TAC §1.143—7072

22 TAC §1.161, §1.173—7072

22 TAC §§3.5, 3.9, 3.16—7073

22 TAC §§3.22, 3.25, 3.28—7074

22 TAC §§3.43, 3.46, 3.48—7074

22 TAC §3.67, §3.69—7074

22 TAC §3.70—7075

22 TAC §§3.81, 3.82, 3.84-3.86, 3.88—7075

22 TAC §3.143—7079

22 TAC §3.158, §3.169—7079

Part III. Texas State Board of Chiropractic Examiners

22 TAC §73.3—7003

22 TAC §75.3, §75.4—7003

Part IV. Texas Cosmetology Commission

22 TAC §§83.1-83.3, 83.5, 83.6, 83.13, 83.27, 83.30—7096

22 TAC §83.12—7096

22 TAC §§89.2-89.4, 89.6, 89.10, 89.11, 89.13, 89.15, 89.17, 89.19, 89.20-89.22, 89.24, 89.26, 89.28, 89.31, 89.39, 89.41, 89.44, 89.47, 89.49, 89.53, 89.69, 89.70, 89.72, 89.75, 89.76—7097

22 TAC §89.19—7099

Part VIII. Texas Appraiser Licensing and Certification Board

22 TAC §§151.1-151.30—7055

22 TAC §§153.1, 153.3, 153.5, 153.7, 153.9, 153.11, 153.13, 153.15, 153.17, 153.21, 153.23—7055

22 TAC §153.9—7055

22 TAC §153.15—7055

22 TAC §155.1—7055

Part XI. Board of Nurse Examiners

22 TAC §215.1, §215.3—7152

Part XIII. Texas Board of Licensure for Nursing Home Administrators

22 TAC §243.1—7099

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

25 TAC §229.146—7135

25 TAC §325.5—

25 TAC §325.93—7171

25 TAC §§325.561, 325.563, 325.567, 325.568—7171

25 TAC §§325.1101-325.1109—7195

Part II. Texas Department Mental Health and Mental Retardation

25 TAC §§401.581-401.592—7055, 7080

25 TAC §§401.581-401.593—7056, 7080

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

28 TAC §§1.702-1.705—7152

28 TAC §3.3—7153

28 TAC §§3.7001-3.7010—7155

28 TAC §7.51—6992
 28 TAC §7.615—
 28 TAC §7.82—7196
 28 TAC §9.31—7201
 28 TAC §15.24—7201
 28 TAC §15.25—7201
 28 TAC §§19.1401-19.1407—7161
 28 TAC §27.605—7135
Part II. Texas Workers' Compensation Commission
 28 TAC §110.103—7017
 28 TAC §134.7—7003
 28 TAC §134.400—7003
 28 TAC §134.600—7099
 28 TAC §147.10—7018
TITLE 31. NATURAL RESOURCES
Part II. Texas Parks and Wildlife Department
 31 TAC §55.142, §55.152—7087
 31 TAC §§57.371-57.375—7202
 31 TAC §§57.374, 57.375, 57.376—7205
Part III. Texas Air Control Board
 31 TAC §101.1—7205
 31 TAC §112.6 §112.20—7205
Part IX. Texas Water Commission
 31 TAC §§305.501-305.504—7207
 31 TAC §305.503—7211
 31 TAC §§320.1-320.9—7211
 31 TAC §320.21, §320.22—7135
 31 TAC §§334.12-334.16—7065
 31 TAC §§334.301, 334.302, 334.304-334.306, 334.308, 334.310, 334.312-334.316, 334.322—6977
 31 TAC §334.310, §334.322—6977
Part X. Texas Water Development Board
 31 TAC §§367.70-367.79—6994
Part XV. Texas Low-Level Radioactive Waste Disposal Authority
 31 TAC §449.2, §449.7—7018

31 TAC §§449.31-449.35—7018
 31 TAC §§450.1-450.4—7019
TITLE 34. PUBLIC FINANCE
Part I. Comptroller of Public Accounts
 34 TAC §3.8—7163
 34 TAC §3.290—7102
 34 TAC §3.300—7163
 34 TAC §3.345—7102
 34 TAC §3.443—7081
 34 TAC §3.692—7082
 34 TAC §3.711—7164
 34 TAC §3.731—7165
 34 TAC §3.732—7166
 34 TAC §§9.1-9.6—7083
TITLE 37. PUBLIC SAFETY AND CORRECTIONS
Part III. Texas Youth Commission
 37 TAC §§91.7, 91.9, 91.11—6977
 37 TAC §91.11—7003
 37 TAC §91.69—6978
Part VI. Texas Department of Criminal Justice
 37 TAC §152.7—7217
 37 TAC §163.43—7137, 7166
 37 TAC §195.61—7167
 37 TAC §197.21—7167
 37 TAC §321.3—7137, 7168
Part IX. Commission on Jail Standards
 37 TAC §273.5—7217
TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
 40 TAC §2.1006—7103
 40 TAC §3.704—7103
 40 TAC §3.902—7103
 40 TAC §3.2504—7103
 40 TAC §3.2701—7104
 40 TAC §4.1006—7084, 7104

40 TAC §5.2004—7084

40 TAC §8.2—6995

40 TAC §10.2303, §10.2307—7104

40 TAC §10.2304—7104

40 TAC §10.2310—7104

40 TAC §§10.3325, 10.3340-10.3347—6996

40 TAC §§10.3412-10.3414, 10.3462-10.3464—7168

40 TAC §§10.3419, 10.3423, 10.3465—7139, 7169

40 TAC §§10.3501-10.3507—6997

40 TAC §29.301—6997

40 TAC §29.607—6997

40 TAC §29.609—7105

40 TAC §48.2501—7217

Part VI. Texas Commission for the Deaf and Hearing Impaired

40 TAC §181.820, §181.830—7019

TITLE 43. TRANSPORTATION

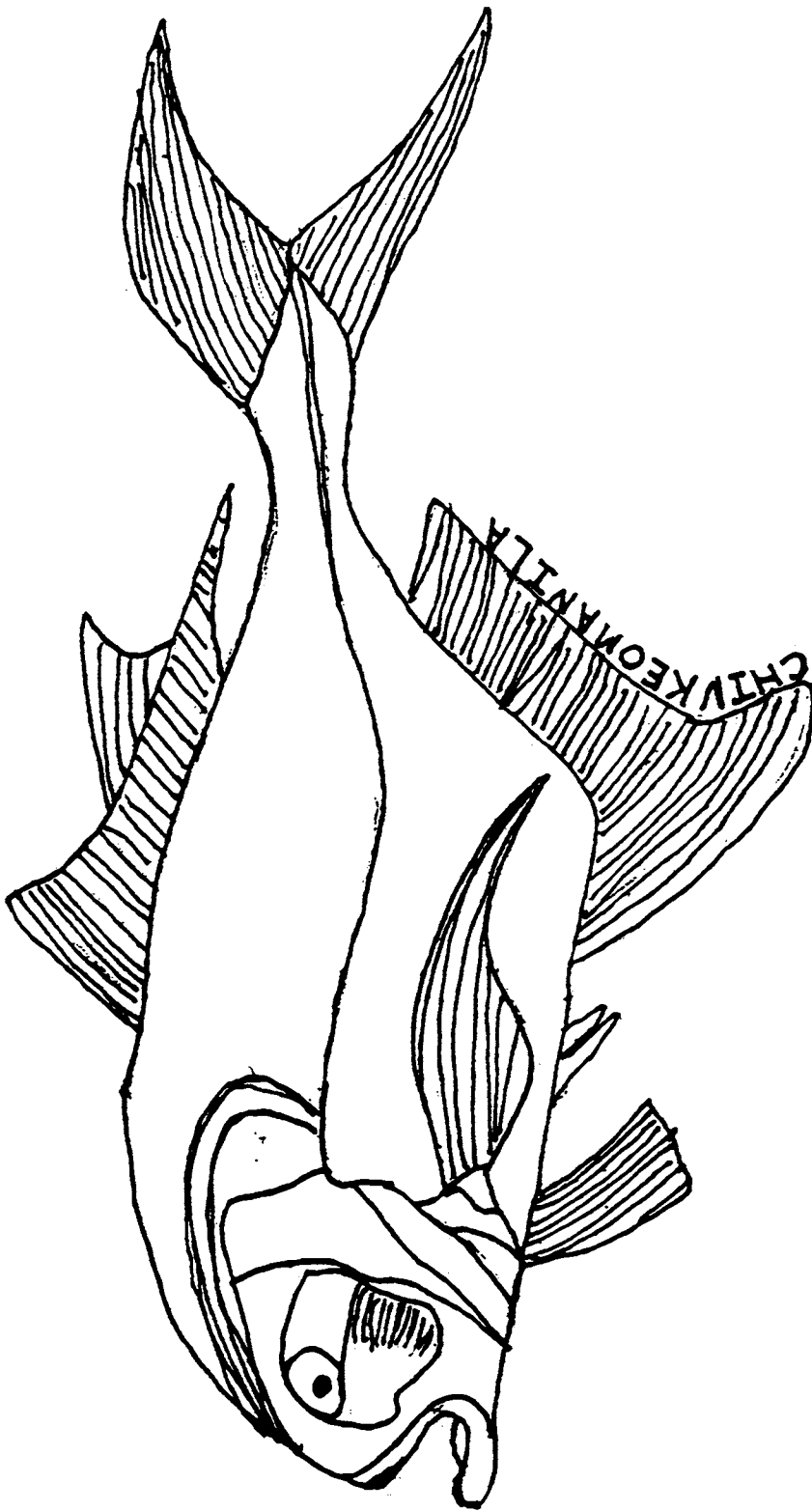
Part I. Texas Department of Transportation

43 TAC §§1.80-1.84—6998

43 TAC §§9.20-9.22—7019

43 TAC §17.69—7020

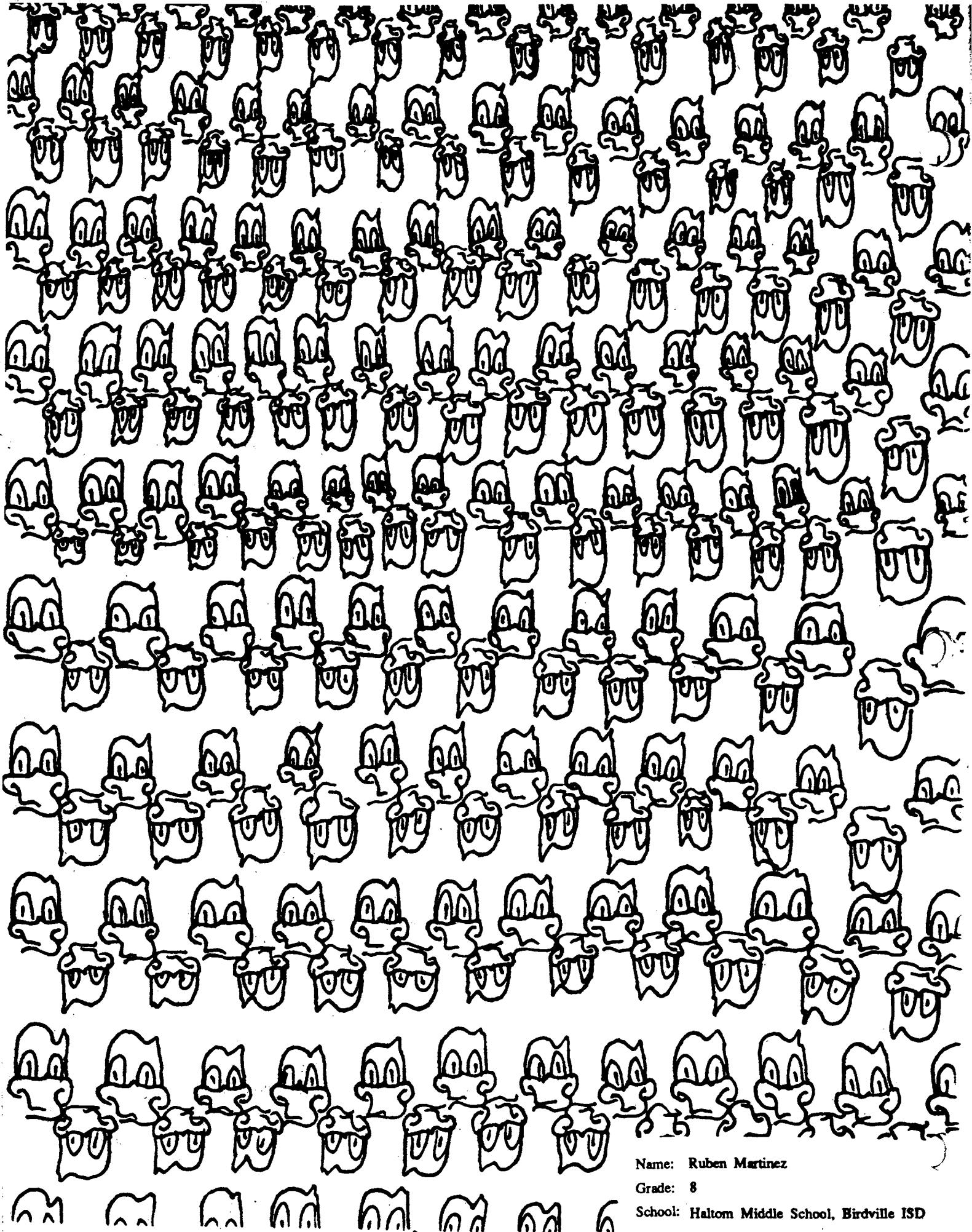




Name: Chin Keomanila

Grade: 8

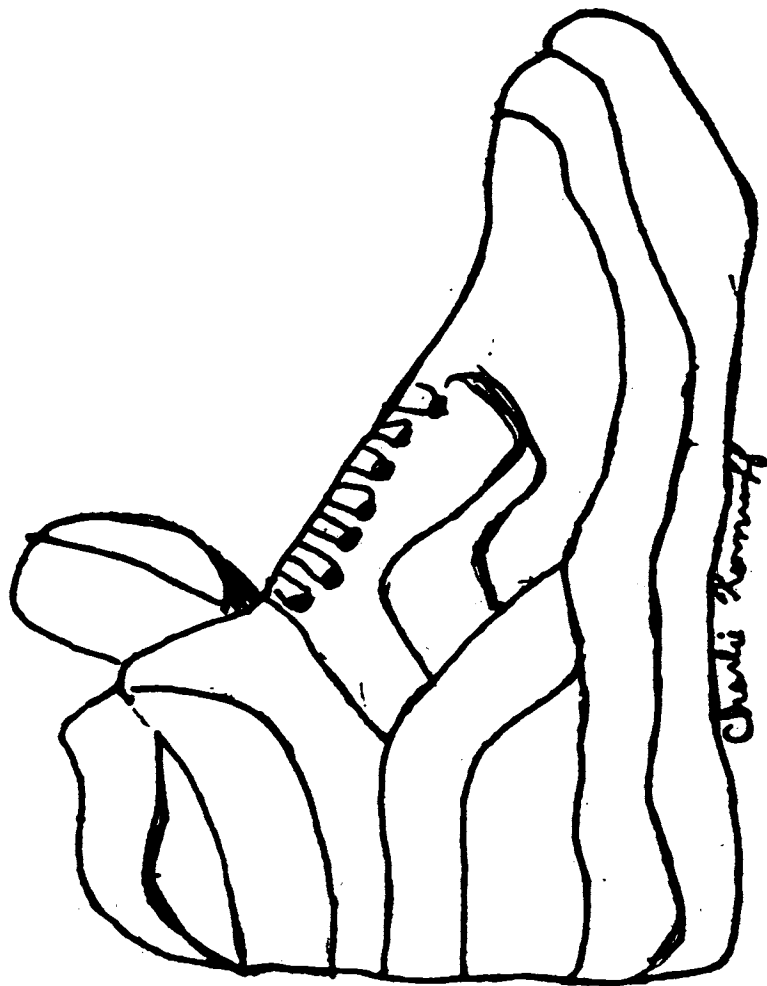
School: Haltom Middle School, Birdville ISD



Name: Ruben Martinez

Grade: 8

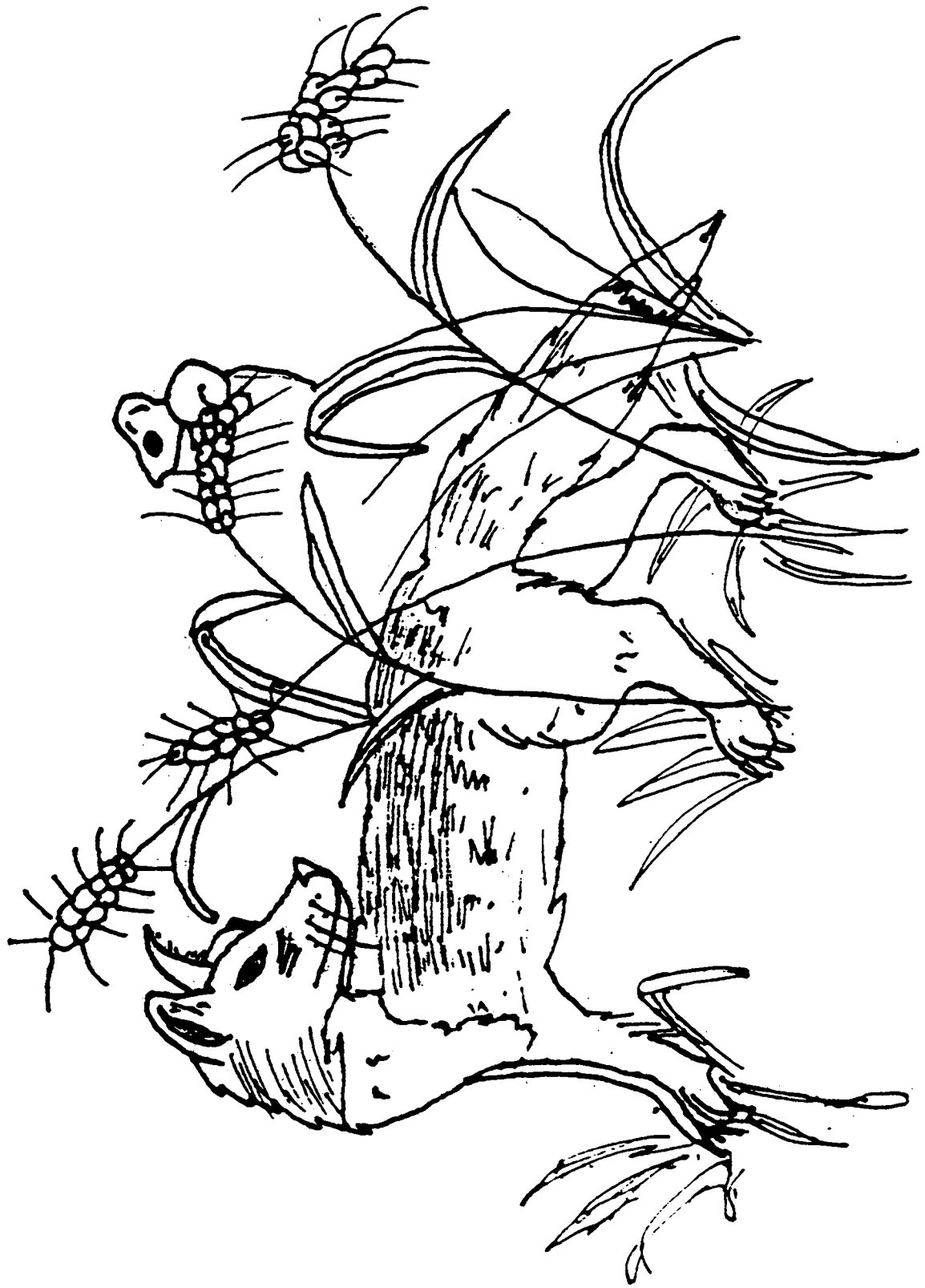
School: Haltom Middle School, Birdville ISD



Name: Charlie Kourumpf

Grade: 7

School: Halcom Middle School, Birdville ISD



Name: Souket Vanrachack

Grade: 8

School: Haltom Middle School, Birdville ISD

Attorney General

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

Open Records Decisions

ORD-597 (RQ-23). Request from Rosalinda Garcia, Assistant County Attorney, Harris County, Houston, concerning whether the front page of an offense report prepared by the sheriff's department may be excepted from disclosure by the Open Records Act, §3(a)(3).

Summary of Decision. Section 3(a)(3) cannot be invoked to withhold from public disclosure basic information in an offense report that has already been made available to the defendant in the criminal litigation.

TRD-9115336

ORD-598 (RQ-44). Request from Cathy L. Meyer, Assistant City Attorney, City of Irving, Irving, concerning application of exceptions to the Open Records Act to request for release of Emergency Medical Services records within Texas Civil Statutes, Article 4495b, §5.08.

Summary of Decision. Access to records created or maintained by a physician within Texas Civil Statutes, Article 4495b, §5.08, is governed by the provisions of that statute, rather than by the Open Records Act. When Article 4495b gives a qualified individual a right of access to records, exceptions to the Open Record Act cannot be invoked to deny such access.

TRD-9115335

Opinions

DM-45B (RQ-65). Request from Allen Hightower, Chairman, Committee on Corrections, Texas House of Representatives, Austin, concerning whether the amendment to Article 42.18 of Code of Criminal Procedure regarding the mandatory time that inmates must serve prior to eligibility for parole is retroactive.

Summary of Opinion. The effect of the 1987 amendments to Article 42.18, §8(b), of the Code of Criminal Procedure reducing the time prisoners must serve before becoming eligible for parole is limited to prisoners convicted of offenses committed on or after the effective date of the amendments.

TRD-9115342

DM-58 (RQ-176). Request from Merrill L. Hartman, Chairman, Court Reporters Certification Board, Austin, concerning whether the Court Reporters Certification Board may consider an application for certification under Government Code, §52.021(e) after the effective date of repeal of that provision, when consideration of the application began before the repeal date.

Summary of Opinion. The Court Reporters Certification Board may not continue to consider an application for certification under now-repealed Government Code, §52.021(e). Section 52.021(e) continues in effect only as to applications for certification that were pending before the supreme court prior to September 1, 1991.

TRD-9115341

DM-59 (RQ-185). Request from Tim Curry, Criminal District Attorney, Tarrant Court Justice Center, Fort Worth, concerning whether the Tarrant County Sheriff may accept bail bond from a bondsman not licensed in that county, and related questions.

Summary of Opinion. Under Texas Civil Statutes, Article 2372p-3, a person must be licensed by the Tarrant County Bail Bond Board in order to act as a bail bondsman in any court of Tarrant County.

TRD-9115340

DM-60 (RQ-146). Request from Larry E. Kosta, Executive Director, Department of Licensing and Regulation, Austin, concerning whether a talent agency that follows certain amendments to Screen Actors Guild franchise regulations would violate the Texas Talent Agency Act, Texas Civil Statutes, Article 5221a-9.

Summary of Opinion. Talent agencies would not violate §§2(b), 2(c), or 10(b) of the Texas Talent Agency Act, Texas Civil Statutes, Article 5221a-9, by following certain amendments to Screen Actors Guild franchise regulations, as those amendments are interpreted by the Department of Licensing and Regulation.

TRD-9115339

DM-61 (RQ-104). Request from Robert A. MacLean, M.D., Acting Commissioner, Texas Department of Health, Austin, concerning whether a "properly qualified appli-

cant" for a certified copy of a death certificate may receive the entire copy if the cause of death lists AIDS or HIV infection.

Summary of Opinion. The provisions of the Communicable Disease Prevention and Control Act which prohibit the disclosure of AIDS test results, Health and Safety Code, §81.101 et seq., do not prohibit the state registrar from releasing a death certificate that reveals that a person died as the result of AIDS or HIV infection to a properly qualified applicant pursuant to the Health and Safety Code, §191.051.

TRD-9115338

DM-62 (RQ-219). Request from Jeannene Fox, Acting Administrator, Texas Alcoholic Beverage Commission, Austin, concerning collection of fees for small stakes bingo.

Summary of Opinion. The Alcoholic Beverage Commission may not waive the three percent fee for small prizes awarded in games in bingo. Although the organization conducting the bingo game may not itself pay the fee, it may achieve substantially the same result for small prizes by slightly altering the face amount of the prize awarded.

TRD-9115337

Requests for Opinions

(RQ-228). Request from Ms. Laura Peterson House, Dallas Museum of Arts, Dallas, concerning agreements, contracts, and/or letters pertaining to the convergence of an estate to an art museum.

(RQ-229). Request from Mr. Wayne Blevins, Ed. D., Executive Secretary, Teacher Retirement System of Texas, Austin, concerning whether the Board of Trustees of the Teacher Retirement System of Texas may contract with its chief investment officer to provide incentive pay in addition to a regular salary.

(RQ-230). Request from Mr. David J. Freeman, Executive Secretary, Texas Racing Commission, Austin, concerning authority of the Texas Racing Commission to adopt rules regarding the use of various breakage percentages to be paid to or used by the Texas Greyhound Association.

(RQ-231). Request from James W. Carr, Lavaca County Attorney, Hallettsville, concerning whether a commissioners court may limit the number of monthly supplemental workers compensation payments to county employees already receiving such payments.

(RQ-232). Request from Pete DeLaGarza, Kleberg County Attorney, Kingsville, concerning whether county court at law judge may be assigned to preside over felony trials and civil cases where amount in controversy exceeds jurisdictional limits of county court at law.

(RQ-233). Request from Marcus D. Taylor, Criminal District Attorney, Quitman, concerning whether property seized by the state pursuant to the Code of Criminal Procedure, Chapter 59, is exempt from property taxes.

(RQ-234). Request from Mr. C. Thomas Camp, Executive Director, Board of Dental Examiners, Austin, concerning whether certain conduct requires a license under the Dental Practice Act, Texas Civil Statutes, Article 4543 et seq, or is exempt from the definition of dentistry pursuant to Texas Civil Statutes, Article 4551b.

(RQ-235). Request from Mr. Charles E. Nemir, P.E., Executive Director, State Board of Registration for Professional Engineers, Austin, concerning whether the \$200 fee increase imposed by Article 10 of House Bill 11, 72nd Legislative, 1st Called Session, is constitutional.

(RQ-236). Request from Ms. Nancy F. Braswell, Smith County Auditor, Smith County Courthouse, 1st Floor, Tyler, concerning whether defendants in criminal cases may be required to reimburse a county for the cost of employing interpreters, and related questions.

(RQ-237). Request from Ms. Trudi Dill, Deputy City Attorney, City of Temple, Municipal Building, Temple, concerning whether information previously held to be protected by §3(a)(11) may be edited from newly created documents, as opposed to merely "censored".

(RQ-238). Number deleted.

(RQ-239). Request from John Whitmire, Chairman, Intergovernmental Relations Committee, Texas State Senate, Austin, concerning whether the provisions of House Bill 799, 72nd Legislature, apply to the procurement of brokerage and investment services by state agencies.

(RQ-240). Request from James M. Kuboviak, Brazos County Attorney, Brazos County Courthouse, Bryan, concerning whether a justice of the peace may hold an unpaid peace officer's commission through a sheriff or constable.

(RQ-241). Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether a district clerk may charge a fee for making certified copies of papers in a cause of action transferred to another court pursuant to Texas Rules of Civil Procedure, Rule 89, and related questions.

(RQ-242). Request from Mr. Kenneth W. Littlefield, Commissioner, Texas Department of Banking, Austin, concerning whether a member of the Finance commission appointed under Texas Civil Statutes, Article 342-104(4) may continue in office if he becomes a banking executive but has less than five years experience.

(RQ-243). Request from Mr. Todd K. Brown, Acting Executive Commissioner, Texas Workers' Compensation Commission, Austin, concerning whether the federal Americans with Disabilities Act precludes the Texas Workers' Compensation Commission from disclosing job applicants' prior work injuries to prospective employers pursuant to the Texas Workers' Compensation Act, Texas Civil Statutes, Article 8308-2.33 and Article 8308-2.34.

(RQ-244). Request from Ashley Smith, Chairman, Committee on Science and Technology, Texas House of Representatives, Austin, concerning whether an independent school district may use various assets to create an endowment fund.

(RQ-245). Request from Mike Driscoll, Harris County Attorney, Houston, concerning authority of a county pursuant to Chapter 235, Local Government Code, to adopt a fire code containing enforcement and maintenance provisions, and related questions.

(RQ-246). Request from Ms. Linda Vaclavik, Executive Director, Texas Advisory Board of Occupational Therapy, Austin, concerning whether the term "physician" in the Occupational Therapy Title Act, Texas Civil Statutes, Article 8851, includes chiropractors.

(RQ-247). Request from Scott Johnson, Reeves County Attorney, Reeves County Courthouse, Pecos, concerning whether the county sheriff or the county commissioners court has the legal authority to choose a physician and set schedules for the physician to provide medical services to inmates incarcerated in the county jail.

(RQ-248). Request from David Brabham, Criminal District Attorney, Gregg County, Longview, concerning whether a member of the board of trustees of an independent school district may serve on a city council or other boards.

(RQ-249). Request from Mr. Ernest A. Emerson, Interim Executive Director, Texas Commission on Fire Protection, Austin, concerning whether the Open Meetings Act, §2(g) permits executive session to discuss persons considered for appointment to advisory committees created pursuant to the Government Code, §419.023 and §419.072.

(RQ-250). Request from Gonzalo Barrientos, Chairman, Committee on Nominations, Texas State Senate, Austin, concerning authority of the General Services Commission to name state office buildings.

(RQ-251). Request from A. J. Hartel, Liberty County Attorney, Liberty, concerning authority of a navigation district to enter into a tax abatement agreement.

TRD-9115243

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Emergency Sections

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

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

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 229. Food and Drug Synthetic Narcotic Drugs in the Treatment of Drug Dependent Persons

• 25 TAC §229.146

The Texas Department of Health (department) adopts on an emergency basis an amendment to §229.146 concerning synthetic narcotic drugs in the treatment of drug dependent persons. Section 229.146 covers the failure of a permit holder to comply with the provisions in the Health and Safety Code, Chapter 466 concerning the regulation of synthetic narcotic drugs (methadone) in the treatment of drug-dependent persons. The amendment eliminates the 30-day compliance period before the the department takes action against a permit holder for violating or threatening to violate Chapter 466.

The amendment is adopted on an emergency basis for the following reasons. The 30-day compliance period enables a number of methadone clinics to be perpetually noncompliant because they have 30 days to achieve compliance for any violations. Because of the serious nature of violations and the number of methadone related deaths recently, the department is adopting the amendments on an emergency basis in order to address a serious and imminent threat to public health and safety. The amendment will allow the department to act quickly against chronic violators of the Health and Safety Code, thereby alleviating this imminent health hazard.

The amendment is adopted on an emergency basis under the Health and Safety Code, §466.002, which provides the Board of Health with the authority to adopt rules concerning the use of synthetic narcotic drugs (methadone) in the treatment of drug dependent persons; §12.001, which provides the board with the authority to adopt rules to implement every duty imposed by law on the board, the department and the commissioner of health; and Texas Civil Statutes, Article 6252-13a, §5.04, which provides the board with authority to adopt rules on an emergency basis. The amendment will affect Chapter 466 of the Health and Safety Code.

§229.146. Failure to Comply.

(a) The Texas Department of Health (department) may take any action

provided in Health and Safety Code (code), Chapter 466, including emergency orders, when it appears that a person violated, is violating or is threatening to violate the code, these sections, or an order or permit issued pursuant to the code. [A permit holder who has failed to comply with the Health and Safety Code (code) and the sections in this Chapter shall be given notice of failure to comply and allowed a period of 30 days to comply. Failure to provide the department with a plan of correction or failure to accomplish the plan of correction by the designated completion date shall be cause, in accordance with §§1.21-1.34 of this title (relating to Formal Hearing Procedures), for the department to seek revocation of the permit and/or the assessment of an administrative penalty, criminal penalty, and/or civil penalties as provided in the Code.]

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

Issued in Austin, Texas, on December 9, 1991.

TRD-9115408

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

Effective date: December 9, 1991

Expiration date: April 7, 1992

For further information, please call: (512) 458-7248

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 27. State Fire Marshal

Subchapter F. Rules for the Safe Storage, Handling, and Use of Flammable Liquids at Retail Service Stations and Aircraft Fueling Facilities

• 28 TAC §27.605

The Texas Department of Insurance is renewing the effectiveness of the emergency adoption of amended §27.605, for a 60-day period effective December 7, 1991. The text of amended §27.605 was originally published in the August 16, 1991, issue of the *Texas Register* (16 TexReg 4440).

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

TRD-9115196

Angelia Johnson
Assistant Chief Clerk
Texas Department of
Insurance

Effective date: December 7, 1991

Expiration date: February 3, 1992

For further information, please call: (512) 463-6328

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 320. Regional Assessments of Water Quality

Program for Water Quality Assessment by Watershed and River Basin

• 31 TAC §320.21, §320.22

The Texas Water Commission adopts on an emergency basis new §320.21 and §320.22, concerning fees for the regional water quality assessment program. The sections are adopted on an emergency basis to implement the program required by Senate Bill 818, Acts of the 72nd Legislature, 1991, which will assess and respond to water quality problems existing in the watersheds of the state. On December 4, 1991, the commission adopted permanent rules to implement the procedural and other substantive provisions of Senate Bill 818. The purpose of these rules is to establish the funding mechanism authorized by Senate Bill 818 to support the regional water quality assessment program.

The bill authorizes the commission to recover the reasonable costs of administering the water quality management programs under the Texas Water Code, §26.0135 from all users of water and wastewater permit holders in each watershed generally in right to use water from and discharge wastewater into the watershed. Under these rules, holders of wastewater permits issued under the Texas Water Code, Chapter 26 will be assessed an annual fee based on the operating parameters specified in their permits for flow and traditional pollutant limits. It is the intent of these rules that the majority of industrial and municipal water users be assessed fees through the wastewater permit mechanism. Users of water who do not hold permits for the treatment or discharge of wastewater will be assessed a fee based on the amount of

water that may be used under a water right for both consumptive and non-consumptive purposes. It is recognized that retail public utilities as well as other service providers for which the use of water or the treatment of water is necessary and essential, including, but not limited to, electric power generators, will likely seek to recover these fees from their customers. Ultimately, the costs of supporting the regional water quality assessment program would be borne by the water and wastewater service customers in each watershed and the recipients of other services which generate wastewater discharges or consume the states water resources. The intent of the fee format is to assess a charge for water uses and wastewater discharges in accordance with the potential for these activities to adversely impact water quality. Wastewater discharge activities generally have the potential to impact the water quality through the introduction of pollutants which are not naturally occurring or which naturally occur in different concentrations. The threat posed by water use activities generally stems from the impacts associated with the withdrawals of water from waterbodies, thereby reducing the ability of the remaining flows to assimilate pollutants or to preserve existing aquatic habitats and instream uses.

New §320.21 contains definitions which are relevant to the specific fee schedules and calculations of assessments. Subsection (c) specifies the fee rates for flow limits and traditional pollutants applicable to wastewater permits. Subsection (d) specifies the fee rates for appropriated water rights for the different consumptive and non-consumptive use categories. Subsection (e) provides for exemption of certain amounts of appropriated water in circumstances where permit conditions render this water unavailable for use by the water right holder. Subsections (f) and (g) authorize a retail public utility to recover the costs of these water quality assessments from their customers. Subsection (h) provides that if a retail public utility passes the charge for the regional assessment to its customers, such pass-through charge is not a rate. Subsection (i) provides that annual water quality assessment fees are due each January 1 and that payments not received by March 1 will be subject to an interest penalty of 10% on an annual basis. It is the intent of the commission to develop automated billing procedures which will include reference to the specific due date and other information relevant to the assessment and its basis for each payee. Subsection (k) provides for the adjustment of fees assessed under this section to ensure the adequate support of the regional water quality assessment program authorized by Senate Bill 818 and to assure that water users and wastewater dischargers do not pay excessive amounts.

New §320.22 includes provisions regarding the allocation of revenue collected under this section to the river authorities or designated local governments eligible for reimbursement of certain costs of development of water quality assessments under the procedural rules previously adopted under 31 TAC Chapter 320.

The new sections are adopted on an emergency basis under the Water Code §§5.103, 5.106, and 28.011, which provides the commission with the authority to adopt rules necessary to carry out its powers and duties

under the Code and all other laws of the state and to establish and approve all general policies of the commission and under Senate Bill 2, Article 1.100, Acts of the 72nd Legislature, First Called Session, 1991, which authorizes the commission to adopt rules on an emergency basis to implement new revenue authority provided by legislation enacted by the 72nd Legislature. The commission finds that an urgent need exists to adopt these new sections on an emergency basis in order to implement the provisions of Senate Bill 818 in the manner and schedule required by the bill and to avoid further delay in the implementation of those water quality management efforts intended to reduce the imminent threat to public health and safety of existing water quality problems.

§320.21. Water Quality Assessment Fees.

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

(1) BOD—Five-day biochemical oxygen demand.

(2) COD—Chemical oxygen demand.

(3) Consumptive use—The use of water for domestic and municipal, industrial, irrigation, or mining purposes, consistent with the meaning of these uses for which water may be appropriated under the Texas Water Code, §11.023, and §11.024.

(4) Final flow limit—The maximum amount of wastewater discharge authorized by a permit issued in accordance with the Texas Water Code, Chapter 26, expressed as a daily average flow, a daily maximum flow, an annual average, or an annual maximum. For the purpose of this section, a final flow limit is expressed in millions of gallons per day of discharge (MGD).

(5) Flow—The total by volume of all wastewater discharges authorized under a permit issued in accordance with the Texas Water Code, Chapter 26, expressed as an average flow per day, a maximum flow per day, an annual average, or an annual maximum, exclusive of variable or occasional stormwater discharges. Generally, the flow is based on the sum of the volumes of discharge for all outfalls of a facility, but excludes internal outfalls. However, for those facilities for which permit limitations on the volumes of discharge apply only to internal outfalls, the flow is based on the sum of the volumes of discharge for all internal outfalls of the facility, exclusive of variable or occasional stormwater discharges.

(6) Flow type—

(A) contaminated—these wastewaters include sanitary wastewater, process wastewater flows, or any mixed wastewaters containing more than 10% process wastewaters;

(B) uncontaminated—these wastewaters include non-contact cooling water or mixed flows which contain at least 90% non-contact cooling water and not more than one million gallons per day of process wastewater.

(7) MGD—Million gallons per day.

(8) Non-consumptive use—The use of water for those purposes not otherwise designated as consumptive uses under this section, including hydroelectric power, navigation, recreation, and other beneficial uses, consistent with the meaning of these uses and for which water may be appropriated under the Water Code, §11.023, and §11.024.

(9) TOC—Total organic carbon.

(10) Traditional pollutants—The wastewater parameters typically found in wastewater discharge permits, specifically oxygen demand (BOD/COD/TOC), total suspended solids (TSS), and ammonia. For the purpose of this section, COD and TOC are expressed in terms of BOD at the rate of three pounds of TOC equal to one pound of BOD (3:1) or eight pounds of COD equal to one pound of BOD (8:1).

(11) TSS—Total suspended solids.

(b) For the purpose of recovery of the costs of development of regional water quality assessments and administration of the provisions of this chapter, a fee is assessed against water right permit holders and wastewater discharge permit holders in each watershed of the state in proportion to their right to use water from and discharge wastewater into the watershed.

(c) The municipal and industrial use of water shall be assessed a fee based on the authority of a permittee to dispose or discharge wastewater under a permit issued pursuant to the Texas Water Code, Chapter 26. The fee shall be assessed on the basis of final flow and traditional pollutant limits and determined as the sum of the following:

(1) for contaminated discharges, \$300 per MGD up to a maximum of 100 MGD and \$10 per each MGD or fraction thereafter;

(2) for uncontaminated discharges, \$1.00 per MGD;

(3) for each traditional pollutant, \$2.00 per pound per day. The annual fee assessed for each permit shall not exceed \$35,000. The fee for a permit which does not authorize the discharge of wastewater, including evaporation and land disposal permits, shall be \$150. The fee for an inactive permit shall be \$100.

(d) Water right permit holders, not subject to subsection (c) of this section, shall pay a fee based on the right to appropriate water under a permit issued under the

Texas Water Code, Chapter 11. The fee shall be \$.20 per acre foot for water rights appropriated for consumptive use, up to a maximum of 10,000 acre feet, and \$.02 per acre-foot thereafter. The fee shall be \$.02 per acre foot for water rights appropriated for non-consumptive use, up to a maximum of 100,000 acre feet, and \$.002 per acre-foot thereafter.

(e) Water which is authorized in a permit for consumptive use, but which is reserved under permit and not available for use by the permittee may be exempted from the assessment of a fee under subsection (c) of this section.

(f) A retail public utility as defined by the Texas Water Code, §13.002 which is subject to a water quality assessment fee under this chapter may collect from each customer a charge to recover the amount of the fee assessed. The total amount recovered by a retail public utility shall not exceed the amount assessed under this chapter plus any reasonable costs of collection. Any pass-through mechanism for the fees shall be fair and equitable for all customers and may be subject to review by the commission.

(g) The portion of a water quality assessment fee recovered from a customer of a retail public utility may be listed on the customers bill as a separate item and may be collected in addition to other regulatory assessments or charges for utility services.

(h) The portion of a water quality assessment fee recovered from a customer by a retail public utility is not part of the rates of that utility. This provision shall apply to a retail public utility providing water and/or wastewater service.

(i) Water quality assessment fees are due and payable to the commission by January 1 of each year. The commission shall establish procedures for billing and collection of the fee and notification of amounts due for each year.

(j) The commission shall assess an interest penalty of 10% per year on any water quality assessment fee past due after March 1 of each year.

(k) The commission shall monitor both the collection of fees under this section and the allocation of fee revenues under §320.22 of this title (relating to Allocation of Water Quality Assessment Fee Revenue) for the river basins of the state. The commission shall adjust the fee rates established under this section to the extent necessary to ensure the adequate support of the programs undertaken to implement this chapter and the equitable assessment of fees within each watershed and region of the state.

§320.22. Allocation of Water Quality Assessment Fee Revenue.

(a) A river authority or designated local government shall be eligible for reim-

bursment of the costs of development of water quality assessments and implementation of the provisions of this chapter.

(b) The schedule and amount of any reimbursement shall be determined by mutual agreement of the commission and the appropriate river authority or local government based on submittal of an approved water quality assessment report or work plan as required under §320.5 of this title (relating to Assessment Reports and Work Plans) or §320.7 of this title (relating to Responsibilities of River Authorities and Designated Local Governments), respectively.

Issued in Austin, Texas, on December 9, 1991.

TRD-9115417

John Vay
Director, Legal Services
Texas Water Commission

Effective date: December 9, 1991

Expiration date: April 7, 1992

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VI. Texas Department of Criminal Justice

Chapter 163. Standards

Subchapter C. Programs and Services

• 37 TAC §163.43

The Texas Department of Criminal Justice (TDCJ) adopts on an emergency basis new §163.43, concerning court reports and documentation, as part of Chapter 163, concerning standards, Subchapter C, Programs and Services.

The emergency adoption is necessary to accommodate changes in The Texas Code of Criminal Procedures, Article 42.12, §9, as codified in House Bill 93, Chapter 10, §16.01 et seq, pages 213 and 214, 72nd Legislature, Second Called Session. Under the law as amended, local probation offices must prepare presentence investigations prior to the imposition of sentence for any felony offense, effective December 1, 1991, in conformity with new statutory requirements which are hereby incorporated into the Standards of the Community Justice Assistance Division of TDCJ.

Notice of the adoption of these emergency rules on a final basis at the January 1992 meeting of the Texas Board of Criminal Justice is also being published in this issue of the *Texas Register*.

The new section is adopted on an emergency basis under the Texas Code of Criminal Procedure, Article 42.13, §2(a), which authorizes the Texas Board of Criminal Justice to adopt reasonable rules concerning the operations of community supervision and corrections departments.

§163.43. Court Reports and Documentation.

(a) Staffing (Texas Code of Criminal Procedure, Article 42.13, §2(a)(1); Article 42.12, §9(a)). Community Supervision and Corrections Departments (CSCD) should have the necessary trained staff and resources to conduct presentence investigations and provide written reports of the results for the courts for all felony cases as required by the law and the courts.

(b) Presentence investigation reports (PSIR) (Texas Code of Criminal Procedure, Article 42.13, §2(a)(1); Article 42.12, §9(a)). The CSCD, shall prepare a PSIR on all felony offenders prior to the assessment of punishment in all situations in which the trial judge determines punishment and in all plea bargain cases or prior to imposition of sentence. The PSIR should provide the court with the following accurate, objective, and relevant information concerning:

(1) the circumstances of the offense with which the defendant is charged;

(2) the amount of restitution necessary to adequately compensate the victim of the offense;

(3) the criminal and social history of the defendant;

(4) any information relating to the defendant or the offense requested by the court;

(5) a proposed client supervision plan describing programs and sanctions that the CSCD would provide the defendant if the defendant were granted probation;

(6) a psychological evaluation as required by law; and

(7) any alcohol or drug abuse evaluation as ordered by the court under Article 42.12, §9(h) or as required by law, by Texas Penal Code, §12.422(b)(1), as amended by House Bill 93, 72nd Legislative Session, Second Called Session, and by the Texas Code of Criminal Procedure §42.12, §13(a)(2) and (f).

The PSIR may also include as attachments or inclusions any psychological or psychiatric evaluation as may have been ordered by the court and any other optional materials which appropriately enhance the information being presented in the PSIR.

(c) PSIR format (Texas Code of Criminal Procedure, Article 42.13, §2(a)). CSCDs shall follow the approved TDCJ-CJAD PSIR format in preparing felony presentence investigation reports as required by the law and the courts.

(d) Filing (Texas Code of Criminal Procedure, Article 42.13, §3(a)(1), and (a)(2); Article 42.13, §4). Copies of the completed felony PSI reports should be maintained within the CSCD filing system and made available for periodic manage-

ment audits by CJAD program audit staff and TDCJ internal audit staff.

(e) Funding. (Texas Code of Criminal Procedure, Article 42.13, §3(a)(1), and (a)(3)). An accurate count of the completed felony PSI reports prepared by the CSCD shall be maintained by the department and submitted to the TDCJ Austin Budget Office on a monthly basis. Financial payments for PSIRs will be made on a quarterly basis to the CSCD by CJAD. The monthly report to CJAD from the CSCD shall include the name of the defendant, the cause number assigned to the defendant, the date the report was complete, and the name of the officer who completed the PSI report for the court. The following describes eligibility criteria for reimbursements:

(1) PSIRs completed on felony offenders after December 1, 1991;

(2) one PSIR per offender during a calendar month; and

(3) the CSCD has prepared the PSIR using the PSIR TDCJ-CJAD format, when made available. Reimbursements will not be made for PSIRs completed on an offender whose felony charge is reduced to a misdemeanor or for felony probationers revoked after December 1, 1991, if they had been placed on probation prior to December 1, 1991.

(f) Confidentiality of presentence investigation reports (Texas Code of Criminal Procedure, Article 42.12, §9(j); Texas Code of Criminal Procedure, Article 42.13, §2(a)(1)). Any presentence investigation reports prepared by a probation officer and all information obtained in connection with the presentence investigations are confidential and may be released only to those persons and under those circumstances as authorized under Article 42.12 (d)-(g), §(9), supra, and as directed by the court for the effective supervision of the defendant. Medical and psychiatric records obtained by court order shall be sealed within or kept separate from the offender's probation file and may be released only by order of the court.

(g) Initial interview (Texas Code of Criminal Procedure, Article 42.13, §2(a)(1)). An initial supervisory interview with the offender should be conducted after the court has placed the defendant under supervision. This interview with the offender should include a thorough discussion of the conditions of probation or terms of release. The probation officer should determine that the offender has received a copy of the conditions of probation or terms of release ordered by the court as provided by law.

(h) Case records (Texas Code of Criminal Procedure, Article 42.13, §3(b)(1)). Community Supervision and Corrections Departments should develop written administrative policies and procedures regarding case record management, assuring

that each case record should contain a chronological recording of all significant actions, decisions, services rendered, and periodic evaluations. The case record of each person placed under the supervision of the CSCD should contain a written criminal history record or summary issued by a law enforcement agency. If the offender has no previous record or if the record has not been received, the case record should contain a copy of the request showing the agency from which it was requested and the date of the request.

(i) Violations (Texas Code of Criminal Procedure, Article 42.13, §2(a)(1)). Community Supervision and Corrections Departments should develop policies setting forth the conditions upon which violations may be handled administratively. Policies should clearly state the conditions under which violation reports are to be submitted to the court. The availability of the continuum sanctions or alternatives to incarceration should be considered by the probation officer and recommended to the court in eligible cases as determined by the appropriate jurisdiction.

(j) Incarceration reports (Texas Code of Criminal Procedure, Article 42.09, §8(a); Article 43.12, §13(d)(2)). A county that transfers a defendant to the Department of Corrections under this article shall deliver to the director of the department:

(1) a copy of the judgment entered pursuant to the Code, Article 42.01, completed on a standardized felony judgment form described by that Article, §4;

(2) a copy of any order revoking probation and imposing sentence pursuant to the Code, Article 42.12, §8, including:

(A) any amounts owed for restitution, fines, and court costs, completed on a standardized felony judgment form described by the Code, Article 42.01, §4; and

(B) a copy of the client supervision plan prepared for the defendant by the adult probation department supervising the defendant, if such a plan was prepared;

(3) A written report that states the nature and the seriousness of each offense and that states the citation to the provision or provisions of the Penal Code or other law under which the defendant was convicted;

(4) a copy of the victim impact statement, if one has been prepared in the case under the Code, Article 56.03;

(5) a statement as to whether there was a change in venue in the case and, if so, the names of the county prosecuting the offense and the county in which the case was tried;

(6) a copy of the record of arrest for each offense;

(7) information regarding the criminal history of the defendant;

(8) a copy of the indictment or information for each offense;

(9) a checklist sent by the department to the county and completed by the county in a manner indicating that the documents required by this subsection and subsection (c) of this section accompany the defendant;

(10) a copy of the criminal justice data report prepared under the Government Code, §413.018; and

(11) a copy of a presentence investigation report prepared under the Code, Article 42.12, §9.

(k) Probation transfer (Texas Code of Criminal Procedure, Article 42.13, §2(a)). Community Supervision and Corrections Departments should notify other jurisdictions when probationers will be working or residing in that jurisdiction temporarily. If the probationer will be in another jurisdiction more than 30 days, courtesy supervision should be requested.

(l) Courtesy supervision (Texas Code of Criminal Procedure, Article 42.13, §2(a)). Community Supervision and Corrections Departments providing direct supervision to probationers transferred from other jurisdictions within Texas should monitor payments of court ordered fees, costs, and restitution, and cooperate with the department of original jurisdiction in enforcing all conditions of probation.

(m) Intrastate transfer (Texas Code of Criminal Procedure, Article 42.13, §2(a)). Community Supervision and Corrections Departments should utilize uniform transfer procedures as provided by and approved by the CJAD.

(n) Extradition (Texas Code of Criminal Procedure, Article 42.13, §2(a)). Probation officers shall not transport prisoners except as provided by law.

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

TRD-9115173

Jackee Cox
General Counsel
Texas Department of
Criminal Justice

Effective date: December 4, 1991

Expiration date: February 2, 1992

For further information, please call: (512) 463-9988

Chapter 321. Court Reports and Documentation

• 37 TAC §321.3

The Texas Department of Criminal Justice (TDCJ) adopts on an emergency basis the repeal of §321.3, concerning court reports and documentation. The TDCJ simulta-

neously adopts new §163.43, concerning court reports and documentation, as part of the secretary of state's mandatory recodification scheme at Chapter 163, Standards, Subchapter C, Programs and Services.

The emergency repeal of the prior rule, and the emergency adoption of the recodification, are necessary to accommodate changes in the Texas Code of Criminal Procedure, Article 42.12, §9, as codified in House Bill 93, Chapter 10, §16.01 et. seq. pages 213 and 214, 72nd Legislature, Second Called Session, Under the law as amended, local probation offices must prepare presentence investigations prior to the imposition of sentence for any felony offense, effective December 1, 1991, in conformity with new statutory requirements which are hereby incorporated into the Standards of the Community Justice Assistance Division of TDCJ.

Notice of the adoption of these emergency rules on a final basis at the January, 1992 meeting of the Texas Board of Criminal Justice is also being published in this issue of the *Texas Register*.

The repeal is adopted on an emergency under the Texas Code of Criminal Procedure, Article 42.13, §2(a), which authorizes the Texas Board of Criminal Justice to adopt reasonable rules concerning the operations of community supervision and corrections departments.

§321.3. Supervision.

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

TRD-9115172

Jackee Cox
General Counsel
Texas Department of
Criminal Justice

Effective date: December 4, 1991

Expiration date: February 2, 1992

For further information, please call: (512) 463-9988

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 10. Family Self-Support Services

Child Care Management Services Statewide Implementation

- 40 TAC §§10.3419, 10.3423, 10.3465

The Texas Department of Human Services (DHS) adopts on an emergency basis amendments to §§10.3419, 10.3423, and 10.3465, concerning child care management services statewide implementation, in its Family Self-Support Services chapter. The purpose of the amendments is to extend JOBS child care services to AFDC recipients, in non-JOBS counties, who are participating

in approved self-initiated education and training activities.

The department adopts the amendments on an emergency basis, effective December 16, 1991, to comply with a federal requirement concerning the extension of child care services. DHS is simultaneously proposing these amendments for review and comment in this issue of the *Texas Register*.

The amendments are adopted on an emergency basis under the Human Resources Code, Title 2, Chapters 22 and 44, which authorizes the department to administer public assistance and day care programs.

§10.3419. Job Opportunities and Basic Skills Training (JOBS) Child Care While Awaiting Approved Activities. [Child Care While Awaiting Job Opportunities and Basic Skills (JOBS) Activities.]

(a) The Texas Department of Human Services (DHS) provides JOBS-related child care for up to two weeks for children whose parent is waiting to enter an approved [JOBS] activity. The two weeks of child care is allowed when:

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

(b) DHS allows JOBS-related child care for up to one month for parents who have finished an approved activity [a JOBS component] and are waiting for the next approved activity [JOBS component] to begin. Child care for up to one month is provided to prevent loss of placement and to ensure continuity of care for the child.

§10.3423. Time Limits for Education or Training Related Child Care.

(a) The Texas Department of Human Services (DHS) limits the time a parent is permitted to receive child care related to education or training as follows.

(1) Parents participating in a Job Opportunities and Basic Skills Training (JOBS) case plan receive education and training related child care until their JOBS case is closed.

(2) Parents participating in approved self-initiated education or training in non-JOBS counties who are eligible for JOBS child care receive education and training related child care until their service plan is closed.

(3)[(2)] Parents not eligible for JOBS child care [participating in a JOBS case plan] receive education and training related child care until they have completed one of the following:

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

(b) Exceptions to requirements in subsection (a) of this section are granted through the waiver process according to the Texas Department of Human Services (DHS) handbook that addresses the purchase of child care services.

§10.3465. Self-Arranged Child Care.

(a) (No change.)

(b) Clients in the eligibility categories specified in §10.3462(2)-(22) [(16)] of this title (relating to Priority for Intake Services) are eligible to receive reimbursement for child care arrangements they make with providers that do not have child care management services (CCMS) vendor agreements provided that child care was authorized according to §10.3461 of this title (relating to Authorization of Child Care Services).

(c) (No change.)

(d) A provider of self-arranged child care for the categories of clients listed in §10.3462 (4) -(22) [(16)] of this title (relating to Priority for Intake Services) must be at least 18 years of age and satisfy one of the following requirements:

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

(e) Clients who receive reimbursement, prior to the effective date of this section, for care arrangements with providers who do not meet the conditions in subsection (c) or (d) of this section may continue to receive reimbursement for these care arrangements as long as the clients remain eligible or until the eligible clients select alternate care arrangements. Any provider selected by these clients for self-arranged child care on or after September 7, 1991, [the effective date of this section] must meet the criteria in subsection (c) or (d) of this section.

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

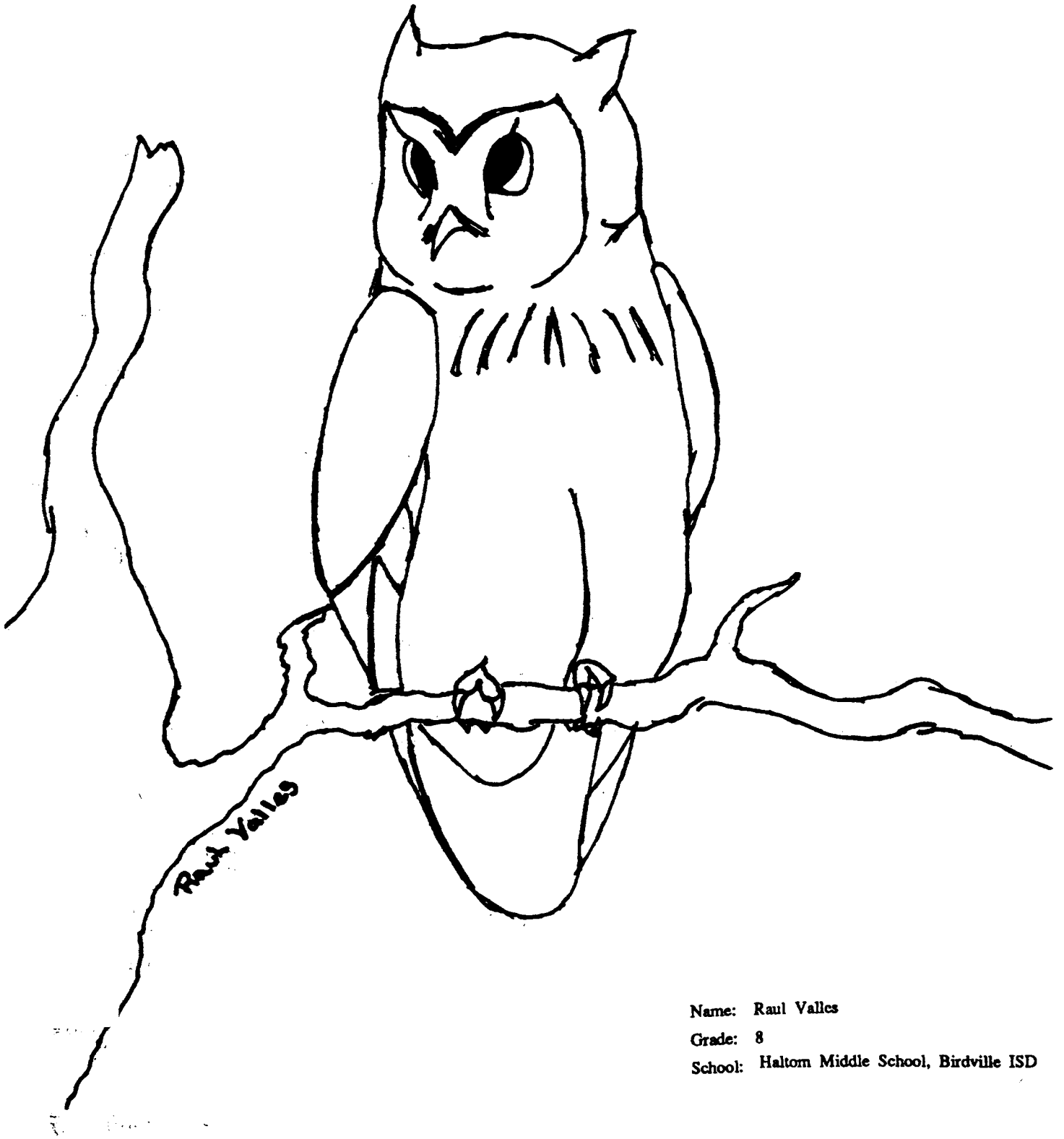
TRD-9115267

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

Effective date: December 5, 1991

Expiration date: April 3, 1992

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



Name: Raul Valles
Grade: 8
School: Haltom Middle School, Birdville 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 1. ADMINISTRATION

Part IV. Office of the Secretary of State

Chapter 79. Corporations

General Information and Correspondence

• 1 TAC §79.18

The Office of the Secretary of State proposes new §79.18, concerning the abandonment of a merger filed with a delayed effective date and upon the receipt of an abandonment of filing prior to the effectiveness of the merger.

Lorna Wassdorf, special assistant, Statutory Filings Division, has determined that for the first five-year period the rules will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Wassdorf 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 is the elimination of confusion resulting from duplicate entity names. There will be no effect on small businesses. The anticipated economic cost of persons required to comply with the proposed rules is the filing fee assessed if the entity name must be changed.

Comments on the proposal may be submitted to Lorna S. Wassdorf, Special Assistant, Statutory Filings Division, P.O. Box 13697, Austin, Texas 78711-3697.

The new section is proposed under Article 9.03 of the Texas Business Corporation Act which provides the Office of the Secretary of State the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

§79.18. Mergers with Delayed Effective Dates.

(a) Upon the filing of a merger with a delayed effective date, the computer records of the secretary of state will be changed to show the filing of the merger, the date of the filing, the future date on which the merger will be effective or a code indicating that the effectiveness is based on a future condition, and the name of the surviving entity or entities. In addition, at the time of such filing:

(A) the status of any entities on file with the secretary of state merging

out of existence will be changed from active to inactive;

(B) the status of any entities, if any, to be created and filed with the secretary of state by the terms of the plan of merger shall appear in the active records of the secretary of state; and

(C) any amendments to the articles of incorporation of the surviving entity or entities, if any, will be recorded in the records of the secretary of state.

(b) Upon filing of the merger:

(A) the names of any entities on file with the secretary of state which are merging out of existence will not appear in the active records and will not be a bar to reservation or registration of an entity name or creation of an entity under a name which is the same as, deceptively similar to, or similar to the name of the merging entity;

(B) the names of any entities to be created and filed with the secretary of state by the terms of the plan of merger will appear in the active records of the secretary of state and will be a bar to reservation or registration of any entity name or creation of an entity under a name which is the same as, deceptively similar to, or similar to the names of the entities to be created by the plan of merger; and

(C) if the plan of merger provides for a change of name of any of the surviving entities on file with the secretary of state, the new names of the entities will appear in the active records of the secretary of state and will be a bar to reservation or registration of any entity name or creation of an entity under a name which is the same as, deceptively similar to, or similar to any new name of the entities as provided by the plan of merger.

(c) If a plan of merger is abandoned in accordance with a statutory provision for abandonment, the secretary of state:

(A) will change the status of the entities filed with the secretary of state which would have merged out of existence to active on the computer records of the agency and record the filing of the aban-

donment. If the names of these entities are not available, the entities must file articles of amendment or take other action to change the entity name or bring the name into compliance with applicable statutory provisions as a condition to acceptance of the abandonment; and

(B) will change the status of all entities that would have been created and filed with the secretary of state by the terms of the plan of merger to non-active on the computer records of the agency.

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

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

TRD-9115227

Lorna Wassdorf
Special Assistant, Statutory
Filings Division
Office of the Secretary of
State

Earliest possible date of adoption: January 13, 1992

For further information, please call: (512) 463-5586

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 1. Agency Administration

Subchapter A. General Provisions

• 19 TAC §1.6

(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 Higher Education Coordinating Board or in the Texas Register office, Room 243, James Earl Rudder Building, 1019 Brasos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §1.6, concerning Optional Retirement Program Eligibility. The rule is being repealed and moved to Chapter 25, §25.2.

James McWhorter, assistant commissioner for administration, 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. McWhorter also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to move the rule to Chapter 25, §25.2 and include it with the other optional retirement rules. Chapter 25 was named "Administrative Council," but will not be called "Retirement Annuity Programs." There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The repeal is proposed under the Texas Government Code, §830.002(c), which provides the Texas Higher Education Coordinating Board with the authority to repeal the rule regarding Optional Retirement Program Eligibility.

§1.6. Optional Retirement Program Eligibility.

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

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

TRD-9115234

James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Proposed date of adoption: January 31, 1992

For further information, please call: (512) 483-6160

Chapter 5. Program Development

Subchapter S. Transfer of Lower Division Course Credit

• 19 TAC §§5.390-5.393

The Texas Higher Education Coordination Board proposes new §§5.390-5.393, concerning transfer of lower division course credit. The new rules respond to the recommendation in the Texas Performance Review. The adoption of these rules should enhance the transferability of credit from community colleges to university by requiring universities to identify comparable courses in its catalog. The rules provide a penalty for lack of compliance.

Bill Sanford, assistant commissioner for universities and health affairs, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The Texas Performance Review estimated cost savings to the state of \$14.4 million per year. There will be no effect on local government.

Mr. Sanford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that students will be able to complete their college education more quickly and at less cost. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, Texas Civil Statutes, §61.051(g) and §61.078(e), which provide the Texas Higher Education Coordinating Board with the authority to adopt rules regarding transfer of lower division course credit.

§5.390. General Provisions. All lower division academic courses shall be fully transferable among public institutions and must count toward the same degree at any public college or university in Texas.

§5.391. Requirements and Limitations.

(a) Each institution of higher education shall identify in its undergraduate catalog each lower division course that is substantially equivalent to an academic course listed in the current edition of the "Community College General Academic Course Guide Manual."

(b) Each university must identify at least 45 semester credit hours of academic courses that are substantially equivalent to courses listed in the "Community College General Academic Course Guide Manual" and that fulfill the lower-division portion of the institution's core curriculum.

(c) All public colleges and universities must accept transfer of credit for successfully completed courses identified in subsections (a) and (b) as of this section applicable to an associate or baccalaureate degree in the same manner as credit awarded to non-transfer students in that major.

(d) Each institution shall be required to accept in transfer into a baccalaureate degree the number of lower division credit hours in a major which are allowed for their non-transfer students in that major; however, the provisions in paragraphs (1) - (3) of this subsection shall apply.

(1) No institution shall be required to accept in transfer more credit hours in a major than the number set out in the applicable Coordinating Board approved transfer curriculum for that major, as prescribed by the current issue of the Coordinating Board's guide to transfer curricula and transfer of credit, *Transfer of Credit Policies and Curricula*.

(2) In any major for which there is no Coordinating Board approved transfer

curriculum, no institution shall be required to accept in transfer more lower division course credit in the major applicable to a baccalaureate degree than the institution allows its non-transfer students in that major.

(3) A university may deny the transfer of credit in courses with a grade of "D" as applicable to the student's major.

(e) All senior institutions of higher education in Texas shall provide support services for transfer students equivalent to those provided to non-transfer students regularly enrolled at the institutions, including an orientation program for transfer students equivalent to that provided for entering freshman enrollees.

(f) No university shall be required to accept in transfer or toward a degree, more than 66 semester credit hours of academic credits earned by a student in a community college. Universities, however, may choose to accept additional credit hours.

§5.392. Penalty for Noncompliance with Transfer Rules. If it is determined by the Coordinating Board that an institution inappropriately or unnecessarily required a student to retake a course that is substantially equivalent to a course already taken at another institution, in violation of the provisions of 19 TAC §5.372, formula funding for credit hours in the repeated course will be deducted from the institution's appropriations.

§5.393. Resolution of Transfer Disputes for Lower-Division Courses.

(a) The following procedures shall be followed by public institutions of higher education in the resolution of credit transfer disputes involving lower-division courses.

(1) If an institution of higher education does not accept course credit earned by a student at another institution of higher education, the receiving institution shall give written notice to the student and to the sending institution that transfer of the course credit is denied.

(2) The two institutions and the student shall attempt to resolve the transfer of the course credit in accordance with board rules and/or guidelines.

(3) If the transfer dispute is not resolved to the satisfaction of the student or the sending institution within 45 days after the date the student received written notice of denial, the institution whose credit is denied for transfer shall notify the commissioner of the denial.

(b) The commissioner of higher education or the commissioner's designee shall make the final determination about the dispute concerning the transfer of course credit and give written notice of the determination to the involved student and institutions.

(c) All public institutions of higher education shall publish the procedures described in subsections (a) and (b) of this section in their undergraduate course catalogs.

(d) All public institutions of higher education shall furnish data to the board on transfer disputes as the board may require in accord with its statutory responsibilities under the Education Code, §61.078(e).

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

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

TRD-9115239

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: January 31, 1992

For further information, please call: (512) 483-6160

Chapter 17. Campus Planning and Physical Facilities Development

Subchapter B. Application for Approval of New Construction and Major Repair and Rehabilitation

• 19 TAC §17.44

The Texas Higher Education Coordinating Board proposes an amendment to §17.44, concerning application form. The amendment to the rule is being made so that changes in the construction project application form do not have to be approved by the board. The amendment gives the staff and the institutions more flexibility in assembling information necessary to analyze a construction request.

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

Mr. Brown 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 this rule will accelerate and make more efficient the Coordinating Board's process for reviewing construction projects at public universities, technical colleges, and medical and dental units. It also will ensure that decisions about whether to provide state funding to maintain space leased by higher education institutions takes state-wide needs into account. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of

Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, Texas Civil Statutes, §§61.0572, 61.0581, 61.0582, and 61.0583, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding application form.

§17.44. Application Form. Application forms and guidelines for requesting Coordinating Board approval will be provided by the Coordinating Board and shall call for the following information:

(1) **handicapped accessibility statement of intent** [type of facility proposed];

(2) **letter of assurance that the project has been designed to improve utilization of energy using the Governor's Energy Management Center Standards** [a description of the project and a statement of need for it];

(3) **for projects that would add space that will generate state funding, a letter from the chairperson of the institution's governing board certifying that the need for new construction is at least equal to the need to acquire additional or more modern instructional and research equipment** [appropriate financial data, including total cost];

(4) **verification that the project is included in the institution's most recent campus master plan update on file at the Coordinating Board** [institutional role and scope];

(5) **other information on the proposed project that is needed by the board's staff to prepare recommendations to the board** [inclusion of project in campus master plan on file at the Coordinating Board];

(6) **other information that the requesting institution may wish to provide to ensure a full understanding of the proposed project** [utilization of space];

(7) **certificate of compliance with Texas Civil Statutes, Article 601b, Article 7, on elimination of architectural barriers to the handicapped;**

(8) **additional remarks as necessary;**

(9) **date project approved by institutional governing board;**

(10) **assurance the project has been designed to improve utilization of energy using the Governor's Energy Management Center Standards; and**

(11) **letter from the chairperson of the institution's governing board certifying that the need for new construction that would require formula funding is at least equal to the need to acquire additional or more modern instructional and research equipment.]**

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

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

TRD-9115229

James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Proposed date of adoption: January 31, 1992

For further information, please call: (512) 483-6160

• 19 TAC §17.45

The Texas Higher Education Coordinating Board proposes new §17.45, concerning energy conservation projects. The new rule is proposed to incorporate the board's authorized procedure since April 1990, expediting the approval of energy conservation projects at universities, technical colleges, and health science centers. Under this procedure, the Campus Planning Committee can approve repair and rehabilitation projects that have been approved by the Energy Management Center at the Governor's Office. This procedure reduces the delay that can occur between the creation of a proposal to save energy and completion of the necessary renovation.

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

Mr. Brown 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 this rule will accelerate and make more efficient the Coordinating Board's process for reviewing construction projects at public universities, technical colleges, and medical and dental units. It also will ensure that decisions about whether to provide state funding to maintain space leased by higher education institutions take state-wide needs into account. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The new section is proposed under the Texas Education Code, Texas Civil Statutes, §§61.0572, 61.058, 61.0582, and 61.0583, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding energy conservation projects.

§17.45. Energy Conservation Projects. For the purpose of encouraging repair and rehabilitation projects that improve energy conservation in higher education facilities, the following procedure may be

used to review the board approval energy conservation projects approved for funding by the Energy Management Center of the Governor's Office.

(1) The Energy Management Center of the Governor's Office periodically will submit to the Coordinating Board lists of the projects it has approved for funding at universities.

(2) The Coordinating Board staff reviews the projects to verify that none would result in a net addition of education and general space or would be in conflict with standards for repair and rehabilitation projects.

(3) The staff submits the list of projects to the Campus Planning Committee for its approval on behalf of the full board.

(4) If the committee approves the list of projects the staff will notify the Governor's Office and the institutions whose projects have been approved.

(5) The committee may refer to the full board any projects it does not wish to approve that cost more than \$600,000.

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

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

TRD-9115230

James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Proposed date of adoption: January 31, 1992

For further information, please call: (512) 483-6160.

◆ ◆ ◆
• 19 TAC §17.46

The Texas Higher Education Coordinating Board proposes new §17.46, concerning special approval procedure. The new rule is proposed to establish a special approval procedure for certain projects that is intended to remove the need for the full board to consider projects that generally present no significant problem and do not require the expenditure of state funds for operation and maintenance. The types of proposals that may be appropriate for such a special approval procedure may be as follows: auxiliary enterprise projects being acquired, constructed or renovated without the use of state funds. In addition, no state funds may be used to operate and maintain such projects; and major repair and rehabilitation of existing education and general buildings that will not add education and general space and whose total cost is not more than \$3 million.

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

Mr. Brown also has determined that for each year of the first five years the section is in

effect the public benefit anticipated as a result of enforcing the section will be that the rules will accelerate and make more efficient the Coordinating Board's process for reviewing construction projects at public universities, technical colleges, and medical and dental units. It also will ensure that decisions about whether to provide state funding to maintain space leased by higher education institutions take state-wide needs into account. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The new section is proposed under the Texas Education Code, Texas Civil Statutes, §§61.0572, 61.058, 61.0582, and 61.0583, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding special approval procedure.

§17.46. *Special Approval Procedure.*

(a) Under this procedure the Coordinating Board delegates to the Campus Planning Committee the review and approval of the following types of projects:

(1) auxiliary enterprise projects being acquired, constructed, or renovated without the use of state funds. In addition, no state funds may be used to operate and maintain such projects;

(2) major repair and rehabilitation of existing education and general space and whose total project cost is no more than \$3 million.

(b) The Campus Planning Committee will be guided in its decision in part by its judgment as to whether or not the full board would approve the project were the request being brought to the board at this time. The committee may approve a request, or refer the request to the next meeting of the board. The committee shall report all actions to the board at its next meeting. The action by the committee will be final, subject to appeal to the full board at its next 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 December 3, 1991.

TRD-9115231

James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Proposed date of adoption: January 31, 1992

For further information, please call: (512) 483-6160

Subchapter C. Requesting Coordinating Board Endorsement of Real Property Acquisitions

• 19 TAC §17.68

The Texas Higher Education Coordinating Board proposes new §17.68, concerning leased or rented real property that generates formula funding. Establishment of a rule requiring that educational space acquired by institutions of higher education through rental or lease agreements will be approved by the Coordinating Board before being included on the facilities inventory for formula funding. The rule would require the board approval of such actions because of the cost such additions can represent to the state.

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

Mr. Brown 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 rules will accelerate and make more efficient the Coordinating Board's process for reviewing construction projects at public universities, technical colleges, and medical and dental units. It also will ensure that decisions about whether to provide state funding to maintain space leased by higher education institutions takes state-wide needs into account. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The new section is proposed under the Texas Education Code, Texas Civil Statutes, §§61.0572, 61.058, 61.0582, and 61.0583, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding leased or rental real property that generates formula funding.

§17.68. *Leased or Rental Real Property that Generates Formula Funding.* The Coordinating Board shall review for approval any improved real property whose use is obtained by rental or lease whenever an institution seeks to place the property on its educational and general facilities inventory to generate formula funding, if the property contains at least 3,000 square feet of educational and general space.

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

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

TRD-9115232

James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Proposed date of adoption: January 31, 1992
For further information, please call: (512)
483-6160

◆ ◆ ◆
Subchapter D. Audits of Education and General Facilities
• 19 TAC §17.81

The Texas Higher Education Coordinating Board proposes new §17.81, concerning periodic audits of educational and general facilities. The new section will provide inclusion in board rules of the statutory provisions for audits of higher education facilities. The Coordinating Board's Sunset Bill gave the board responsibility for conducting a periodic audit of educational and general space. The bill also requires the board to verify that projects it has approved were built and paid for as approved by the Coordinating Board.

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

Mr. Brown also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the rules will accelerate and make more efficient the Coordinating Board's process for reviewing construction projects at public universities, technical colleges, and medical and dental units. It also will ensure that decisions about whether to provide state funding to maintain space leased by higher education institutions takes state-wide needs into account. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The new section is proposed under the Texas Education Code, Texas Civil Statutes, §§61.0572, 61.058, 61.0582, and 61.0583, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding periodic audits of educational and general facilities.

§17.81. Periodic Audits of Educational and General Facilities.

(a) The board's staff periodically shall conduct a comprehensive audit of all educational and general facilities on the campuses of public universities, medical and dental units, and Texas State Technical Colleges to verify the accuracy of the facilities inventory for each of those institutions.

(b) The board shall verify the accuracy of the square footage reported in each institution's budget request in relation to the facilities inventory.

(c) The audit must include a periodic review of construction projects to confirm that:

(1) a project has received prior approval by the board if required by the Texas Education Code, §61.058; and

(2) an approved project is completed as specified in the request to the board for approval of the project.

(d) The board shall report its findings concerning the audits conducted to the Legislative Budget Board and the audited institutions.

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

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

TRD-9115233

James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Proposed date of adoption: January 31, 1992
For further information, please call: (512)
483-6160

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Chapter 21. Student Services
Subchapter G. Hinson-Hazlewood College Student Loan Program

• 19 TAC §§21.53, 21.54, 21.55, 21.62

The Texas Higher Education Coordinating Board proposes amendments to §§21.53, 21.54, 21.55, and 21.62, concerning the Hinson-Hazlewood College Student Loan Program. The amendments will incorporate changes necessitated by the passage of Senate Bill 20 in the Second Called Session of the 72nd Legislature; they will also clarify that the Coordinating Board will determine the quality of an institution's credit rating regarding loan applicants. The changes mandated by Senate Bill 20 are necessary in order for the program to comply with state law. The credit rating evaluation of institutions is needed to help control loan defaults.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Adams also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that without the changes, loans under new bonding resolutions could not be made. Without the credit evaluation change, loans could be made to inappropriate borrowers, thus increasing the default rate for the program. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education

Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §52.54, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Hinson-Hazlewood College Student Loan Program.

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

Auxiliary fund—The student loan auxiliary fund authorized in the Texas Education Code, Chapter 52, Subchapter F, subject to passage of the constitutional amendment on November 5, 1991, authorizing the sale of general obligation bonds for funding.

Fund—The Texas opportunity plan fund as created by the Texas Constitution, Article III, §50b; the student loan revenue bond fund authorized in the Texas Education Code, Chapter 56, Subchapter H; and/or the student loan auxiliary fund, authorized in the Texas Education Code, Chapter 52, Subchapter F.

Revenue bond fund—The student loan revenue bond fund, authorized in the Texas Education Code, Chapter 56, Subchapter H.

§21.54. Governing Provisions of Loans.

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

(c) Unless otherwise specified in this subchapter, these rules apply to loans made from the Texas opportunity plan fund, the revenue bond fund, and the auxiliary fund.

§21.55. Eligible Institution.

(a) (No change.)

(b) Student attending other institutions. Any student attending an institution other than an eligible institution as set forth in subsection (a) of this section may be eligible for a loan made from the fund under the governing provisions of the GSLP providing the postsecondary institution:

(1)-(5) (No change.)

(6) has a good credit rating as determined by the board.

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

§21.62. Loan Interest.

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

(c) CALP. The interest rate charged for loans shall be set from time to time by the commissioner, shall be simple interest, and shall accrue on the outstanding principal balance from the date of disbursement. Principal and interest become due and payable in monthly installments six months after the student ceases to be enrolled at

least half time as determined by the institution, except that current interest on loans made from the revenue bond fund is due and payable no less frequently than quarterly for the life of the loan. These loans are not eligible for interest subsidy.

(d)-(f)(No change.)

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

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

TRD-9115241

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: January 31, 1992

For further information, please call: (512) 483-6160

Subchapter J. The Physician Education Loan Repayment Program

• 19 TAC §§21.251, 21.254, 21.260

The Texas Higher Education Coordinating Board proposes amendments to §§21.251, 21.254, and 21.260, concerning the Physician Education Loan Repayment Program. The amendments will allow physicians employed by federally-funded community health centers in Texas to qualify for program benefits whether or not the community health centers are located in federally-defined health manpower shortage areas. Presently all but two community health centers are located in health manpower shortage areas; all serve low-income people. The proposed change will have the effect of helping to recruit physicians willing to practice in community health centers.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Adams also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that there will be improved services in community health centers. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §61.537, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Physician Education Loan Repayment Program.

§21.251. Purpose. The purpose of the Physician Student Loan Repayment Program is to encourage qualified physicians to practice medicine in designated areas of the state or for specified state agencies. The purpose of the state-funded portion of the program is to encourage qualified physicians to practice medicine in a medically underserved area that is economically depressed or rural or for the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Corrections, or the Texas Youth Commission or a Community Health Center. The purpose of the federally funded portion is to encourage qualified physicians to practice in areas of highest need in Texas.

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

Community Health Center—Any facility in Texas which, under provisions of the United States Public Health Services Act, §§329, 330, and 340, provides health care to the community in which it is located, the migrant, and the homes using federal funds.

§21.260. State-funded Physician Education Loan Repayment Program.

(a) The state-funded Physician Education Loan Repayment Program is limited to repayments on education loans on behalf of physicians who practice in economically depressed or rural medically underserved areas of Texas or for one of the following state agencies:

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

(5) a community health center in Texas.

(b) (No change.)

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

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Assistant Commissioner
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For further information, please call: (512) 483-6160

Chapter 25. Administrative Council

Subchapter A. General Provisions

• 19 TAC §§25.1-25.18

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

The Texas Higher Education Coordinating Board proposes the repeal of Chapter 25, Subchapter A, §§25.1-25.18, concerning general provisions. The entire subchapter is being repealed because House Bill 2 transferred all but the four largest programs to the group insurance program for state agency employees administered by the Employees Retirement System. The Administrative Council's statutory authority was deleted effective September 1, 1991.

James McWhorter, assistant commissioner for administration, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. McWhorter also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will not be applicable, as the public is relatively unaffected by these particular sections. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The repeals are proposed under the Texas Government Code, §830.002(c) which provides the Texas Higher Education Coordinating Board with the authority to repeal the rules regarding General Provisions of the Administrative Council.

§25.1. The Administrative Council.

§25.2. Terms of Office-Administrative Council.

§25.3. Vacancy-Administrative Council.

§25.4. Election of Officers-Administrative Council.

§25.5. Appointment of Committees-Administrative Council.

§25.6. Meetings-Administrative Council.

§25.7. Visitor Participation in Administrative Council.

§25.8. The Advisory Committee.

§25.9. Terms of Office-Advisory Committee.

§25.10. Vacancy-Advisory Committee.

§25.11. Election Process-Advisory Committee.

§25.12. Election of Officers-Advisory Committee.

§25.13. Appointments of Subcommittees-Advisory Committee.

§25.14. Meetings-Advisory Committee.

§25.15. Open Meetings.

§25.16. Open Records.

§25.17. Administrative Costs.

§25.18. Petition for the Adoption of Rules.

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

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

TRD-9115235

James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Proposed date of adoption: January 31, 1992

For further information, please call: (512) 483-6160

◆ ◆ ◆
**Chapter 25. Retirement
Annuity Programs**

Subchapter A. Retirement Annuity Programs

• 19 TAC §§25.1-25.10

The Texas Higher Education Coordinating Board proposes new §§25.1-25.10, concerning the Retirement Programs. A provision of House Bill 2, 72nd Legislature, Regular Session, transferred the responsibility for oversight of the Optional Retirement Program (ORP) from the Administrative Council to the Coordinating Board effective September 1, 1991. The proposed rules are essentially the rules which were adopted by the Administrative Council with amendments based on legislative requirements from the 72nd session (i.e. inclusion of the Commissioner of Education as an eligible ORP participant and transfer of oversight to the board).

James McWhorter, assistant commissioner for administration, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or

local government as a result of enforcing or administering the sections.

Mr. McWhorter also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that there will be centralized oversight of the ORP programs which is required by the statute to provide for greater uniformity of procedures for administration of ORP and the tax-sheltered annuity program. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Government Code, §830.002(c) which provides the Texas Higher Education Coordinating Board with the authority to adopt the proposed rules regarding Retirement Annuity Programs.

§25.1. Purpose. It is the purpose of these rules to carry out the Coordinating Board's responsibilities pursuant to Chapter 830, Texas Government Code, to provide for greater uniformity of procedures for administration of retirement annuity insurance programs available to employees of Texas state colleges and universities through the optional retirement programs and tax sheltered annuity programs.

§25.2. ORP Eligibility Standards.

(a) The governing board of each institution of higher education shall provide an opportunity to participate in the Optional Retirement Program (ORP) to all faculty members in the component institutions governed by the board. The State Board of Education shall provide an opportunity to participate in the Optional Retirement Program to the commissioner of education.

(b) Governing boards shall use any of the following definitions of a full-time faculty member for determining eligibility for participation in the Optional Retirement Program.

(1) A member of the faculty whose duties include teaching or research shall mean all persons whose specific assignments are made for the purpose of conducting instruction or research as a principal activity (or activities), and who hold titles of professor, associate professor, assistant professor, instructor, lecturer, or equivalent faculty title.

(2) An administrator responsible for teaching and research faculty shall mean deans, directors, associate deans, assistant deans, chairpersons, or heads of academic departments if their principal activity is planning, organizing, and directing the activities of faculty as defined in paragraph (1) of this section.

(3) A member of the administrative staff of the Texas Higher Education Coordinating Board shall mean a member of the Texas Higher Education Coordinating Board staff whose assignments would require college graduation and prior experience in higher education or experience of such kind and amounts to provide a comparable background, whose national mobility requirements are similar to those of faculty and who fills a position that is the subject of a nationwide search in the academic community.

(4) A professional librarian, a president, a chancellor, a vice-president, a vice-chancellor shall mean a librarian with a degree in library science, presidents, chancellors, vice-presidents, vice-chancellors, deputy chancellors, associate and assistant vice presidents, associate and assistant vice-chancellors or the equivalent.

(5) Other professional staff personnel shall mean administrative and professional positions that are generally and customarily recruited by advertising in national publications such as the Chronicle of Higher Education or in newsletters of national professional associations or at meetings of such associations. In addition, each administrative or professional position must be at a salary rate equivalent to the rate for faculty for the institution.

(A) Administrative positions shall normally report to the office of a chancellor, president, vice-chancellor, vice-president, or dean. Incumbents in such positions serve as director or other administrative head of a major department or budget entity. Incumbents of such positions must be:

(i) appointed by the governing board or the chief administrative officer of the institution, or his/her delegate; and

(ii) responsible for the preparation and administration of the budget, policies, and programs of the department or entity.

(B) Professional positions shall include positions in nationally recognized fields which require advanced degrees and/or specialized professional or artistic training, experience, and achievement. These would include titles such as physicians, athletic coaches, engineers, and lawyers.

(c) For purposes of determining initial eligibility for ORP, the term "full-time" shall mean employment for the standard full-time workload established by the institution at a rate comparable to the rate of compensation for other persons in similar positions for a definite period of four and one-half months or a full semester of more than four calendar months.

§25.3. ORP Standards.

(a) An employee shall be considered vested in the ORP on the first day of the second year of participation in one or more optional retirement plans operating in one or more Texas public institutions of higher education or the Central Education Agency. For purposes of this subsection, a year shall mean twelve cumulative full months. A full calendar month of leave without pay shall not be included in the calculation of such year. An academic faculty member shall be credited the three summer months toward vesting in the ORP provided the faculty member teaches the spring semester immediately preceding the summer and the fall semester immediately following the same summer.

(b) Once a participant has vested in the ORP in accordance with subsection (a) of this section, such participant's vesting status shall not be affected by any partial or total withdrawals made after termination of participation in the ORP under subsection (j) of this section or attainment of age 70-1/2 years. Upon reemployment in a public institution of higher education in Texas, a vested participant shall not be required to satisfy the vesting period again.

(c) An ORP participant who terminates employment in all public institutions of higher education in Texas prior to satisfying the vesting requirements in subsection (a) of this section shall, upon reemployment in an ORP eligible position, retain credit for previous ORP participation. Such credit shall not be affected by any partial or total withdrawals made after termination participation in the ORP under subsection (j) of this section or attainment of age 70-1/2 years.

(d) A new employee who is eligible to participate in the ORP for the first time is automatically enrolled in the Teacher Retirement System (TRS) until an election to participate in the ORP is made.

(e) Election to participate in the ORP must be made before the 91st day after becoming eligible. Failure to elect the ORP during the 90-day period will require an individual to remain in the TRS for the remainder of his or her employment in Texas public higher education.

(f) An employee who elects to participate in the ORP may withdraw his or her accumulated contributions (plus interest) from the TRS. Contributions refunded by the TRS to ORP participants are not restricted as to their use by the employee. However, such refund may not be transferred to an ORP carrier.

(g) After electing the ORP, an ORP participant is not thereafter eligible for membership in the TRS (except as provided in subsection (i) of this section) unless the individual terminates employment covered by the ORP and becomes employed in any Texas public educational institution or

agency that is not part of the ORP and therefore requires TRS membership. Such an individual, upon becoming reemployed in Texas public higher education, may not resume participation in the ORP.

(h) An ORP participant who vests in the ORP in accordance with subsection (a) of this section and subsequently becomes employed in an institution of higher education in Texas in a position not eligible for the ORP shall, nevertheless, continue to participate in the ORP and shall not be eligible for TRS membership.

(i) An ORP participant who has not satisfied the vesting requirements in subsection (a) of this section and becomes employed in an institution of higher education in Texas in a position not eligible for the ORP, shall be required to return to membership in the TRS.

(j) An individual terminates participation in the ORP only upon death, retirement, or termination of employment in all public institutions of higher education in Texas.

(k) Benefits under the ORP are available only if the participant terminates participation in the program as provided by subsection (j) of this section or if the participant attains the age of 70-1/2 years.

(l) No contract issued under the ORP may provide for loans, cash surrender, or contain any other provision which permits the availability of benefits prior to a participant's attainment of age 70-1/2 years or termination as an employee in the public institutions of higher education in Texas. In the event benefits are made available prior to termination of employment or attainment of age 70-1/2 years, the institution may require the company to redeposit funds to the employee's account as if no withdrawal had been made. The institution may require the company to provide written verification to the institution that the account has been fully restored with no adverse impact to the employee. The institution may suspend a company from doing further business at the institution at any time a company fails to comply with the provisions of this subsection.

(m) Contributions as required by law by participants in the ORP shall be made on a salary reduction basis.

(n) Contracts issued under the ORP shall include a provision that the ORP carrier is responsible for qualifying domestic relations orders and paying benefits in accordance with §830.107, Chapter 830, Title 8, Texas Government Code.

§25.4. TSA Eligibility Standards. Employees who are eligible for participation in the Teacher Retirement System or the Optional Retirement Program shall also be eligible to purchase tax sheltered annuities, within limits established by the Internal Revenue Service, through payroll reduction.

§25.5. Transfer of Carriers. Employees who are eligible to participate in the optional retirement program or tax sheltered annuity program and who are already participating in such program shall be allowed the option of continuing such participation with the same carrier whenever such employee transfers from one institution of higher education to another or from the Central Education Agency. The Central Education Agency shall accept the transfer of a participant's optional retirement program from an institution of higher education if the participant becomes commissioner of education.

§25.6. Number of Authorized Carriers. Each institution of higher education must provide a selection of at least four optional retirement program carriers which are qualified and admitted to do business in this state, and a selection of at least four tax sheltered annuity program carriers which are qualified and admitted to do business in this state.

§25.7. Change of Carriers and Salary Reduction Agreements. Each institution shall offer not less than two occasions during the year in which an employee may make a change in his or her optional retirement program carrier or tax sheltered annuity program carrier and/or enter into a new salary reduction agreement. The dates for these occasions will be at the discretion of the institution. An employee may enter into a new salary reduction agreement on only one such occasion per calendar year.

§25.8. Solicitation Practices. Each institution shall establish the following procedures related to solicitation practices.

(1) Representatives from approved companies shall be permitted to make sales presentations to eligible employees on the premises of institutions of higher education but only at the employee's request, as guests of the employee and administration and shall abide by each institution's applicable rules and regulations.

(2) Providing of gifts and monetary rewards directly or indirectly by representatives of approved companies for information on newly hired employees shall be prohibited.

(3) Representatives of approved companies shall be responsible for providing appropriate sales literature and service at locations as designated by each institution's administration. Campus bulk mailing or telephone campaigning shall be prohibited in institutions of higher education.

(4) Institutions of higher education shall reserve the right to restrict solicitation privileges of representatives from approved companies based on violations of

solicitation regulations of this section and each institution's applicable rules and regulations.

§25.9. Auditing Procedures.

(a) Each institution shall require that companies who enroll Optional Retirement Program (ORP) participants and receive contributions must submit, at least annually, a report or reports to each participant containing:

- (1) for all accounts:
 - (A) name and address of participant;
 - (B) identifying number;
 - (C) total payments received this reporting period;
 - (D) expense charges this reporting period;
 - (E) net payments this reporting period;
 - (F) total value of account at end of this reporting period; and

(G) net cash surrender value of account at end of this reporting period reflecting all potential charges against the account if it were surrendered for cash as of the last day of this reporting period;

(2) for fixed annuity accounts, the following additional information:

(A) interest rate or rates paid on this account from the previous reporting period to the end of the current reporting period; and

(B) where multilevel rates of interest were paid on an account, a breakdown showing the amount in the participant's account at each interest level, the amount of interest earned at each interest level, and the rates of interest;

(3) for variable annuity and custodial accounts, the following additional information:

(A) units of each fund or investment or account purchased this reporting period;

(B) total units of each fund or investment or account in the account at end of this reporting period; and

(C) value of unit of each fund or investment or account at end of this reporting period.

(b) Each institution shall require that companies who enroll the ORP participants and receive contributions must submit confirmation of receipt of funds directly to each participant at least quarterly. The reports shall contain the date and amount of each payment received during the reporting period.

(c) Each institution shall require that companies who enroll the ORP participants and receive contributions must, immediately upon execution of a transfer from one fund or investment or account to another fund or investment or account, submit a confirmation directly to the participant. This confirmation shall include all transfer information, including a statement of the charges made for the transfer, if any.

(d) The ORP payments shall be forwarded to companies within 10 business days of the legal availability of funds. Where possible, the state share of the payment should be forwarded with the employee share to which it applies. Where that is not possible, the employees' share should be forwarded upon withholding and the state share forwarded upon receipt.

§25.10. Reporting Requirements.

(a) Each institution shall annually submit a report to the Texas Higher Education Coordinating Board that includes information concerning the number of participants and eligible positions and the amount of contributions.

(b) Each institution shall keep records, make certifications, and furnish to the Texas Higher Education Coordinating Board information and reports as required by the board to enable it to carry out its functions under Chapter 830, Texas Government Code.

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

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

TRD-9115238

James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Proposed date of adoption: January 31, 1992

For further information, please call: (512) 483-6160

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Subchapter B. Administration of the Texas State College and University Employees Uniform Insurance Benefits Program

• 19 TAC §§25.31-25.58

(Editor's note: The text of the following sections proposed for repeal will not be published. The

sections may be examined in the offices of the Texas Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of Chapter 25, Subchapter B, §§25.31-25.58, concerning administration of the Texas State College and University Employees Uniform Insurance Benefits Program. The entire subchapter is being repealed because House Bill 2 transferred all but the four largest programs to the group insurance program for state agency employees administered by the Employees Retirement System. The Administrative Council's statutory authority was deleted effective September 1, 1991.

James McWhorter, assistant commissioner for administration, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. McWhorter, also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will not be applicable, as the public is relatively unaffected by these particular sections. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The repeals are proposed under the Texas Government Code, §830.002(c) which provides the Texas Higher Education Coordinating Board with the authority to repeal the rules regarding administration of the Texas State College and University Employees Uniform Insurance Benefits Program.

§25.31. Purpose.

§25.32. Definitions.

§25.33. Basic Coverage Standards.

§25.34. Basic Procedural and Administrative Practices.

§25.35. Administrative Costs.

§25.36. Existing Institutional Insurance Programs.

§25.37. Authorized Carriers.

§25.38. Bidding Contracts.

§25.39. Selection of Carrier.

§25.40. Contract Review; Correction of Deficiencies.

\$25.41. Participation of Two or More Institutions in One Program.

\$25.42. Additional Coverage Beyond Basic Coverage Standards.

\$25.43. Benefit Certificates.

\$25.44. Annual Report.

\$25.45. Reinsurance.

\$25.46. Annual Accounting by Carrier.

\$25.47. Exemption from Execution.

\$25.48. Death Claims.

\$25.49. Automatic Coverage.

\$25.50. Coverage for Dependents.

\$25.51. Payment of Premiums.

\$25.52. Certification of Amount Necessary to Pay Employer Contribution.

\$25.53. Administrative Costs for Administration of the Act.

\$25.54. Studies, Reports, Records, and Audits.

\$25.55. Effective Date for Basic Coverages.

\$25.56. Continuation of Coverage.

\$25.57. Cafeteria Plan.

\$25.58. Cafeteria Plan Fund.

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

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

TRD-9115236

James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Proposed date of adoption: January 31, 1992

For further information, please call: (512) 483-6180

Subchapter C. Administration of Retirement Annuity Programs

• 19 TAC §§25.71-25.78

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

The Texas Higher Education Coordinating Board proposes the repeal of Chapter 25, Subchapter C, §§25.71-25.78, concerning Administration of Retirement Annuity Programs. The entire subchapter is being repealed because House Bill 2 transferred all but the four largest programs to the group insurance program for state agency employees administered by the Employees Retirement System. The Administrative Council's statutory authority was deleted effective September 1, 1991.

James McWhorter, assistant commissioner for administration, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. McWhorter, also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will not be applicable, as the public is relatively unaffected by these particular sections. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The repeals are proposed under the Texas Government Code, §830.002(c) which provides the Texas Higher Education Coordinating Board with the authority to repeal the rules regarding Administration of Retirement Annuity Programs.

\$25.71. Purpose.

\$25.72. ORP Standards.

\$25.73. TSA Eligibility Standards.

\$25.74. Transfer of Carriers.

\$25.75. Number of Authorized Carriers.

\$25.76. Change of Carriers and Salary Reduction Agreements.

\$25.77. Solicitation Practices.

\$25.78. Auditing Procedures.

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

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

TRD-9115237

James McWhorter
Assistant Commissioner
Texas Higher Education
Coordinating Board

Proposed date of adoption: January 31, 1992

For further information, please call: (512) 483-6160

Part II. Texas Education Agency

Chapter 89. Adaptations for Special Populations

Subchapter B. Remedial and Compensatory Instruction

• 19 TAC §89.41

The Texas Education Agency (TEA) proposes an amendment to §89.41, concerning the definition of remedial and compensatory instruction. The section is being amended at the request of the State Board of Education to incorporate the principles of accelerated learning as the goal of compensatory and remedial programs.

Madeleine Manigold, assistant commissioner for programs, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Manigold and Criss Cloudt, director for planning coordination, have determined that for each year of the first five years the proposed section will be in effect the public benefit anticipated as a result of enforcing the section will be that the goals and school district responsibilities relative to state compensatory education programs will be clearly articulated in state policy. There will be no effect on small businesses. There will be no economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed section submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the section has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §21.557, which provides the State Board of Education with the authority to adopt standards for school district compensatory and remedial instructional programs.

§89.41. Definition of Remedial and Compensatory Instruction.

(a) The goal of remedial and com-

pensatory programs is to accelerate instruction in order to close the performance gap between identified students and other students by providing unity of purpose toward a common set of goals, and empowering all participants of the school community with the authority to take responsibility for building on strengths of students to achieve desired learner outcomes. Remedial and compensatory education programs shall satisfy the following standards:

(1) a written policy for use of state compensatory funds that includes eligibility requirements for participation in the program for students in prekindergarten through grade 12, a description of the program and services, and a plan to coordinate state compensatory education funds with local, federal, and other state funds;

(2) annual review of the progress of each student being served and the redirection of funds and services as necessary to ensure student learning; and

(3) an increased percentage of students mastering all three areas of the student assessment program as required in the Texas Education Code, §21.551, until all students have achieved mastery.

(b)-(f) (No change.)

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

Issued in Austin, Texas, on November 22, 1991.

TRD-9115375
Cris Cloudt
Director, Planning
Coordination
Texas Education Agency

Earliest possible date of adoption: January 13, 1992

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

Chapter 137. Teacher Education

Subchapter M. 1987 Program Requirements for Preparation of School Personnel for Initial Certificates and Endorsements

• 19 TAC §137.559

The Texas Education Agency (TEA) proposes an amendment to §137.559, concerning endorsements to Texas teacher certificates. The amendment deletes the use of the Language Proficiency Instrument (LPI) to assess oral proficiency of persons seeking a bilingual endorsement, and removes the requirement to take the College Level Examination Program (CLEP) Test for assessing written proficiency in Spanish for bilingual teachers. It is the contention of the agency that to some extent, the skills measured on

the CLEP Test overlap those on the Examination for the Certification of Educators in Texas (ExCET) Bilingual Test. In addition, the State Board of Education recently adopted the Texas Oral Proficiency Test (TOPT) for assessing oral proficiency of persons who will teach Spanish or French as another language and who use Spanish in a bilingual classroom setting.

Marvin Veselka, assistant commissioner for assessment, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications as a result of enforcing or administering the section. There will be no fiscal implications for state government because the development costs for the Texas Oral Proficiency Test (TOPT) have already been incurred, and consequently, no state funds are anticipated in the near future for this purpose. Costs associated with the administration and scoring of the TOPT are funded by registration fees from the teacher certification testing programs. There will be no fiscal implications for local government.

Mr. Veselka and Criss Cloudt, director for planning coordination, have determined that for each year of the first five years the proposed section will be in effect the public benefit anticipated as a result of enforcing the section will be the standardization of oral proficiency testing for all teachers who use Spanish in the classroom, and the elimination of the duplication of the oral skills testing. There will be no effect on small businesses. There is an anticipated savings of \$38 per individual for individuals who are seeking the bilingual endorsement, because the CLEP test will no longer be required.

Comments on the proposal may be submitted to Criss Cloudt, Planning Coordination, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9701. All requests for a public hearing on the proposed section submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the section has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §13.031(c), which provides the State Board of Education with the authority to adopt rules under which the Commission on Standards for the Teaching Profession shall recommend standards for teacher education and certification for certified personnel in public school districts operating elementary and/or secondary schools.

§137.559. Endorsements.

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

(c) Program requirements for endorsement in delivery system areas.

(1) Bilingual education.

(A) Certificate requirements. The bilingual education endorsement may be added to valid teacher certificate, special education certificates, or vocational certificates which require a college degree.

(B) Professional development. The professional development sequence for the bilingual education

endorsement shall consist of:

(i) Oral and written proficiency in the language of the target population as measured by examinations approved by the Central Education Agency.

(I) Oral proficiency shall be determined by the Language Proficiency Interview (LPI) with a passing score of level three.

(II) Written proficiency shall be determined by the College Level Examination Program (CLEP) with a passing score of 50.]

(I)(ii) 12 semester hours at the graduate or undergraduate level after the bachelor's degree in the following areas:

(I) language acquisitions and development in childhood (psycholinguistics);

(II) teaching language arts and reading in the language of the target populations;

(III) teaching English as a second language, including reading and oral communication; and

(IV) teaching mathematics, science, and social studies in the language of the target population.

(H)(iii) One year of successful classroom teaching experience on a permit in an approved bilingual education program.

(2)-(8) (No change.)

(d) (No change.)

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

Issued in Austin, Texas, on November 22, 1991.

TRD-9115375
Cris Cloudt
Director, Planning
Coordination
Texas Education Agency

Earliest possible date of adoption: January 13, 1992

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

TITLE 22. EXAMINING BOARDS

Part XI. Board of Nurse Examiners

Chapter 215. Nurse Education

• 22 TAC §§215.1, §215.3

The Board of Nurse Examiners proposes amendments to §215.1 and §215.3, concerning definitions and accreditation. The Board of Nurse Examiners is proposing amendments to their definition and accreditation rules for education regarding the accreditation procedure used to evaluate a program of professional nursing education. An accreditation task force was convened to study the educational rules and to recommend possible changes to eliminate on-site visits to those programs who are also visited and accredited by the National League for Nursing (NLN).

Louise Waddill, Ph.D., R.N., 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.

Ms. Waddill also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the staff of the Board of Nurse Examiners will not duplicate the accreditation processes and thus will allow the consultants to devote more time to those programs not meeting the criteria of the board. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Louise Waddill, R.N., Ph.D., Executive Director, Board of Nurse Examiners, Box 140466, Austin, Texas 78714.

The amendments are proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners, with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceeding before it.

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

Board survey [Survey] visit—An on-site visit of a nursing program[, including clinical facilities,] by a board representative for the purpose of evaluating the program of learning and gathering data to support whether the program is meeting the board's requirements as specified in §§215.1-215.19 of this title (relating to Definitions; New Programs; Accreditation; Pass Rate of Graduates on the National Council Licensure Examination for Registered Nurses; Administration and Organization; Faculty Qualifications—Diploma and Associate Degree Programs; Faculty Qualification; Faculty Development and Evaluation; Philosophy and Objectives; Curriculum; Curriculum Changes and Expansion of

Nursing Program; Extended Campus; Students; Educational Resources and Facilities; Clinical Resources; Records and Reports; and Total Program Evaluation).

§215.3. Accreditation.

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

(c) Accreditation procedure. The continuing accreditation status of a [each] program shall be determined annually by the board [either] on the basis of a board survey visit, National League for Nursing (NLN) accreditation and/or review of annual report.

(1) NLN accreditation. The board may accept NLN accreditation in lieu of a board survey visit after a program is fully accredited by the board.

(2)[(1)] Board survey [Survey] visit. Each nursing program that is not NLN accredited will be visited at least every six years after full accreditation has been granted [or at any time deemed necessary by the board]. A written report of the visit together with the annual report submitted by the director will be reviewed by the board at a regularly scheduled meeting. The decisions of the board concerning the accreditation status of the program will be sent to the director and the chief administrative officer of the controlling institution.

(3) Other survey visits. Each nursing program may be visited at any time deemed necessary by the board.

(4)[(2)] Review of annual report. When a program is not visited by a board representative during an academic year, the accreditation status is determined by the board on the basis of the annual report of the program and other pertinent data.

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

Issued in Austin, Texas, on December 4, 1991.

TRD-9115215 Louise Waddill, Ph.D., R.N.
Executive Director
Board of Nurse Examiners

Earliest possible date of adoption: January 13, 1992

For further information, please call: (512) 835-9650



TITLE 28. INSURANCE Part I. Texas Department of Insurance

Chapter 1. General Administration

Subchapter F. Summary Proce- dures for Routine Matters

• 28 TAC §§1.702-1.705

The Texas Department of Insurance proposes amendments to §§1.702-1.705, concerning activities which have been designated for summary procedure disposition pursuant to the Texas Insurance Code, Article 1.33. The amendments add a class of activities, automobile individual risk submissions, to the list of activities which are deemed to be routine, voluminous, repetitive, noncontroversial, and of limited interest to persons other than those immediately involved. These amendments also correct a typographical error, and re-number the list of activities and make other changes of an editorial nature in adding to the list of activities which come under the rule.

Kae T. Patrick, manager of the automobile office, 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 administering the sections.

Ms. Patrick 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 more efficient and expeditious processing of filings for automobile individual risk submissions. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments may be submitted to Kae T. Patrick, Manager of the Automobile Office, Mail Code 104-1A, Texas Department of Insurance, P.O. Box 140093, Austin, Texas 78714-9093.

The amendments are proposed under Texas Insurance Code, Article 1.04, which provides the State Board of Insurance with the authority to determine policy and rules in accordance with the laws of this State; Article 1.33, which allows the State Board of Insurance, by rule, to create a summary procedure and designate agency activities that are routine to be handled through delegation by deputy commissioner and other personnel as the board may designate; and Article 5.01, which authorizes the board to alter or amend any and all automobile rates.

§1.702. Designated Activities. The following statutorily prescribed applications are designated for summary procedure disposition:

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

(4) auto individual risk submissions. applications to change rates, forms, or deductibles for motor vehicle insurance on an individual risk basis pursuant to the Insurance Code, Article 5.01;

(5)[(4)] Subchapter B, (a) rates. average (a) rate applications filed for the types of insurance specified in the Insurance Code Articles 5.13 and 5.15-1, pursuant to the Insurance Code, Article 5.15;

(6)[(5)] Subchapter B, excess rate or umbrella. excess rate or umbrella applications for the types of insurance specified in the Insurance Code, Article 5.13, filed pursuant to the Insurance Code, Article 5.15.

(7)[(6)] Subchapter B, consent to rate. applications to charge a rate or premium greater than the standard rate or premium approved by the board for the types of insurance specified in the Insurance Code, Article 5.13, pursuant to the Insurance Code, Article 5.15(d);

(8)[(7)] rates in excess of maximum for fire and allied lines insurance. applications to charge rates for fire and allied lines insurance at rates in excess of the maximum rates promulgated by the board for any specific risk pursuant to the Insurance Code, Article 5.26(a);

(9)[(8)] highly protected risk rating plans. application for approval as a highly protected risk rating plan for fire and allied lines insurance pursuant to the Insurance Code, Article 5.26;

(10)[(9)] no promulgated rates provided. review of cases where no rate of premium is fixed or determined by the board for fire and allied lines insurance for certain risks or classes of risks as permitted by the Insurance Code, Article 5.31 and Article 5.36;

(11)[(10)] excess inland marine. applications to write regulated lines under the Insurance Code, Article 5.53, at rates in excess of the standard and uniform rates that have been approved by the board pursuant to the Insurance Code, Article 5.53;

§1.703. Delegation. The Texas Department [State Board] of Insurance hereby delegates to the following deputy commissioners administration over the filings designated in paragraphs (1)-(3) of this section.

(1) (No change.)

(2) Deputy commissioner of casualty insurance is responsible for all of the following filings:

(A) (No change.)

(B) §1.702(4) of this title (relating to Designated Activities), auto individual risk submissions;

(C)[B] §1.702(5) [(4)] of this title (relating to Designated Activities), Subchapter B, (a) rates;

(D)[(C)] §1.702(6) [(5)] of this title (relating to Designated Activities), Subchapter B, excess or umbrella; and

(E)[D] §1.702(7) [(6)] of this title (relating to Designated Activities), Subchapter B, consent to rate.

(3) Deputy commissioner of property insurance is responsible for all of the following filings:

(A) §1.702(8) [(7)] of this title (relating to Designated Activities), fire and allied lines excess rates;

(B) §1.702(9) [(8)] of this title (relating to Designated Activities), highly protected risk rating plans;

(C) §1.702(10) [(9)] of this title (relating to Designated Activities), no promulgated rates provided; and

(D) §1.702(11) [(10)] of this title (relating to Designated Activities), inland marine excess rate.

§1.704. Summary Procedure; Notice.

(a) (No change.)

(b) Notice of decision. For §1.702(1) and (3)-(11) [(10)] of this title (relating to Designated Activities), the appropriate deputy commissioner shall record any decision by causing the appropriate filing, application, or form to be stamped either "approved by" or "disapproved by" (name of the appropriate deputy) deputy commissioner of insurance (appropriate division) and the date and by causing the decision to be recorded by a like stamp of a file copy, by a microfilm or microfiche copy, or by recording said decision in the agency's computer files and causing said stamped filing, application, or form to be mailed to the applicant. For 1.702(2) of this title, the appropriate deputy commissioner shall indicate a positive decision by causing the appropriate license to be mailed to the applicant, and by causing the decision to be recorded in the agency's computer files. Notice of any proposed negative decision with respect to §1.702(2) of this title shall be in accordance with subsection (a) of this section.

§1.705. Review.

(a) (No change.)

(b) Any person affected by any action under §1.702 (3) -(11) [(10)] [§1.703] of this title (relating to Designated Activities [Delegation]), may petition the Texas Department [State Board] of Insurance for a hearing to review the matter. The petition shall contain an identification of the matter

complained or and a petitioner's statement, including a rebuttal of the deputy commissioner's decision with specific particularity to inform the board and any interested persons of the petitioner's reasons and arguments. The petition shall be filed with the chief clerk, Texas Department [State Board] of Insurance. The review shall be de novo pursuant to the Administrative Procedure and 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 December 4, 1991.

TRD-9115200

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Earliest possible date of adoption: January 13, 1992

For further information, please call: (512) 463-6328

◆ ◆ ◆
Chapter 3. Life, Accident, and Health Insurance and Annuities

Subchapter A. Requirements for Filing of Policy Forms, Riders, Amendments, and Endorsements for Life, Accident and Health Insurance and Annuities

◆ ◆ ◆
• **28 TAC §3.3**

The Texas Department of Insurance proposes an amendment to §3.3(d), concerning requirements for filing of policy forms, riders, amendments, and endorsements for life, accident, and health insurance and annuities. The amendment changes the requirements for such filings, deleting current requirements, and replacing deleted language with more extensive requirements. The amendment is necessary to enable the Texas Department of Insurance to more accurately determine whether the benefits provided under a policy form are unreasonable in relation to the premium charged or whether the reserve required by Insurance Code, Article 6.01, is not maintained by the insurer on the policies issued upon the policy form. In accordance with Insurance Code, Article 3.42, §1(j) and §(g), the proposed rules will enable the department to evaluate policy forms, riders, amendments, and endorsements for life, accident, and health insurance and annuities. The information filed will assist the department in determining whether previous approval of a policy form may be withdrawn. New subsection (d)(1) requires a company resubmitting forms due to a previous disapproval of the forms to correct the resubmitted forms rather than attaching endorsements, amendments, and/or riders. New subsection (d)(2) requires the application to be submitted with each policy, rider, endorsement, or amendment form submitted for approval. New subsection (d)(3) requires that a readability test score be

submitted with each form and further requires an explanation when the score exceeds the equivalent of a 10th grade education level. New subsection (d)(4) requires each policy form submitted to be accompanied by an outline of coverage together with a readability score for the outline of coverage. New subsection (d)(5) requires a statement describing the marketing approach be submitted for each form filing. New subsection (d)(6)(A) outlines the information which must be submitted with each form and upon any change in the premium rates for any form. New subsection (d)(6)(B) outlines the actuarial information that must be submitted which includes a description of the reserving method, loss information, and aggregate lifetime loss ratios. New subsection (d)(6)(C) requires an actuarial certification to be submitted and specifies the language required for the certification.

Rhonda Myron, deputy insurance commissioner for the life group, has determined that for the first five-year period the section in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections, and there will be no effect on local employment or local economy.

Ms. Myron, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more efficient and complete means of review of individual accident and health insurance policy forms. The department will receive the information in a more timely manner, and staff can review supporting documentation at once rather than as documents are provided upon request. Ms. Myron has determined there will be no anticipated economic cost to persons who are required to comply with the sections as proposed or to small businesses; most of the information required to be submitted by the amendment is already provided upon request by Department of Insurance staff; the rule places the burden on insurers to provide the information with each filing rather than in response to follow-up requests. The extent to which the proposed amendments will yield greater or lesser control of costs for any particular insurer will depend on the manner previously utilized by the insurer in achieving compliance with the Insurance Code, Article 3.42 and the current rule.

Comments on the proposal may be submitted to Rhonda Myron, Deputy Insurance Commissioner for the Life Group, Mail Code 106-1D, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.

The amendment is proposed under the Insurance Code, Article 3.42 §(g) and §(j), which authorizes the State Board of Insurance to establish standards by which previous approval of a policy form may be withdrawn and which authorizes the board to adopt such reasonable rules and regulations as are necessary to implement and accomplish the specific provisions of the Article, and under Texas Civil Statutes, Article 6252-13a, §4 and §5, which authorize and require each state administrative agency to adopt rules of practice setting forth the nature and requirements of available procedures, and prescribes the procedure for the adoption of rules by any state administrative agency.

§3.3. Specific Additional Submission Requirements.

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

(d) Individual accident and health forms.

(1) Resubmitted forms. If the company resubmits forms for filing and approval due to a previous disapproval of any such form or in response to requested corrections necessary for compliance, all objections shall be corrected in the resubmitted forms and shall not be corrected by attaching endorsements, amendments, and/or riders.

(2) Applications. Each policy, rider, endorsement, or amendment form submitted for filing and approval shall include a copy of the application that will be used with the form.

(3) Readability. Each form submitted shall be accompanied by a statement specifying the readability test applied to the form. The resulting readability test score, on the outline of coverage, shall also be stated. If the readability test score exceeds the equivalent of a 10th grade education level, an explanation detailing the reasons for such score shall be provided.

(4) Outlines of coverage. An appropriate outline of coverage shall be filed with each policy form submitted. A statement specifying the readability test used and the resulting readability score for the outline of coverage shall be filed with each form submitted.

(5) Marketing. A statement clearly describing the marketing approach to be used by the company in marketing each form (policy, rider, etc.) shall be included with each filing.

(6) Premium rates, premium rate changes, and actuarial information.

(A) Premium rate information shall be furnished in duplicate with each form submitted and upon any change (increase and/or decrease) in the premium rates for any form. Premium rate information shall include at least the following:

(i) a statement listing the specific form numbers for which the premium rate information is submitted, along with the applicable approval date for such forms and a brief description of the insurance coverage and benefits provided under each form on the listing;

(ii) for each new form filing, the applicable premium rate tables and/or schedules for each class and any fees, assessments, dues, or other considerations included in the premium for the insurance;

(iii) a detailed description of all criteria used (by the insurer) as a basis to establish differing "classes"

which would be provided for different premium rate charges for essentially the same set of benefits under the policy form and/or forms and a delineation of all specific rating classes established by said criteria;

(iv) for each premium rate change request, the following additional information shall be included with the request:

(I) a statement specifying the percentage change (increase or decrease) in premium rates;

(II) current and revised premium rate tables and/or schedules for each class along with an explanation detailing the applicability to in-force coverage and newly issued coverage;

(III) a breakdown of the component rating factors (i.e. medical inflation; benefit utilization, leveraging effects of deductibles) considered in determining the premium rate change;

(IV) an explanation of any pooling of risks under various policy forms, including the form numbers and type of coverage provided by those forms;

(V) an explanation for any differences in the premium rate change (increase or decrease) being applied to all insureds covered for essentially the same set of benefits under the policy form and/or forms;

(VI) a chronological description detailing past rate changes that have been made for each class since the policy inception date or during the past 10 years, whichever is of lesser duration;

(VII) the specific dates when the premium rate changes will be effective for all insureds and classes.

(B) The following actuarial information shall be filed with each policy form filing and each premium rate change filing:

(i) a description of the reserving methodology;

(ii) loss information for:

(I) actual (past) annual experience since the policy inception date (first date of issuance in Texas) of the policy form; and

(II) expected (future) experience for the remainder of the period for which rates are computed to provide coverage; and

(iii) an estimate of the aggregate lifetime loss ratio (i.e. the loss ratios expected to be realized over the entire period for which rates are computed to provide coverage). These loss ratios must be calculated from the combined (past and future) loss information required in clause (I) and (II) of this subparagraph. All loss information (inclusive of past experience of previous ceding insurers) must be Texas resident specific and shall include premiums earned and claims incurred. In computing premiums earned, such premiums shall be "gross premiums" as defined in Insurance Code Article 4.11, §2(c), when computing claims incurred, any expenses shall be excluded from such computation. In new policy form filings or when credible company experience does not exist, alternative loss information may be substituted for actual Texas resident loss information, if acceptable to the commissioner.

(C) An actuarial certification, by a qualified actuary, that includes a statement that the benefits provided under the policy form (or other benefit form, if applicable) are reasonable in relation to the premium charged.

[(1) Objections to the forms submitted for approval shall be corrected through resubmission rather than by attachment of riders or endorsements.

[(2) Any policy form, rider, or endorsement which is to be issued with the application attached shall have a copy of the application form attached at the date of submission.

[(3) The appropriate outline of coverage shall be filed with each policy form submission. The readability test applied and the resulting score of outline of coverage must also be filed.

[(4) A brief statement of the marketing approach to be used shall be filed.

[(5) The rate schedule to be utilized with each individual accident and sickness policy shall be filed in duplicate at the time the policy form is submitted for approval. All rate increases shall be filed in duplicate. Rate increases exceeding 150% require actuarial data to substantiate the increase.

[(6) Supporting actuarial data shall be submitted with all Medicare supplement policy rate filings.]

[(7) Any supplemental coverage policy form submitted for approval shall be accompanied by a letter, signed by an officer of the company, certifying that the pol-

icy shall be market only as supplemental coverage as it is defined in §3.3080 of this title (relating to Supplemental Coverage).]

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

Issued in Austin, Texas, on December 4, 1991.

TRD-9115197

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Earliest possible date of adoption: January 13, 1992

For further information, please call: (512) 463-6328

Subchapter GG. Minimum Reserve Standards for Individual and Group Accident and Health Insurance

• 28 TAC §§3.7001-3.7010

The Texas Department of Insurance proposes new §§3.7001-3.7010, concerning minimum reserve standards for individual and group accident and health insurance. The new sections are proposed as Subchapter GG of Chapter 3, concerning life, accident, and health insurance and annuities. Sections 3.7001-3.7008 track model rules adopted by the National Association of Insurance Commissioners (NAIC). The sections set forth standards for claim reserves, premium reserves, and contract reserves. However, it is believed the greatest impact will be in the area of contract reserves which are not presently being generated by all insurers, particularly small domestic insurers which do little or no out-of-state business. Larger insurers generally already establish reserves which would meet the requirements for contract reserves. This is true in part because over 50% of states already require reserves in accordance with the NAIC model rules or similar standards. By increasing reserve requirements, it is expected that insolvencies of affected insurers will entail less of a loss to policyholders and the Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association. The sections also provide a severability clause if any or a portion of §3.7001-3.7009 is declared invalid or of invalid application to any person or circumstance.

Mike Boemer, valuation actuary, actuarial division, has determined that there will be fiscal implications as a result of enforcing or administering these sections.

There are expected to be fiscal implications to state government as a result of these sections. To the extent that additional reserves are required for any insurer which eventually becomes insolvent, the insolvency will not be as severe as would otherwise be the case and premium tax credits as a result of guaranty association assessments will be less because the needed assessments will be less.

There are expected to be no additional fiscal implications for state government. Any additional work for actuaries at the Texas Department of Insurance is expected to be absorbed by existing staff or offset by a reduction in workload for agency staff involved in work relating to insurance company insolvencies.

There are expected to be no fiscal implications to local government as a result of these sections.

There is expected to be no cost of compliance with these sections for small businesses except that an insurance company which also meets the definition of a small business will incur additional costs if it is not already generating the reserves required by these sections. The increased cost will come from the requirements for contract reserves. It is believed that insurers are presently establishing appropriate reserves for premiums and claims which are generally already sufficient to comply with these sections. However, some insurers do not presently establish, and are not specifically required to establish, contract reserves sufficient to meet the requirements of these sections. The cost to comply with these sections for insurers which currently do not establish contract reserves and which are small businesses is expected to be a result of the requirement for contract reserves and is estimated as follows:

First year start up costs, including the expenses of an actuary and equipment, are expected to be between \$20,000 and \$30,000. Continuing actuarial review after the first year is expected to range from 1/10 of one cent to two cents of each premium dollar, depending on the volume of business, for the lines of coverage to which these sections apply. Assuming plausible termination rates of 25%, 17.5%, 14% and 12% for each of the first four policy years, required contract reserve increases will be approximately 0% of premiums for the first policy year, 0% of premiums for the second policy year (except for long-term care insurance, where such reserving requirements would be approximately 20% of second year premiums), approximately 5.0% of third year premiums (except for long-term care insurance, where such reserving requirements would be approximately 35% of third year premiums), and approximately 10% of fourth year premiums and approximately 8.0% of fifth year premiums (except for long-term care insurance, where such reserve requirements would be approximately 25% for the fourth year and 25% for the fifth year). Such contract reserves continue to increase after the fifth year and begin to decrease in later years as the reserve build up is applied towards claims where any excess is returned to surplus. Assuming a company with \$100,000 of premiums at issue for the lines of insurance to which these sections apply, and assuming plausible termination rates of 25%, 17.5%, 14% and 12% for each of the first four policy years respectively, the anticipated contract reserve increases plus expenses are as follows: approximately \$25,000 the first policy year (computer and actuarial start-up costs); approximately \$750 for the second policy year (except for long-term care insurance, where the cost would be approximately \$16,500); approximately \$4,331 for the third policy year (except for long-term care, where the cost would be approximately \$22,894); approximately \$8,386 for the fourth policy year (except for long-term

care, where the cost would be approximately \$14,367; and approximately \$4,683 for the fifth policy year (except for long-term care, where the cost would be approximately \$12,643).

The contract reserve increases plus expenses per \$100 of sales or premiums collected (except for long-term care insurance) for an insurer with only \$100,000 of premium at issue, would be \$25 for the first policy year; \$1.00 for the second policy year; \$7.00 for the third policy year; \$12 for the fourth policy year; and \$10 for the fifth policy year. However, the amounts attributable to reserves, or \$5.00 out of \$7.00 for the third policy year, \$10 out of \$12 for the fourth policy year and \$8.00 out of \$10 for the fifth policy year would ultimately be applied towards claims in later policy years where any excess would be returned to the company's surplus.

The contract reserve increases plus expenses per \$100 of sales or premiums collected for long-term care insurance for an insurer with \$100,000 of premium at issue would be approximately \$25 for the first policy year; \$22 for the second policy year; \$37 for the third policy year; \$27 for the fourth policy year; and \$27 for the fifth policy year. However, the amounts attributable to reserves, or \$20 out of \$22 for the second policy year; \$35 out of \$37 for the third policy year; \$25 out of \$27 for the fourth policy year and \$25 out of \$27 for the fifth policy year would ultimately be applied towards claims in later policy years where any excess would be returned to the company's surplus.

Assuming a company with \$100 million in premium volume, at issue, the contract reserve increases plus expenses per \$100 of sales (premiums collected) is expected to be \$0.025 for the first policy year; \$0.05 for the second policy year; \$5.10 for the third policy year; \$10.10 for the fourth policy year; and \$8.10 for the fifth policy year (for long-term Care insurance, the amounts would be \$20.10, \$35.10, \$25.10 and \$25.10 for the second through fifth policy years respectively). Again, the amounts attributable to reserves are expected ultimately to be applied towards claims in later policy years where any excess would be returned to the company's surplus.

Mr. Boerner 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 stronger standards for reserves for individual and group accident and health insurance coverage. However, many insurance companies are already establishing reserves which are sufficient to comply with these sections. It is believed that, as a general rule, virtually all solvent insurers which generate reserves in an appropriate manner are establishing reserves which are enough to comply with these sections for unearned premium and claim reserves. However, this is not always true for contract reserves particularly for small insurers which do not engage in business in other states. Larger insurers generally already establish contract reserves sufficient to satisfy these sections at least in part because more than one-half the states require reserves in accordance with these or similar standards. The requirements for contract reserves will apply to policies with a duration of more than two years. These are generally

guaranteed renewable or noncancelable policies. Medicare supplement policies usually are guaranteed renewable or noncancelable and are a good example of the type of policy that will be most affected by these sections. Based on 1989 annual statement data from the NAIC for guaranteed renewable business a comparison was made between small domestic life insurers (less than \$20 million in assets), medium domestic life insurers (\$20 million-\$100 million in assets) and large domestic life insurers (over \$100 million in assets). This comparison showed that the small insurers were holding only four cents in contract reserves for each dollar of premium written whereas the medium and large insurers were holding 43.6 cents and 60.7 cents respectively in contract reserves for each dollar of premium written. Small insurers were holding significantly lower contract reserves for guaranteed renewable business even in light of the fact that they wrote one-third of the premium dollars for this business when compared to the premiums written for the medium and large domestic life insurance companies.

This regulation satisfies a good portion of the NAIC Financial Accreditation Standard number 10 by prescribing minimum standards establishment of contract reserves (active life reserves), unearned premium reserves, and claim reserves.

The anticipated economic cost to persons who are required to comply with these sections is expected to be the cost to these insurers required to comply and establish contract reserves and who do not currently establish such reserves. The cost estimated for establishing contract reserves is estimated as follows: For the first policy year, the cost for actuarial services and system development is expected to be \$20,000-\$30,000; no contract reserves are required during the first policy year. For the second policy year, an actuarial review cost of approximately \$0.05 of one cent to one cent of each premium dollar is anticipated for the lines of insurance affected by these sections; no contract reserves are required for the second policy year (except for long-term care insurance, where reserves are expected to be 20% of premiums). For the third policy year, a reserve increase in the amount of approximately 5.0% of premiums is expected (except for long-term care insurance, where the reserve increase is expected to be 35% of premiums) plus an actuarial review cost of approximately 1/10 of one cent to two cents of each premium dollar for the lines of insurance affected by these sections. For the fourth policy year, an increase in reserves in the amount of approximately 10% of premiums (except for long-term care insurance, where the increase is expected to be 25% of premiums) is expected plus an actuarial review cost of approximately 1/10 of one cent to two cents of each premium dollar for the lines of insurance affected by these sections. For the fifth policy year, an increase in reserves in the amount of approximately 8.0% of premiums (except for long-term care insurance, where the increase is expected to be 25% of premiums) is expected plus an actuarial review cost of approximately 1/10 of one cent to two cents of each premium dollar for the lines of insurance affected by these sections. Once again it should be stressed that the amounts attributable to reserves are expected ultimately to be applied towards claims where any excess would be returned to the company's surplus.

Comments may be submitted to Mike Boerner, Valuation Actuary, Actuarial Division, Texas Department of Insurance, Mail Code 304-3A, 333 Guadalupe, Austin, Texas 78701.

The new sections are proposed under the Insurance Code, Article 21.39, which requires that the State Board of Insurance adopt the current formula for establishing reserves applicable to each line of insurance as recommended by the National Association of Insurance Commissioners and also requires that all companies writing the line of insurance to which each National Association of Insurance Commissioner's formula is applicable, shall establish reserves in compliance therewith. The sections are also proposed under the Insurance Code, Articles 10.07, 18.08, 19.06 and 22.18, which applies the requirements of the Insurance Code, Article 21.39 to certain types of insurers. The sections are also proposed under the Insurance Code, Article 21.39 which are additional to the provisions of that article heretofore specified and which requires insurers to establish certain reserves. The sections are also proposed under the Insurance Code, Article 1.10(1), which requires the State Board of Insurance to see that all laws respecting insurance and insurance companies are faithfully executed.

§3.7001. Introduction.

(a) Scope and general standards.

(1) These standards apply to all individual and group accident and health insurance coverages except credit insurance.

(2) When an insurer determines that adequacy of its health insurance reserves requires reserves in excess of the minimum standards specified in these sections, such increased reserves must be held and must be considered the minimum reserves for that insurer.

(3) With respect to any block of contracts, or with respect to an insurer's health business as a whole, a prospective gross premium valuation is the ultimate test of reserve adequacy as of a given valuation date. Such a gross premium valuation would take into account, for contracts in force, in a claims status, or in a continuation of benefits status on the valuation date, the present value as of the valuation date of: all expected benefits unpaid, all expected expenses unpaid, and all unearned or expected premiums, adjusted for future premium increases reasonably expected to be put into effect.

(4) Such a gross premium valuation must be performed whenever a significant doubt exists as to reserve adequacy with respect to any major block of contracts, or with respect to the insurer's health business as a whole. In the event inadequacy is found to exist, immediate loss recognition must be made and the reserves restored to adequacy. Adequate reserves (inclusive of claim, premium, and contract reserves, if any) must be held with respect to all contracts, regardless of whether con-

tract reserves are required for such contracts under these standards.

(5) Whenever minimum reserves, as defined in these standards, exceed reserve requirements as determined by a prospective gross premium valuation, such minimum reserves remain the minimum requirement under these standards.

(b) Categories of reserves. The following sections set forth minimum standards for three categories of health insurance reserves: §3.7002 of this title (relating to Claim Reserves); §3.7003 of this title (relating to Premium Reserves); and §3.7004 of this title (relating to Contract Reserves). Adequacy of an insurer's health insurance reserves is to be determined on the basis of all three categories combined. However, the standards in these sections emphasize the importance of determining appropriate reserves for each of the three categories separately.

(c) Sections 3.7006, 3.7007, 3.7008 and 3.7009. Sections 3.7006 and 3.7007 of this title (relating to Specific Standards for Morbidity, Interest and Mortality; and Glossary of Technical Terms Used) are an integral part of the standards specified in §§3.7001-3.7005 of this title (relating to Introduction; Claims Reserves; Premium Reserves; Contract Reserves and Reinsurance). Section 3.7008 of this title (relating to Reserves for Waiver of Premium) is supplementary and is not part of the standards as such, but is included for explanatory and illustrative purposes only. Section 3.7006 of this title contains specific minimum standards with respect to morbidity, interest and mortality, which apply to claim reserves according to year of incurral and to contract reserves according to year of issue. Section 3.7007 title consists of a glossary of technical terms used. Section 3.7008 of this title is supplementary and deals with waiver of premium reserves. For the purchase of existing business under certain circumstances, see §3.7009 of this title (relating to Purchase or Assumption of Existing Business).

§3.7002. Claim Reserves.

(a) General.

(1) Claim reserves are required for all incurred but unpaid claims on all health insurance policies.

(2) Appropriate claim expense reserves are required with respect to the estimated expense of settlement of all incurred but unpaid claims.

(3) All such reserves for prior valuation years must be tested for adequacy and reasonableness along the lines of claim runoff schedules in accordance with the statutory financial statement including consideration of any residual unpaid liability.

(b) Minimum standards for claim reserves.

(1) Disability income.

(A) Interest. The maximum interest rate for claim reserves is specified in §3.7006 of this title (relating to Specific Standards for Morbidity, Interest and Mortality).

(B) Morbidity. Minimum standards with respect to morbidity are those specified in §3.7006 of this title; except that, at the option of the insurer, for claims with a duration from date of disablement of less than two years, reserves may be based on the insurer's experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.

(C) Duration of disablement. For contracts with an elimination period, the duration of disablement should be measured as dating from the time that benefits would have begun to accrue had there been no elimination period.

(2) All other benefits.

(A) Interest. The maximum interest rate for claim reserves is specified in §3.7006 of this title.

(B) Morbidity or other contingency. The reserve must be based on the insurer's experience, if such experience is considered credible, or upon other assumptions designed to place a sound value on the liabilities.

(c) Claim reserve methods generally. Any generally accepted or reasonable actuarial method or combination of methods may be used to estimate all claim liabilities. The methods used for estimating liabilities generally may be aggregate methods, or various reserve items may be separately valued. Approximations based on groupings and averages may also be employed. Adequacy of the claim reserves, however, shall be determined in the aggregate.

§3.7003. Premium Reserves.

(a) General.

(1) Unearned premium reserves are required for all contracts with respect to the period of coverage for which premiums, other than premiums paid in advance, have been paid beyond the date of valuation.

(2) If premiums due and unpaid are carried as an asset, such premiums must be treated as premiums in force, subject to unearned premium reserve determination. The value of unpaid commissions, premium taxes, and the cost of collection associated with due and unpaid premiums must be carried as an offsetting liability.

(3) The gross premiums paid in advance for a period of coverage commencing after the next premium due date which

follows the date of valuation may be appropriately discounted to the valuation date and shall be held either as a separate liability or as an addition to the unearned premium reserve which would otherwise be required as a minimum.

(b) Minimum standards for unearned premium reserves.

(1) The minimum unearned premium reserve with respect to any contract is the pro rata unearned modal premium that applies to the premium period beyond the valuation date, with such premium determined on the basis of:

(A) the valuation net modal premium on the contract reserve basis applying to the contract; or

(B) the gross modal premium for the contract if no contract reserve applies.

(2) However, in no event may the sum of the unearned premium and contract reserves for all contracts of the insurer subject to contract reserve requirements be less than the gross modal unearned premium reserve on all such contracts, as of the date of valuation. Such reserve may never be less than the expected claims for the period beyond the valuation date represented by such unearned premium reserve, to the extent not provided for elsewhere.

(c) Premium reserve methods generally. The insurer may employ suitable approximations and estimates, including, but not limited to, groupings, averages, and aggregate estimation, in computing premium reserves. Such approximations or estimates should be tested periodically to determine their continuing adequacy and reliability.

§3.7004. Contract Reserves.

(a) General.

(1) Contract reserves are required, unless otherwise specified in paragraph (2) of this subsection for:

(A) all individual and group contracts with which level premiums are used; or

(B) all individual and group contracts with respect to which, due to the gross premium pricing structure at issue, the value of the future benefits at any time exceeds the value of any appropriate future valuation net premiums at that time. The values specified in this subparagraph must be determined on the basis specified in subsection (b) of this section.

(2) Contracts not requiring a contract reserve are as follows:

(A) contracts which cannot be continued after one year from issue; or

(B) contracts already in force on the effective date of these standards for which no contract reserve was required under the immediately preceding standards.

(3) The contract reserve is in addition to claim reserves and premium reserves.

(4) The methods and procedures for contract reserves must either be consistent with those for claim reserves for any contract, or else appropriate adjustment must be made when necessary to assure provision for the aggregate liability. The definition of the date of incurral must be the same in both determinations.

(b) Minimum standards for contract reserves.

(1) Basis.

(A) Morbidity or other contingency. Minimum standards with respect to morbidity are those set forth in §3.7006 of this title (relating to Specific Standards for Morbidity, Interest and Mortality). Valuation net premiums used under each contract must have a structure consistent with the gross premium structure at issue of the contract as this relates to advancing age of insured, contract duration, and period for which gross premiums have been calculated. Contracts for which tabular morbidity standards are not specified in §3.7006 of this title shall be valued using tables established for reserve purposes by a qualified actuary and acceptable to the commissioner.

(B) Drafting note. The consistency between the gross premium structure and the valuation net premium is required only at issue, because the impact on such consistency after issue of regulatory restrictions on premium rate increases is still under study.

(C) Interest. The maximum interest rate is specified in §3.7006 of this title.

(D) Termination rates. Termination rates used in the computation of reserves shall be on the basis of a mortality table as specified in §3.7006 of this title except as noted in this subparagraph. Under contracts for which premium rates are not guaranteed, and where the effects of insurer underwriting are specifically used by policy duration in the valuation morbidity standard, total termination rates may be used at ages and durations where these exceed specified mortality table rates, but not in excess of the lesser of: 80% of the total termination rate used in the calculation of the gross premiums, or eight percent. Where a morbidity standard specified in

§3.7006 of this title is on an aggregate basis, such morbidity standard may be adjusted to reflect the effect of insurer underwriting by policy duration. The adjustments must be appropriate to the underwriting and be acceptable to the commissioner.

(E) Reserve method. For insurance except long-term care, the minimum reserve is the reserve calculated on the two-year full preliminary term method; that is, under which the terminal reserve is zero at the first and also the second contract anniversary. For long-term care insurance, the minimum reserve is the reserve calculated on the one-year full preliminary term method. The two-year preliminary term method may be applied only in relation to the date of issue of a contract. Reserve adjustments introduced later, as a result of rate increases, revisions in assumptions (e.g., projected inflation rates) or for other reasons, are to be applied immediately as of the effective date of adoption of the adjusted basis.

(F) Negative reserves. Negative reserves on any benefit may be offset against positive reserves for other benefits in the same contract, but the total contract reserve with respect to all benefits combined may not be less than zero.

(c) Alternative valuation methods and assumptions generally. Provided the contract reserve on all contracts to which an alternative method or basis is applied is not less in the aggregate than the amount determined according to the applicable standards specified in subsection (b) of this section, an insurer may use any reasonable assumptions as to interest rates, termination and/or mortality rates, and rates of morbidity or other contingency. Also, subject to the preceding condition, the insurer may employ methods other than the methods stated in subsection (b) of this section in determining a sound value of its liabilities under such contracts, including, but not limited to the following: the net level premium method; the one-year full preliminary term method; prospective valuation on the basis of actual gross premiums with reasonable allowance for future expenses; the use of approximations such as those involving age groupings, groupings of several years of issue, average amounts of indemnity, grouping of similar contract forms; the computation of the reserve for one contract benefit as a percentage of, or by other relation to, the aggregate contract reserves exclusive of the benefit or benefits so valued; and the use of a composite annual claim cost for all or any combination of the benefits included in the contracts valued.

(d) Tests for adequacy and reasonableness of contract reserves. Annually, an appropriate review must be made of the insurer's prospective contract liabilities on contracts valued by tabular reserves, to determine the continuing adequacy and rea-

sonableness of the tabular reserves giving consideration to future gross premiums. The insurer shall make appropriate increments to such tabular reserves if such tests indicate that the basis of such reserves is no longer adequate; subject, however, to the minimum standards of subsection (b) of this section. In the event a company has a contract or a group of related similar contracts, for which future gross premiums will be restricted by contract, insurance department regulations, or for other reasons, such that the future gross premiums reduced by expenses for administration, commissions, and taxes will be insufficient to cover future claims, the company shall establish contract reserves for such shortfall in the aggregate.

§3.7005. *Reinsurance.* Increases to, or credits against reserves carried, arising because of reinsurance assumed or reinsurance ceded, must be determined in a manner consistent with these minimum reserve standards and with all applicable provisions of the reinsurance contracts which affect the insurer's liabilities.

§3.7006. *Specific Standards for Morbidity, Interest and Mortality.*

(a) Morbidity.

(1) Minimum morbidity standards for valuation of specified individual contract health insurance benefits are as follows.

(A) Disability income benefits due to accident or sickness.

(i) Contract reserves.

(I) Contracts issued on or after January 1, 1965, and prior to January 1, 1990: The 1964 Commissioners Disability Table (64 CDT). The 1964 Commissioners Disability Table (64 CDT) is adopted by reference for use in the manner indicated in these sections.

(II) Contracts issued on or after January 1, 1990: The 1985 Commissioners Individual Disability Tables A (85CIDA); or The 1985 Commissioners Individual Disability Tables B (85CIDB). The 1985 Commissioners Individual Disability Tables A (85CIDA) and the 1985 Commissioners Individual Disability Tables B (85CIDB) are adopted by reference for use in the manner indicated in these sections.

(III) Each insurer shall elect, with respect to all individual contracts issued in any one statement year, whether it will use Tables A (85CIDA) or Tables B (85CIDB) as the minimum standard. The insurer may, however, elect to use the other tables with respect to any subsequent statement year.

(ii) Claim reserves. The minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the claim is incurred.

(B) Hospital benefits, surgical benefits, and maternity benefits (scheduled benefits or fixed time period benefits only).

(i) Contract reserves.

(I) Contracts issued on or after January 1, 1955, and before January 1, 1982: The 1956 Intercompany Hospital-Surgical Tables. The 1956 Intercompany Hospital-Surgical Tables are adopted by reference for use as indicated in these sections.

(II) Contracts issued on or after January 1, 1982: The 1974 Medical Expense Tables, Table A, Transactions of the Society of Actuaries, Volume XXX, page 63. Refer to the paper (in the same volume, page 9) to which this table is appended, including its discussions, for methods of adjustment for benefits not directly valued in Table A: "Development of the 1974 Medical Expense Benefits," Houghton and Wolf. The 1974 Medical Expense Tables, Table A is adopted by reference for use in the manner indicated in these sections.

(ii) Claim reserves. No specific standard. See subparagraph (E) of this paragraph.

(C) Cancer expense benefits (scheduled benefits or fixed time period benefits only).

(i) Contract reserves. Contracts issued on or after January 1, 1986: The 1985 NAIC Cancer Claim Cost Tables. The 1985 NAIC Cancer Claim Cost Tables are adopted by reference for use in the manner specified in these sections.

(ii) Claim reserves. No specific standard. See subparagraph (E) of this paragraph.

(D) Accidental death benefits.

(i) Contract reserves. Contracts issued on or after January 1, 1965: The 1959 Accidental Death Benefits Table. The 1959 Accidental Death Benefits Table is adopted by reference for use in the manner specified in these sections.

(ii) Claim reserves. Actual amount incurred.

(E) Other individual contract benefits.

(i) Contract reserves. For all other individual contract benefits, mor-

bidity assumptions are to be determined as provided in the reserve standards.

(ii) Claim reserves. For all benefits other than disability, claim reserves are to be determined as provided in the standards.

(2) Minimum morbidity standards for valuation of specified group contract health insurance benefits are as follows.

(A) Disability income benefits due to accident or sickness.

(i) Contract reserves. Contracts issued prior to January 1, 1990: The same basis, if any, as that employed by the insurer as of January 1, 1990. Contracts issued on or after January 1, 1990: The 1987 Commissioners Group Disability Income Table (87CGDT). The 1987 Commissioners Group Disability Income Table (87CGDT) is adopted herein by reference.

(ii) Claim reserves. For claims incurred on or after January 1, 1990: The 1987 Commissioners Group Disability Income Table (87CGDT); For claims incurred prior to January 1, 1990: Use of the 87CGDT is optional.

(B) Other group contract benefits.

(i) Contract reserves. For all other group contract benefits, morbidity assumptions are to be determined as provided in the reserve standards.

(ii) Claim reserves. For all benefits other than disability, claim reserves are to be determined as provided in the standards.

(b) Interest.

(1) For contract reserves the maximum interest rate is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the health insurance contract.

(2) For claim reserves the maximum interest rate is the maximum rate permitted by law in the valuation of whole life insurance issued on the same date as the claim incurral date.

(c) Mortality. The mortality basis used must be according to a table (but without use of selection factors) permitted by law for the valuation of whole life insurance issued on the same date as the health insurance contract.

(d) Tables. Copies of the 1964 Disability Table (64 CDT); the 1985 Commissioners Individual Disability Tables A (85CIDA); the 1985 Commissioners Individual Disability Tables B (85CIDB); the 1956 Intercompany Hospital-Surgical Tables; the 1974 Medical Expense Tables, Table A; the 1985 NAIC Cancer Claim Cost Tables; the 1959 Accidental Death Benefits

Table; and the 1987 Commissioners Group Disability Income Table (87CGDT) may be obtained by contacting the Actuarial Division, Texas Department of Insurance, P.O. Box 149104, Mail Code 304-3A, Austin, Texas 78714-9104.

§3.7007. *Glossary of Technical Terms Used.* The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Annual-claim cost—The net annual cost per unit of benefit before the addition of expenses, including claim settlement expenses, and a margin for profit or contingencies. For example, the annual claim cost for a \$100 monthly disability benefit, for a maximum disability benefit period of one year, with an elimination period of one week, with respect to a male at age 35, in a certain occupation might be \$12, while the gross premium for this benefit might be \$18. The additional \$6.00 would cover expenses and profit or contingencies.

Claims accrued—That portion of claims incurred on or prior to the valuation date which result in liability of the insurer for the payment of benefits for medical services which have been rendered on or prior to the valuation date, and for the payment of benefits for days of hospitalization and days of disability which have occurred on or prior to the valuation date, which the insurer has not paid as of the valuation date, but for which it is liable, and will have to pay after the valuation date. This liability is sometimes referred to as a liability for "accrued" benefits. A claim reserve, which represents an estimate of this accrued claim liability, must be established.

Claims reported—When an insurer has been informed that a claim has been incurred, if the date reported is on or prior to the valuation date, the claim is con for annual statement purposes.

Claims unaccrued—That portion of claims incurred on or prior to the valuation date which result in liability of the insurer for the payment of benefits for medical services expected to be rendered after the valuation date, and for benefits expected to be payable for days of hospitalization and days of disability occurring after the valuation date. This liability is sometimes referred to as a liability for unaccrued benefits. A claim reserve, which represents an estimate of the unaccrued claim payments expected to be made (which may or may not be discounted with interest), must be established.

Claims unreported—When an insurer has not been informed, on or before the valuation date, concerning a claim that has been incurred on or prior to the valuation date, the claim is considered as an unreported claim for annual statement purposes.

Date of disablement—The earliest date the insured is considered as being disabled under the definition of disability in the contract, based on a doctor's evaluation

or other evidence. Normally this date will coincide with the start of any elimination period.

Elimination period—A specified number of days, weeks, or months starting at the beginning of each period of loss, during which no benefits are payable.

Gross premium—The amount of premium charged by the insurer. It includes the net premium (based on claim-cost) for the risk, together with any loading for expenses, profit, or contingencies.

Group insurance—The term group insurance includes blanket insurance and franchise insurance and any other forms of group insurance.

Level premium—A premium calculated to remain unchanged throughout either the lifetime of the policy, or for some shorter projected period of years. The premium need not be guaranteed; in which case, although it is calculated to remain level, it may be changed if any of the assumptions on which it was based are revised at a later time. Generally, the annual claim costs are expected to increase each year and the insurer, instead of charging premiums that correspondingly increase each year, charges a premium calculated to remain level for a period of years or for the lifetime of the contract. In this case the benefit portion of the premium is more than needed to provide for the cost of benefits during the earlier years of the policy and less than the actual cost in the later years. The building of a prospective contract reserve is a natural result of level premiums.

Long-term care insurance—Any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity, prepaid, or other basis: for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. Such term also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. Long-term care insurance may be issued by insurers; fraternal benefit societies; nonprofit health, hospital, and medical service corporations; prepaid health plans; health maintenance organizations, or any similar organization to the extent they are otherwise authorized to issue life or health insurance. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

Modal premium—This refers to the premium paid on a contract based on a

premium term which could be annual, semi-annual, quarterly, monthly, or weekly. Thus if the annual premium is \$100 and if, instead, monthly premiums of \$9.00 are paid then the modal premium is \$9.00.

Negative reserve—Normally the terminal reserve is a positive value. However, if the values of the benefits are decreasing with advancing age or duration it could be a negative value, called a negative reserve.

Preliminary term reserve method—Under this method of valuation the valuation net premium for each year falling within the preliminary term period is exactly sufficient to cover the expected incurred claims of that year, so that the terminal reserves will be zero at the end of the year. As of the end of the preliminary term period, a new constant valuation net premium (or stream of changing valuation premiums) becomes applicable such that the present value of all such premiums is equal to the present value of all claims expected to be incurred following the end of the preliminary term period.

Present value of amounts not yet due on claims—The reserve for "claims unaccrued" (see definition), which may be discounted at interest.

Qualified actuary—A member in good standing of the American Academy of Actuaries.

Reserve—The term "reserve" is used to include all items of benefit liability, whether in the nature of incurred claim liability or in the nature of contract liability relating to future periods of coverage, and whether the liability is accrued or unaccrued. An insurer under its contracts promises benefits which result in:

(A) claims which have been incurred, that is, for which the insurer has become obligated to make payment, on or prior to the valuation date. On these claims, payments expected to be made after the valuation date for accrued and unaccrued benefits are liabilities of the insurer which should be provided for by establishing claim reserves; or

(B) claims which are expected to be incurred after the valuation date. Any present liability of the insurer for these future claims should be provided for by the establishment of contract reserves and unearned premium reserves.

Terminal reserve—This is the reserve at the end of a contract year, and is defined as the present value of benefits expected to be incurred after that contract year minus the present value of future valuation net premiums.

Unearned premium reserve—This reserve values that portion of the premium paid or due to the insurer which is applicable to the period of coverage extending beyond the valuation date. Thus if an annual premium of \$120 was paid on November 1, \$20 would be earned as of December 31 and the remaining \$100 would be un-

earned. The unearned premium reserve could be on a gross basis as in this example, or on a valuation net premium basis.

Valuation net modal premium—This is the modal fraction of the valuation net annual premium that corresponds to the gross modal premium in effect on any contract to which contract reserves apply. Thus if the mode of payment in effect is quarterly, the valuation net modal premium is the quarterly equivalent of the valuation net annual premium.

§3.7008. Reserves for Waiver of Premium.

(a) This section contains supplementary explanatory material.

(b) Waiver of premium reserves involve several special considerations. First, the disability valuation tables promulgated by the National Association of Insurance Commissioners are based on exposures that include contracts on premium waiver as in-force contracts. Hence, contract reserves based on these tables are not reserves on "active lives" but rather reserves on contracts "in force." This is true for the 1964 CDT and for both the 1985 CIDA and CIDB tables. Accordingly, tabular reserves using any of these tables should value reserves on the following basis.

(1) Claim reserves should include reserves for premiums expected to be waived, valuing as a minimum the valuation net premium being waived.

(2) Premium reserves should include contracts on premium waiver as in-force contracts, valuing as a minimum the unearned modal valuation net premium being waived.

(3) Contract reserves should include recognition of the waiver of premium benefit in addition to other contract benefits provided for, valuing as a minimum the valuation net premium to be waived.

(c) If an insurer is, instead, valuing reserves on what is truly an active life table, or if a specific valuation table is not being used but the insurer's gross premiums are calculated on a basis that includes in the projected exposure only those contracts for which premiums are being paid, then it may not be necessary to provide specifically for waiver of premium reserves. Any insurer using such a true "active life" basis should carefully consider, however, whether or not additional liability should be recognized on account of premiums waived during periods of disability or during claim continuation.

§3.7009. Purchase or Assumption of Existing Business. Notwithstanding any other provision of these sections, including §3.7004 of this title (relating to Contract Reserves), any company licensed in Texas purchasing or assuming by assumption certificate any existing business on or after the effective date of these rules must establish reserves based upon the original dates of

issue for such business in accordance with these rules.

§3.7010. Severability. If any provision of §3.7001-3.7009 of this title (relating to introduction; Claim Reserves; Premium Reserves; Contract Reserves; Reinsurance, Specific Standards for Morbidity, Interest and Mortality; Glossary of Technical Terms Used; Reserves for Waiver of Premium; Purchase or Assumption of Existing Business; and Severability) or the applicability of those sections to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of those sections which can be given effect without the invalid provisions or application. To this end, any and all provisions of these sections are declared to be severable.

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

Issued in Austin, Texas, on December 4, 1991.

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Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

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For further information, please call: (512) 463-6328

◆ ◆ ◆
Chapter 19. Agent's Licensing
Subchapter O. Procedures and
Requirements for Reinsur-
ance Intermediarie (Brokers
and Risk Managers) Li-
censed Under the Reinsur-
ance Intermediary Act

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• 28 TAC §§19.1401-19.1407

The Texas Department of Insurance proposes new §§19.1401-19.1407, concerning the licensure and activities of brokers and managers who are licensed under the Reinsurance Intermediary Act, Texas Insurance Code, Article 21.07-7. These sections are necessary to implement the provisions of Article 21.07-7 and to provide effective regulation of reinsurance intermediaries. New §19.1401 sets out the purpose and scope of these new sections and §19.1402 defines the terms used in these new sections. Section 19.1403 contains the requirements for bonds or errors and omissions policies filed in compliance with these new sections and Texas Insurance Code, Article 21.07-7. New §19.1404 contains the requirements for interim profit-sharing by a manager and §19.1405 contains the requirements for the form of audited statements. New §19.1406 describes the fees for the examinations required by Texas Insurance Code, Article 21.07-7, §9 and §19.1407 describes the contract which must be entered into as required by Article 21.07-7. That section, among other things, requires that a copy

of the contract and the approval of the insurer's board of directors or attorney-in-fact be filed with the commissioner for approval at least 30 days before the insurer assumes or cedes any business through the manager. Section 19.1407 also requires that the contract must meet the minimum requirements specified in the Texas Insurance Code, Article 21.07-7, §6, and provides that failure to file complete and accurate information is grounds for disapproval of the contract by the commissioner. Section 19.1407 provides that any disapproval by the commissioner of any contract shall set forth the specific reasons for such disapproval and that any amended contract containing material changes in the provisions of a contract filed with the commissioner, must be filed with the commissioner for approval as though it were a new contract. The section also describes the manner in which the contract must be filed with the department and describes the proper mailing code for such filing.

Jack Evins, deputy commissioner for licensing, 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 and there will be no effect on local employment or local economy.

Mr. Evins also has determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be more effective regulation of reinsurance intermediaries. Mr. Evins has determined that for each year of the first five years the sections are in effect there will be fiscal implications for reinsurance intermediaries. The costs for reinsurance intermediaries to comply with the provisions requiring the filing of a bond or errors or omissions policy are estimated to be \$2,000 per year for brokers and \$5,000 for each year for managers; and the expenses in connection with the approval of reinsurance intermediary contracts are anticipated to be \$10-\$20 for each year, for mailing costs required by these rules. It is not anticipated that there will be any greater fiscal implications for small businesses as a result of complying with these sections than for larger businesses on a cost-per-employee basis.

Comments on the proposal may be submitted to Jack Evins, Deputy Commissioner for Licensing, Texas Department of Insurance, Mail Code 105-SA, 333 Guadalupe, P. O. Box 149104, Austin, Texas 78701-1904.

The new sections are proposed under the Texas Insurance Code, Article 1.04, which provides general rulemaking authority for the Texas Department of Insurance; and under Texas Insurance Code, Article 21.07-7, §11, which provides that the board may adopt reasonable rules necessary to implement Article 21.07-7; and Texas Civil Statutes, Article 6252-13a, §4 and §6 which require and authorize each state administrative agency to adopt rules of practice setting forth the nature and requirements of available procedures, and prescribe the procedure for adoption of rules by state administrative agencies.

§19.1401. Purpose and Scope. These rules govern the licensure and activities of brokers and managers who are licensed under the Reinsurance Intermediary Act, Texas

Insurance Code, Article 21.07-7. These sections are supplementary to and cumulative of existing statutes. In the case of an ambiguity or contradiction between any of the sections in these rules and any statute, the provisions of the statute prevail.

§19.1402. Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Board—The State Board of Insurance.

Broker—A person other than an officer or employee of an insurer, who solicits, negotiates, or places reinsurance business on behalf of an insurer and who may not exercise the authority to bind reinsurance on behalf of that insurer.

Commercially domiciled insurer—A foreign or alien insurer authorized to do business in this state that during its three preceding fiscal years taken together, or any lesser period of time if it has been licensed to transact business in this state only for that lesser period of time, has written an average of more gross premiums in this state than it has written in its state of domicile during the same period with those gross premiums constituting 20% or more of its total gross premiums everywhere in the United States for that three-year or lesser period, as reported in its three most recent annual statements.

Commissioner—The commissioner of insurance.

Insurer—A commercially domiciled insurer or other person legally organized in this state to do business as an insurance company, including:

- (A) a capital stock company;
- (B) a mutual company;
- (C) a title insurance company;
- (D) a fraternal benefit society;
- (E) a local mutual aid association;
- (F) a statewide mutual assessment company;
- (G) a county mutual insurance company;
- (H) a Lloyd's plan company;
- (I) a reciprocal or interinsurance exchange;

(J) a stipulated premium insurance company;

(K) a group hospital service company;

(L) a farm mutual insurance company; and

(M) a risk retention group.
Manager—A person who has authority to bind reinsurance or who manages all or part of the reinsurance business of an insurer, including the management of a separate division, department, or underwriting office, and who acts as an agent for that insurer. The term does not include:

(A) an employee of the insurer;

(B) a manager of the United States branch of an alien insurer;

(C) an underwriting manager who, under a contract, manages all of the reinsurance operations of an insurer, who is under common control with the insurer under Article 21.49-1 of this code, and whose compensation is not based on the volume of premiums written; or

(D) the manager of a group, association, pool, or other organization of insurers who engages in joint underwriting or joint reinsurance and who is subject to examination by the insurance commissioner or other appropriate officer of the state in which the manager's principal business office is located.

Person—An individual, corporation, partnership, association, or other private legal entity.

Reinsurance intermediary—A broker or manager.

Underwriting period—The period for which the policy is issued.

§19.1403. Requirements for Bond or Errors and Omissions Policy. Any reinsurance intermediary must file and maintain a bond with the commissioner for the protection of all insurers represented or file and maintain an errors and omissions policy, meeting the following criteria.

(1) The bond must be executed by the reinsurance intermediary as principal and by a surety company authorized to do business in this state, as surety, or surplus lines insurer eligible to do business in this state, in the principal sum of \$100,000 for a broker and in the principal sum of \$250,000 for a manager, payable to the Texas Department of Insurance for the use and benefit of all insurers represented. The bond must provide that a copy of any cancellation or nonrenewal notice, shall be mailed to the

Deputy Commissioner for Licensing, Texas Department of Insurance, Mail Code 105-5A, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104. The executed bond must be furnished to the Texas Department of Insurance.

(2) The errors and omissions policy shall be in a form acceptable to the Texas Department of Insurance, and shall be filed with the deputy commissioner for licensing of the department at the address listed in paragraph (1) of this section. The policy must provide that the Texas Department of Insurance shall be a certificate holder and shall receive a copy of any cancellation or nonrenewal notice, which shall be mailed to the deputy commissioner for licensing at the address listed in paragraph (1) of this section. The errors and omissions policy shall cover all negligent acts or omissions of the reinsurance intermediary and any person acting on its behalf and shall provide coverage of at least \$100,000 for each occurrence for brokers and shall provide coverage of at least \$250,000 for each occurrence for managers.

(3) The commissioner may determine that special circumstances require an additional amount of coverage for the bond or policy.

§19.1404. Requirements for Interim Profit-Sharing by a Manager. If the contract between an insurer and its manager provides for a sharing of interim profits by the manager, interim profits may not be paid until five years after the end of each underwriting period for casualty business, one year after the end of each underwriting period for property business, and one year after the end of each underwriting period for accident and health insurance and all other lines of insurance.

§19.1405. Requirements for Form of Audited Statements. The statements prepared by an independent certified public accountant of the financial condition of each manager of an insurer, required by the Reinsurance Intermediary Act, §8(b), shall comply with all generally accepted accounting procedures.

§19.1406. Fees for Examinations. The expenses for the examinations required by the Reinsurance Intermediary Act (Act), §9 shall be determined to be just and reasonable if they are sufficient to meet all the expenses and disbursements necessary to comply with the provisions of the Act.

§19.1407. Approval of Reinsurance Intermediary Manager's Contracts.

(a) A written contract, which specifies the responsibilities of each party, shall be approved by the insurer's board of directors or attorney in fact and executed by a responsible officer of an insurer and a

manager prior to entering into any transactions between the manager and the insurer.

(b) A copy of the executed contract and the approval of the insurer's board of directors or attorney in fact shall be filed by the manager with the commissioner for approval at least 30 days before the insurer assumes or cedes any business through the manager. A contract shall not be deemed filed with the commissioner until the date all material required and sufficient to constitute a complete and executed contract, as determined by the agency, has been received by the commissioner.

(c) The contract shall include the minimum requirements specified in the Texas Insurance Code, Article 21.07-7, §6. A contract which does not comply with the minimum requirements of the Texas Insurance Code or this section shall not be considered to have been filed with the commissioner for approval.

(d) A failure to file complete and accurate information in all material respects is grounds for disapproval of the contract by the commissioner under the Texas Insurance Code, Article 21.07-7, §6.

(e) Any disapproval by the commissioner of any contract filed under this section shall set forth the specific reasons for such disapproval.

(f) If any material changes occur in the provisions set forth in the contract filed with the commissioner, an amended contract setting forth such changes shall be filed with the commissioner for approval as if it were a new contract.

(g) Contracts subject to this section and the Insurance Code, Article 21.07-7, §6 shall be filed with the Reinsurance Activity Mail Code 303-2A, Texas Department Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78714-9104, for the purpose of determining compliance with this section. Telephonic or fax transmissions shall not constitute proper filing under this section.

(h) This section shall be cumulative of and in addition to the requirements of the Texas Insurance Code, Article 21.07-3, Article 21.07-7, and Article 21.49-1, and related regulations. Nothing contained in this section is intended to exempt an insurer or its reinsurance intermediary manager from other provisions of the Insurance Code.

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

Issued in Austin, Texas, on December 4, 1991.

TRD-9115199

Linda von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Earliest possible of adoption: January 13, 1992

For further information, please call: (512) 463-6328

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter A. General Rules

• 34 TAC §3.8

The Comptroller of Public Accounts proposes an amendment to §3.8, concerning informant's recovery payment limitations. These changes are necessitated by Senate Bill 1108, adopted by the 72nd Legislature, 1991, and are effective September 1, 1991. This legislation allows the state to pay a maximum of 5.0% to an informant from the funds recovered under the contract by the state. The section is revised to eliminate the \$10,000 limitation and states that any contract to pay an informant must be executed in advance of any investigation or audit.

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 as a result of enforcing or administering the section. 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 section as proposed.

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.

§3.8. Informant's Recovery Payment Limitations.

(a) No payment may be paid to an informant without the execution of a contract signed by both the informant and the comptroller. The contract must be executed in advance of any investigation or audit activity by the comptroller.

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

(d) The amount of the payment is limited to 5.0% of the revenue recovered and applies only to amounts which are due to the state at the date the contract is executed [, or \$10,000, whichever is smaller, unless the comptroller has negotiated with the claimant for an amount over

\$10,000 but in no event in an amount over 5.0% of the revenue covered]. This limitation applies to the payment to be paid from all claims and causes of action whatsoever as have arisen or may arise in connection with the information provided to the state by the informant.

(e) (No change.)

(f) Payment will not be made to any informant before the expiration of six months after the recovery of state money or property is complete and uncontested [Any informant payments in an amount less than \$10,000 will be paid from the comptroller's appropriations if the information concerns tax revenue and the money is available. Contracts for payment for information on funds or property unrelated to tax revenue will be made subject to specific appropriation by the legislature.

(g)-(h) (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 December 6, 1991.

TRD-9115303

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: January 13, 1992

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

Subchapter O. State Sales and Use Tax

• 34 TAC §3.300

The Comptroller of Public Accounts proposes an amendment to §3.300, concerning manufacturing; custom manufacturing; fabricating; processing. The amendment reflects the changes to the Tax Code, Chapter 151, made by the 72nd Legislature, 1991, First Called Session. The phased-in exemption on manufacturing machinery and equipment was delayed.

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 as a result of enforcing or administering the section. 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 for more efficient tax administration. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to 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.

§3.300. Manufacturing; Custom Manufacturing; Fabricating; Processing.

(a) (No change.)

(b) Manufacturer's responsibilities.

(1) Collection of tax. Persons engaged in the business of fabricating, manufacturing, processing, or custom manufacturing must collect sales tax on the total sales price of the manufactured item or take an exemption certificate in lieu of the tax. The sales price includes, but is not limited to, the cost of materials, labor or service costs, and all expenses connected with production. Persons fabricating, custom manufacturing, or processing tangible personal property which is furnished either directly or indirectly by the customer must collect tax on such fabricating, custom manufacturing, or processing charge. Manufacturers shall pay or accrue sales or use tax on all items used in the manufacturing process which do not qualify for exemption from tax. A manufacturer who purchases tangible personal property tax free by means of an exemption certificate or resale certificate and subsequently uses the item for a nonexempt purpose must remit the tax to the comptroller based on the purchase price of the item. Reference should be made to §3.285 of this title (relating to Resale Certificate; Sales for Resale; Resale Certificate), §3.287 of this title (relating to Exemption Certificates), and §3.346 of this title (relating to Use Tax).

(2) Installed items. Generally, the charge for labor to install an item sold is taxable when the item sold is taxable. Persons who manufacture and install items which become improvements to residential realty or are incorporated into new real property structures are contractors and are subject to the provisions of §3.291 of this title (relating to Contractors). Example: cabinet makers or drapery makers who also affix the draperies or cabinets as a part of a new-construction contract. See also §3.347 of this title (relating to Improvements to Realty). Persons who manufacture and install items as a part of a repair contract are subject to the provisions of §3.292 of this title (relating to Repair, Remodeling, Maintenance, and Restoration of Tangible Personal Property [Repairmen]). Example: fabricating a propeller shaft for a customer as a part of an outboard motor repair. Persons who manufacture and install items which do not become improvements to realty or which are not part of a repair must collect sales tax on the total charge. Example: a retailer who makes and installs draperies for a home owner.

(3) (No change.)

(4) Samples. Since the sole use of such samples is to demonstrate not the sample but the other items which it represents, the purchase of the raw materials used to make the sample is [are] subject to the sales or use tax regardless of the fact that the sample itself may be ultimately sold.

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

(f) Useful life of more than six months.

(1) State tax paid on machinery, equipment, replacement parts, and accessories with a useful life exceeding six months may be partially refunded by the comptroller if the items are purchased and the tax is paid Page 12 of 15 after December 31, 1989. A reduced amount of tax may be paid at the time of purchase if the items are purchased on or after October 1, 1993 [December 31, 1991]. The date that title or possession transfers from the retailer to the purchaser is the purchase date. Items purchased out of state will be considered purchased on the date they are brought into this state.

(2) (No change.)

(3) Qualifying items which are purchased in 1990 and from January 1, 1991, through September 30, 1991, and on which tax is paid qualify for a refund of 25% of the state tax paid.

(4) Manufacturing machinery and equipment purchased from October 1, 1991, through September 30, 1993, do not qualify for sales tax refunds or tax reductions [To qualify for a reduction in the amount of tax paid, the qualifying items must be purchased after December 31, 1991].

[(A) Twenty-five percent of the sales price of qualifying items purchased during 1992 is exempted from the state sales and use tax.]

(A)(B) Fifty percent of the sales price of qualifying items purchased from October 1, 1993, through December 31, 1993, [during 1993] is exempted from the state sales and use tax.

(B)(C) Seventy-five percent of the sales price of qualifying items purchased during 1994 is exempted from the state sales and use tax.

(C)(D) Qualifying items purchased on or after January 1, 1995, are exempt.

(g) (No change.)

(h) Method of paying a reduced amount of tax.

(1) The purchaser shall provide the retailer an exemption certificate for the appropriate percentage of the sales tax for qualifying items purchased on or after October 1, 1993 [after December 31, 1991].

[(A) A retailer who receives an exemption certificate for purchases in 1992 for 25% of the state sales tax shall collect state sales tax on 75% of the sales price.]

(A)(B) A retailer who receives an exemption certificate for purchases in 1993 for 50% of the sales tax shall collect state sales tax on 50% of the sales price.

(B)(C) A retailer who receives an exemption certificate for purchases in 1994 for 75% of the sales price shall collect state sales tax on 25% of the sales price.

(2) A purchaser who remits use tax on qualifying items purchased on or after October 1, 1993 [December 31, 1991], shall deduct from the amount reported as the purchase price the appropriate percentage allowed as a reduction in the state tax.

(i) (No change.)

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

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

TRD-9115302

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: January 13, 1991

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

Subchapter BB. Battery Sales Fee

• 34 TAC §3.711

The Comptroller of Public Accounts proposes new §3.711, concerning collection and reporting requirements. House Bill 1986, adopted in the 72nd Legislature, 1991, requires the comptroller to administer and enforce the collection of the battery fee beginning September 1, 1991, imposed on the wholesale or retail sale of a lead-acid battery of six volts or more not sold for resale. The new section provides for the collection and reporting of the fee.

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 as a result of enforcing or administering the section. 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 new section 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.

§3.711. Collection and Reporting Requirements.

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

(1) Dealer—A wholesaler, retailer, or any other person who sells or offers to sell lead-acid batteries.

(2) Lead-acid battery—Any battery, new or used, which contains lead and sulfuric acid, in liquid or gel form.

(3) Sale for resale—A sale of a lead-acid battery to a purchaser for the purpose of reselling the battery in the normal course of business in the form or condition in which it is acquired (i.e., as a separate item). A sale of a battery that is attached to or becomes an integral part of a vehicle, boat, or other equipment that is being sold, rented, or leased is not a sale for resale. The battery sales fee is due on the sale prior to the battery becoming a part of this equipment.

(b) Collection and remittance of the fee.

(1) Every dealer must collect the fee on each sale of a lead-acid battery of six volts or more, except a sale for resale or a sale for disposal or reclamation. A fee shall not be charged, collected, or allowed as an offset on a battery taken as a trade-in.

(2) The fee is not due on the sale of a vehicle, boat, or other equipment that has a battery as an integral part of it.

(3) The amount of the fee due must be separately stated on the invoice, bill, or contract to the customer and shall be identified as the Texas battery sales fee.

(4) A dealer may not advertise, make public, indicate, or imply that the dealer will absorb, assume, or refund any portion of the fee.

(c) Report forms. The battery sales fee is to be reported on the Texas battery

sales fee/waste tire recycling fee report form as prescribed by the comptroller. The fact that the dealer does not receive the form or does not receive the correct form from the comptroller for the filing of the return does not relieve the dealer of the responsibility of filing a return and paying the required fee.

(d) Reporting period.

(1) Monthly filing. The battery sales fee is due and payable on or before the 20th day of the month following the end of each calendar month. Every dealer also required to report the waste tire recycling fee must file at the same time the battery sales fee is filed. Returns must be filed on a monthly basis unless a dealer qualifies as a quarterly filer under paragraph (2) of this subsection.

(2) Quarterly filing. A dealer who owes an average, as computed for the year, of less than \$50 for a calendar month or less than \$150 for a calendar quarter is required to file a return and pay the fee on or before the 20th day of the month following the end of the calendar quarter. The waste tire recycling fee liability is not included in determining the requirement for quarterly filing; however, a dealer required to file the waste tire recycling fee return on a monthly basis must file the battery fee return at the same time.

(e) Payment of the fee.

(1) On or before the 20th day of the month following each reporting period, every person subject to the fee shall file a consolidated return for all businesses operating under the same fee payer number and remit the total fee due.

(2) Every dealer may retain \$.025 for each fee (i.e., battery) reported and paid on his return.

(3) The returns must be signed by the person required to file the return or by the person's duly authorized agent, but need not be verified by oath.

(f) Records required.

(1) Invoices or other records must be kept for at least four years after the date on which the invoices or records are prepared.

(2) The comptroller or an authorized representative has the right to examine any records or equipment of any person liable for the fee in order to verify the accuracy of any return made or to determine the fee liability in the event no return is filed.

(g) Exemptions.

(1) Sales for resale are not subject to the fee.

(2) The sale of a battery that under the sales contract is shipped to a point outside Texas is not subject to the fee imposed by this section if the shipment is made by the seller by means of:

(A) the facilities of the seller;

(B) delivery by the seller to a carrier for shipment to a consignee at a point outside this state; or

(C) delivery by the seller to a forwarding agent for shipment to a location in another state of the United States or its territories or possessions.

(3) Exports beyond the territorial limits of the United States are not subject to the fee. Proof of export may be shown only by:

(A) a copy of a bill of lading issued by a licensed and certificated carrier showing the seller as consignor, the buyer or purchaser as consignee, and a delivery point outside the territorial limits of the United States;

(B) documentation provided by a licensed United States customs broker certifying that delivery was made to a point outside the territorial limits of the United States;

(C) formal entry documents from the country of destination showing that the battery was imported into a country other than the United States. For the country of Mexico, the formal entry document would be the pedimento de importaciones document with a computerized, certified number issued by Mexican customs officials; or

(D) a copy of the original airway, ocean, or railroad bill of lading issued by a licensed and certificated carrier which describes the items being exported and a copy of the freight forwarder's receipt if the freight forwarder takes possession of the property in Texas.

(h) Replacements covered by a warranty or service contract.

(1) The replacement of a battery under a manufacturer's warranty, without an additional charge to the purchaser, is not the sale of a battery to the purchaser. This replacement, therefore, is not subject to the fee. If there is a charge to the customer for the replacement (such as a pro rata warranty adjustment), then the customer must pay the battery sales fee.

(2) The replacement of a battery under an extended warranty or a service contract depends on the terms of the contract.

(A) If the replacement is free of charge to the customer, the dealer is responsible for paying the fee.

(B) If there is a charge to the customer for the replacement, the customer must pay the fee.

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

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

TRD-9115304

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: January 13, 1992

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

Subchapter DD. Oil Field Cleanup Regulatory Fee

• 34 TAC §3.731

The Comptroller of Public Accounts proposes new §3.731, concerning the imposition and collection of the oil field cleanup regulatory fee on oil. Senate Bill 1103, adopted in the 72nd Legislature, 1991, requires the comptroller to administer and enforce the collection of the oil fee. This new section provides guidance to persons required to report or pay or collect the fee.

Tom Plaut, chief revenue estimator, 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.

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 section as proposed.

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

The new section 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 if the provisions of the Tax Code, Title 2.

§3.731. Imposition and Collection of the Oil Fee.

(a) Imposition. The oil field cleanup regulatory fee on oil is effective with reports for the production month of September 1991.

(b) Reports. The fee is to be reported and paid in the same manner as the regulatory tax imposed by the Natural Resources Code, §81.111, and the occupation tax imposed by the Tax Code, Chapter 202.

(c) Amount of fee.

(1) Except as provided in paragraph (2) of this subsection, the rate of the fee shall be five-sixteenths of one cent (\$0.003125) per taxable barrel of crude oil.

(2) The fee shall not be collected or required to be paid for the production month that begins on the first day of the second month following the Texas Railroad Commission's certification to the comptroller that the fund balance has reached \$10 million. The comptroller shall publish notification in the *Texas Register* that the fee shall no longer be collected 15 days prior to the beginning of the production month for which the fee shall no longer be collected.

(3) If the Railroad Commission certifies to the comptroller that the balance of the fund has fallen below \$6 million, the fee shall again be due beginning the first day of the second month following the commission's certification to the comptroller. The comptroller shall publish notification in the *Texas Register* that the fee shall be required to be collected 15 days prior to the beginning of the production month for which the fee shall be collected.

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

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

TRD-9115306 Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: January 13, 1992.

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

◆ ◆ ◆
• 34 TAC §3.732

The Comptroller of Public Accounts proposes new §3.732, concerning the reporting requirements of the gas fee. Senate Bill 1103, adopted in the 72nd Legislature, 1991, requires the comptroller to administer and enforce the collection of the oil field cleanup regulatory fee. This new section provides guidance to persons required to report or pay or collect the fee on gas.

Tom Plaut, chief revenue estimator, 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.

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 section as proposed.

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

The new section 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.

§3.732. Reporting Requirements for the Gas Fee.

(a) Imposition. Except as provided by subsection (c)(2) of this section, the oil field cleanup regulatory fee on gas is due for the production month of September 1991 and all subsequent months.

(b) Reports. The fee is to be reported and paid on the natural gas report in the same manner as the occupation tax is imposed by the Tax Code, Chapter 201.

(c) Amount of fee.

(1) Except as provided in subsection (c)(2) of this section, the rate of the fee shall be one-thirtieth of one cent (\$0.000333) per 1,000 cubic feet (MCF) of gas.

(2) The fee shall not be collected, or required to be paid for the production month that begins on the first day of the second month following the Texas Railroad Commission's certification to the comptroller that the oil field cleanup fund balance equals or exceeds \$10 million. The comptroller shall publish notification in the *Texas Register* that the fee shall no longer be collected 15 days prior to the beginning of the production month for which the fee shall no longer be collected.

(3) If the Railroad Commission certifies to the comptroller that the balance of the fund has fallen below \$6 million, the fee shall again be due beginning the first day of the second month following the commission's certification to the comptroller. The comptroller shall publish notification in the *Texas Register* that the fee shall be required to be collected 15 days prior to the beginning of the production month for which the fee shall be collected.

(d) Volume subject to fee. The volume of gas subject to the fee is the same volume of gas produced and taxed under the provisions of the Tax Code, Chapter 201.

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

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

TRD-9115305 Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: January 13, 1992

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

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

Part VI. Texas Department
of Criminal Justice

Chapter 163. Standards

Subchapter C. Programs and
Services

• 37 TAC §163.43

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

The Texas Department of Criminal Justice (TDCJ) proposes §163.43, concerning court reports and documentation, as part of Chapter 163, concerning standards, Subchapter C, Programs and Services.

The rule as proposed for final adoption is necessary to accommodate changes in the Texas Code of Criminal Procedures, Article 42.12, §9, as codified in House Bill 93, Chapter 10, §§16.01 et seq, pages 213 and 214, 72nd Legislature, Second Called Session. Under the law as amended, local probation offices must prepare presentence investigations prior to the imposition of sentence for any felony offense, effective December 1, 1991, in conformity with new statutory requirements which are hereby incorporated into the Standards of the Community Justice Assistance Division of the TDCJ.

The new rule, which is published as an emergency rule in this issue of the *Texas Register*, will be considered for final adoption by the TDCJ at their January 1992 meeting.

Bob Young, director of the Austin budget office, finance and administration, Texas Department of Criminal Justice, has determined that for the first five-year period the section is in effect there will be fiscal implications as a result of enforcing or administering the section. The Texas Legislature has appropriated funds to reimburse community supervision and corrections departments for their required efforts, and the TDCJ has established a rate of reimbursement for such departments which is projected to cover their costs from the appropriated funds.

Mr. Young 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 documentation of criminal histories, and better informed sentencing practices. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Dick Lewis, Director, Community Information and Assistance, Community Justice Assistance Division, Suite 600, Building B, 8100 Cameron Road, Austin, Texas 78753.

The new section is proposed under the Texas Code of Criminal Procedures, Article 42.13, §2(a), which authorizes the Texas Board of Criminal Justice to adopt reasonable rules concerning the operations of community supervision and corrections departments.

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

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

TRD-9115174 Jackee Cox
General Counsel
Texas Department of
Criminal Justice

Proposed date of adoption: January 10, 1992

For further information, please call: (512) 463-9988

Chapter 195. Parole Terms and Conditions of Parole

• 37 TAC §195.61

The Board of the Texas Department of Criminal Justice proposes an amendment to 37 TAC §195.61, concerning terms and conditions of parole. The proposed amendments will make final rules of the emergency rules published by the board on September 24, 1991 (16 TexReg 5251). The amendments will be adopted to comply with the mandates of Senate Bill 259 (to be codified as Texas Civil Statutes, Article 6252-13c), which requires that all persons adjudicated guilty of specified offenses after September 1, 1991, shall register with appropriate law enforcement officials upon release on parole or mandatory supervision.

Bill McCray, Financial Director for the Texas Department of Criminal Justice, has determined that the fiscal effects of enforcing or administering the section are within the agency's appropriations.

The public benefits anticipated as a result of enforcing the section will be increased public safety. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section will be minimal.

Comments on the proposal may be submitted to Jackee Cox, General Counsel, Texas Department of Criminal Justice, P.O. Box 13084, Austin, Texas 78711, (512) 463-9988. The proposed amendment will be considered for final adoption at the January 1992 meeting of the Texas Board of Criminal Justice.

The amendment is proposed under Texas Code of Criminal Procedure, Article 42.18, §8(g) which authorizes the Texas Board of Criminal Justice to adopt reasonable rules with respect to the terms and conditions of parole.

§195.61. Terms and Conditions of Parole. The following terms and conditions of parole must be agreed to and accepted by the inmates as a prerequisite to parole. Continuation on parole is conditioned upon con-

tinuing compliance with the standard terms and conditions of parole and upon compliance with any special conditions imposed by a parole panel or the board or its authorized designate.

(1)-(7) (No change.)

(8) Special conditions. I shall abide by any special condition(s) imposed by the board; any such special conditions imposed upon release will be indicated on the face of this certificate by the letter(s) corresponding to the conditions as listed in subparagraphs (A)-(L) of this paragraph:

(A)-(L) (No change.)

(M) Sex Offender Registration Program under Texas Civil Statutes, Article 6252-13c. Within seven days of arrival in any municipality or county, and within seven days of any change of address, register with appropriate local law enforcement officials. (Special condition M.)

(9) (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 December 5, 1991.

TRD-9115411 Jackee Cox
General Counsel
Texas Department of
Criminal Justice

Earliest possible date of adoption: January 13, 1992

For further information, please call: (512) 463-9988

Chapter 197. Mandatory Supervision

Rules and Conditions of Mandatory Supervision

• 37 TAC §197.21

The Board of the Texas Department of Criminal Justice proposes an amendment to 37 TAC §197.21, concerning rules and conditions of mandatory supervision. The proposed amendments will make final rules of the emergency rules published by the board on September 24, 1991 (16 TexReg 5251). The amendments will be adopted to comply with the mandates of Senate Bill 259 (to be codified as Texas Civil Statutes, Article 6252-13c), which requires that all persons adjudicated guilty of specified offenses after September 1, 1991, shall register with appropriate law enforcement officials upon release on parole or mandatory supervision.

Bill McCray, Financial Director for the Texas Department of Criminal Justice, has determined that the fiscal effects of enforcing or administering the section are within the agency's appropriations.

Mr. McCray also has determined that the public benefit anticipated as a result of enforcing the section will be increased public safety. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section will be minimal.

Comments on the proposal may be submitted to Jackee Cox, General Counsel, Texas Department of Criminal Justice, P.O. Box 13084, Austin, Texas 78711, (512) 463-9988. The proposed amendment will be considered for final adoption at the January 1992 meeting of the Texas Board of Criminal Justice.

The amendment is proposed under Texas Code of Criminal Procedure, Article 42.18, §8(g), which authorizes the Texas Board of Criminal Justice to adopt reasonable rules with respect to the terms and conditions of mandatory supervision.

§197.21. Rules and Conditions of Mandatory Supervision. The following rules and conditions of mandatory Supervision. The following rules and conditions of mandatory supervision must be acknowledged by the inmate being released to mandatory supervision, and the releasee must recognize that his or her release is conditional and that he or she is deemed as if on parole. Continuation on mandatory supervision is conditional upon continuing compliance with the standard terms and conditions of mandatory supervision and upon compliance with any special conditions imposed by the parole of the board of staff as authorized by the board.

(1)-(7) (No change.)

(8) Special conditions. Abide by any special condition(s) imposed by the board; any special condition(s) imposed upon release will be indicated on the face of this certificate by the letter(s) corresponding to the conditions as listed in subparagraphs (A)-(L) of this paragraph:

(A)-(L) (No change.)

(M) Sex Offender Registration Program under Texas Civil Statutes, Article 6252-13c. Within seven days of arrival in any municipality or county, and within seven days of any change of address, register with appropriate local law enforcement officials. (Special Condition M.)

(9) (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 December 5, 1991.

TRD-9115410 Jackee Cox
General Counsel
Texas Department of
Criminal Justice

Earliest possible date of adoption: January 13, 1992

For further information, please call: (512) 463-9988

Chapter 321. Court Reports and Documentation

• 37 TAC §321.3

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

The Texas Department of Criminal Justice (TDCJ) proposes the repeal of §321.3, concerning court reports and documentation. The TDCJ simultaneously proposes adoption of new §163.43, concerning court reports and documentation, as part of Chapter 163, Standards, Subchapter C, Programs and Services.

The repeal of prior §321.3 and the proposed adoption of new §163.43 are necessary to accommodate changes in the Texas Code of Criminal Procedures, Article 42.12, §9, as codified in House Bill 93, Chapter 10, §§16.01 et. seq, pages 213 and 214, 72nd Legislature, Second Called Session. Under the law as amended, local probation offices must prepare presentence investigations prior to the imposition of sentence for any felony offense, effective December 1, 1991, in conformity with new statutory requirements which are hereby incorporated into the Standards of the Community Justice Assistance Division of TDCJ. This proposed repeal will complete action published as an emergency repeal of old §321.3, notice of which is published in this issue of the *Texas Register*. The adoption will be considered by TBCJ at their January 1992 meeting.

Bob Young, director of the Austin budget office, finance and administration, Texas Department of Criminal Justice, has determined that for the first five-year period the repeal is in effect there will be fiscal implications as a result of enforcing or administering the repeal. The Texas Legislature has appropriated funds to reimburse community supervision and corrections departments for their required efforts, and TDCJ has established a rate of reimbursement for such departments which is projected to cover their costs from the appropriated funds.

Mr. Young also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be improved documentation of criminal histories, and better informed sentencing practices. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposed repeal may be submitted to Dick Lewis, Director, Community Information and Assistance, Community Justice Assistance Division, Suite 600, Building B, 8100 Cameron Road, Austin, Texas 78753.

The repeal is proposed under the Code of Criminal Procedures, Article 42.13, §2(a), which authorizes the Texas Board of Criminal Justice to adopt reasonable rules concerning the operations of community supervision and corrections departments.

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

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

TRD-9115171

Jackee Cox
General Counsel
Texas Department of
Criminal Justice

Proposed date of adoption: January 10, 1992

For further information, please call: (512) 463-9988

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 10. Family Self-Support Services

Child Care Management Services Statewide Implementation

• 40 TAC §§10.3412-10.3414, 10.3462-10.3464

The Texas Department of Human Services (DHS) proposes amendments to §§10.3412, 10.3413, 10.3414, 10.3462, 10.3463, and 10.3464, concerning child care management services statewide implementation, in its family self-support services chapter.

The purpose of the amendments to §10.3412 is to clarify the age limit for children who are mentally or physically handicapped to receive child care services. The child must be under 18 years old; or he may be 18, regularly attending high school or high school-level training full time, and expected to graduate before or during the month of his 19th birthday.

The purpose of the amendments to §§10.3413, 10.3463, and 10.3464 is to extend child care services to families for one year after the family income exceeds 150% of the federal poverty income limit (FPIL), provided the family income remains below 185% of the FPIL.

The purpose of the amendments to §10.3462 is to change the eligibility categories to include AFDC clients in self-initiated education and training and former Child Protective Services clients and to remove the refugee program as a funding source for child care services.

The purpose of the amendments to §10.3414 is to clarify the procedure for Child Care Management Services (CCMS) contractors to apply for waivers from DHS to allow eligible families to receive child care funded through the Child Care and Development Block Grant (CCDBG).

Burton F. Raiford, interim commissioner, has determined that for the first five-year period the sections are in effect there will be no

fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that more families will be eligible for child care services. In addition, procedures for receiving CCDBG-funded child care will be clearer. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of this proposal may be directed to Mary Beth O'Hanlon at (512) 450-4169 in DHS's Client Self-Support Program Policy Section. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-340, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 44, which authorizes the department to administer public assistance and day care programs.

§10.3412. Availability of Purchased Child Care Services.

(a) (No change.)

(b) DHS purchases child care for children who are under age 13. Child care may be purchased for older children who are mentally or physically incapable of caring for themselves[.] **If the child:**

(1) is under age 18; or

(2) is age 18, regularly attends high school or high school-level training full time, and is expected to graduate before or during the month of his 19th birthday.

(c) (No change.)

§10.3413. Eligibility for Title IV-A Funded Child Care Services.

(a) (No change.)

(b) To be eligible for at-risk Title IV-A funded child care, a family must meet the following eligibility requirements:

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

(3) the family's total gross income must be equal to or less than 150% of the applicable, current federal poverty income guidelines (FPIL). **These families will continue to receive child care for one year after the family income exceeds 150% of the FPIL, provided the family income remains below 185% of the FPIL.**

§10.3414. Exceptions to Eligibility.

(a) The Child Care Management Services (CCMS) contractor grants eligibility exceptions to allow individual families to access services funded by Title XX Social Services Block Grant (SSBG), General Revenue (GR), and Child Care and Development Block Grant (CCDBG) funds when

funds are available and in the following situations:

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

(b) The CCMS contractor must apply for a waiver from DHS to allow families described in subsection (a)(1) and (2) of this section to receive child care paid from Title XX and CCDBG funds.

§10.3462. *Priority for Intake Services.* The Child Care Management Services (CCMS) contractor provides intake services to clients in the following eligibility categories according to the order of priorities indicated [listed in order of priority]:

(1) Child Protective Services (CPS)-General CPS (Priority 1);

(2) CPS-Aid to Families with Dependent Children (AFDC) foster care (Priority 2);

(3) CPS-State-paid Foster Care (Priority 3);

(4) Job Opportunities and Basic Skills Training (JOBS) participant (Priority 4) [-Title IV-A];

(5) Transitional Child Care (Priority 5) [-Title IV-A];

(6) AFDC recipient-non-JOBS (Priority 6);

(7) Supplemental Security Income recipient (Priority 7);

(8) AFDC Recipient-Approved Self-Initiated Education or Training in non-JOBS counties (Priority 8); [Refugee Cash Assistance recipient];

(9) Food Stamp Employment and Training participant (Priority 9);

(10) Food Stamp Recipient-Working (Priority 10);

(11) Income Eligible-Working-Not Before/After School (Priority 12);

(12)[(11)] Food Stamp recipient-Training (Priority 11) ;

[(12) Income Eligible-Working];

(13) Income Eligible-Training-Not Before/After School (Priority 13);

(14) Category Reserved for Future Use [Income Eligible-Refugee];

(15) Income Eligible Developmentally Delayed-Not Before/After School (Priority 15); [Teen Parents, and]

(16) Income Eligible Developmentally Delayed-Before/After School (Priority 15); [.]

(17) Former CPS-Not Before/After School (Priority 16);

(18) Former CPS-Before/After School (Priority 16);

(19) Income Eligible Teen Parents-Not Before/After School (Priority 14);

(20) Income Eligible Teen Parents-Before/After School (Priority 14);

(21) Income Eligible-Working-Before/After School (Priority 12); and

(22) Income Eligible-Training-Before/After School (Priority 13).

§10.3463. *Eligibility for Title XX Funded Child Care.*

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

(c) Clients in eligibility categories [priority groups] identified in §10.3462 (4), (5), (8), (9), (10), (12), [(11), (14),] (15), and (16) of this title (relating to Priority for Intake Services) receive Title XX funding only after the following funding sources for which they are eligible are depleted:

(1) Title IV-A (Job Opportunities and Basic Skills Training, Transitional Child Care, and at-risk Child Care);

(2) Title IV-A Approved Self-Initiated Education or Training in non-JOBS counties [Refugee Social Services];

(3)-(4) (No change.)

(d) Income eligible families served with Title XX funding will continue to receive child care for one year after the family income exceeds 150% of the federal poverty income level (FPIL), provided the family income remains below 185% of the FPIL.

§10.3464. *Eligibility for Child Care and Development Block Grant (CCDBG) Funded Child Care.* The Texas Department of Human Services (DHS) uses Child Care and Development Block Grant (CCDBG) funds to purchase child care for clients who meet the requirements stated for the following client groups:

(1) children in families whose family income is below 150% of the federal poverty income level (FPIL) and whose parents are either working or are in training or school. These children will continue to receive child care for one year after the family income exceeds 150% of the FPIL [federal poverty income level], provided the family income remains below 185% of the FPIL [federal poverty income level];

(2) children of teen parents whose family income is below 150% of the FPIL [federal poverty income level] and who need child care in order to complete high school or the equivalent, as specified in §10.3414 of this title (relating to Exceptions to Eligibility). These children will continue to receive child care for one year after the family income exceeds 150% of the FPIL, provided the family income remains below 185% of the FPIL;

(3) developmentally delayed children in families whose income is below 150% of the FPIL [federal poverty income level] and whose parents are working or are in training or school. DHS will reserve 10% of the CCDBG funds available for child care to purchase care for these children. The cost of children's [unpaid initial and] ongoing medical expenses [not covered by insurance] must be deducted from the family's income before determining the family's income eligibility status. These children will continue to receive child care for one year after the family income exceeds 150% of the FPIL, provided the family income remains below 185% of the FPIL;

(4) children receiving DHS-purchased child care as specified in §10.3416 of this title (relating to Child Care for Abused and Neglected Children). This group may receive CCDBG funded child care [without regard to income] for up to six months after they are no longer eligible to receive Title XX funded protective services child care. In order to receive CCDBG funded child care, the family income must be within 75% of the state median income. DHS child protective services (CPS) caseworkers or CPS in-home case management contractors must authorize child care for these clients. They must use the forms and procedures required by the DHS child care program.

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

Issued in Austin, Texas, on December 9, 1991.

TRD-9115396

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

Proposed date of adoption: February 17, 1992

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

◆ ◆ ◆
• 40 TAC §§10.3419, 10.3423,
10.3465

(Editor's Note: The Texas Department of Human Services proposes for permanent adoption the sections it adopts on an emergency basis in this issue. The text of the sections are in the Emergency Rules section of this issue.)

The Texas Department of Human Services (DHS) proposes amendments to §§10.3419, 10.3423, and 10.3465, concerning child care management services statewide implementation, in its Family Self-Support Services chapter. The purpose of the amendments is to extend JOBS child care services to AFDC recipients, in non-JOBS counties, who are participating in approved self-initiated education and training activities. The department is simultaneously adopting these amendments on an emergency basis, effective December 16, 1991, for 120 days.

Burton F. Raiford, chief financial officer, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections are in effect will be an estimated additional cost of \$106,557 in fiscal year (FY) 1992; \$187,797 in FY 1993; \$225,534 in FY 1994; \$266,414 in FY 1995; and \$315,201 in FY 1996.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be an extension of JOBS child care services to AFDC recipients in non-JOBS counties. There will be no

effect on small businesses as a result of enforcing or administering the sections. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of this proposal may be directed to Charlotte Brantley at (512) 450-4179 in DHS's Client Self-Support Program Policy Section. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-339, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22

and 44, which authorizes the department to administer public assistance and day care programs.

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

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

TRD-9115268

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

Proposed date of adoption: March 1, 1992

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



Withdrawn Sections

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

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules Certification

• 16 TAC §23.32

The Public Utility Commission of Texas has withdrawn from consideration for permanent adoption proposed new §23.32, which appeared in the September 27, 1991, issue of the *Texas Register* (16 TexReg 5307). The effective date of this withdrawal is November 22, 1991.

Issued in Austin, Texas, on November 22, 1991.

TRD-9115287

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

Effective date: November 22, 1991

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



TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 325. Solid Waste Management

Subchapter E. Permit Procedures and Design Criteria Application Review Process

• 25 TAC §325.93

The Texas Department of Health has withdrawn the emergency effectiveness of the amendment to §325.93, concerning solid waste management. The text of the emergency amendment appeared in the September 10, 1991, issue of the *Texas Register* (16 TexReg 4895). The effective date of this withdrawal is January 1, 1992.

Issued in Austin, Texas, on December 9, 1991.

TRD-9115409

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

Effective date: January 1, 1992

For further information, please call: 458-7271



Subchapter O. Guidelines for Regional and Local Solid Waste Management Plans

• 25 TAC §§325.561, 325.563, 325.567, 325.568

The Texas Department of Health has withdrawn the emergency effectiveness of the amendments to §§325.561, 325.563, 325.567, and 325.568, concerning Guidelines for Regional and Local Solid Waste Management Plans. The text of the emergency amendments appeared in the September 3, 1991, issue of the *Texas Register* (16 TexReg 4778). The effective date of this withdrawal is January 1, 1992.

Issued in Austin, Texas, on December 9, 1991.

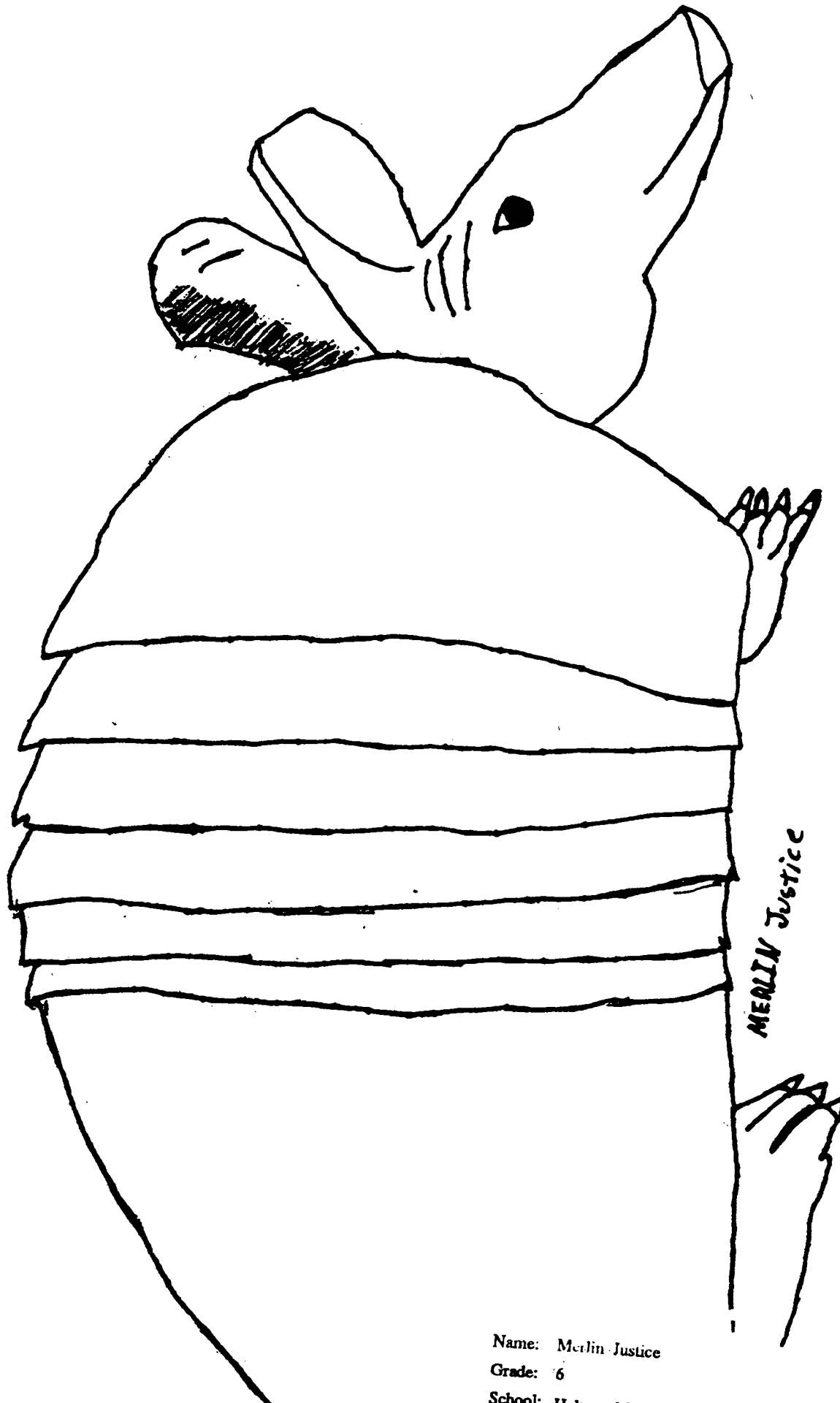
TRD-9115407

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

Effective date: January 1, 1992

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





MERLIN Justice

Name: Merlin Justice
Grade: 6
School: Haltom Middle School, Birdville 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 §251.1

The Advisory Commission on State Emergency Communications adopts an amendment to §251.1, without changes to the proposed text as published in the October 1, 1991, issue of the *Texas Register* (16 TexReg 5375).

In compliance with the Health and Safety Code, Chapter 771, the Advisory Commission on State Emergency Communications adopts §251.1 in order to establish minimum performance standards for equipment and operations on 9-1-1 service.

Health and Safety Code, Chapter 771 requires the commission to develop minimum performance standards for equipment and operations of 9-1-1 service which are to be followed in establishing a 9-1-1 regional plan as outlined in 771.055 of the statute. This rule defines the minimum standards for the Regional Councils of Government to use in the development of the 9-1-1 regional plans.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Health and Safety Code, Chapter 771, which provides the Advisory Commission on State Emergency Communications with the authority to administer the implementation of statewide 9-1-1 emergency telephone service.

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

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

TRD-9115295

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

Effective date: December 27, 1991

Proposal publication date: October 1, 1991

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

Chapter 255. Finance

• 1 TAC §255.1

The Advisory Commission on State Emergency Communications adopts an amendment to §255.1 without changes to the proposed text as published in the October 1, 1991, issue of the *Texas Register* (16 TexReg 5375).

The Advisory Commission on State Emergency Communications amends §255.1 (to establish the funding mechanism which allows for the planning and implementation of 9-1-1 emergency telephone systems) to properly cite legislative reference.

The section defines intrastate long-distance service, establishes the 9-1-1 surcharge rate, and the effective date of implementation and applicability. The section will assist with the implementation of the 9-1-1 emergency telephone number throughout the state and allow for faster access to police, fire and emergency medical services.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Health and Safety Code, Chapter 771, which provides the Advisory Commission on State Emergency Communications with the authority to administer the implementation of statewide 9-1-1 emergency telephone service.

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

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

TRD-9115296

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

Effective date: December 27, 1991

Proposal publication date: October 1, 1991

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

Part XIII. Texas Incentive and Productivity Commission

Chapter 273. State Employee Incentive Program

• 1 TAC §§273.1, 273.7, 273.9

The Texas Incentive and Productivity Commission (TIPC), adopts amendments to

§§273.1, 273.7, and 273.9, concerning the State Employee Incentive Program. Sections 273.1, and 273.7 are adopted with changes to the proposed text as published in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5023). Section 273.9 is adopted without changes and will not be republished.

The definition of "Act" was amended, and a definition of "Savings measurement account" was added in §273.1. Section 273.7 was amended to give agencies directions on the transfers involved in making awards. New language was added to §273.9(d) to provide an award eligibility period.

Changes not previously published are to §273.1 and §273.7(e). The definition of "Savings measurement account" was reworded in §273.1. Instructions on establishing a Savings Measurement Account were also reworded in §273.7(e). The changes were made to address concerns and comments submitted by the Texas Department of Transportation.

The Texas Department of Transportation submitted comments regarding the proposal. TIPC addressed the valid concerns and reworded language to clarify the definition of a savings measurement account from an accounting perspective and to allow agencies to choose whether to use one or multiple savings measurement accounts.

The amendments are adopted under Texas Civil Statutes, Article 6252-29a, §1, which authorize the Texas Incentive and Productivity Commission to promulgate rules for the State Employee Incentive Program.

§273.1. Definitions for the State Employee Incentive Program. The following words and terms, when used in this chapter, shall pertain only to the State Employee Incentive Program and shall have the following meanings, unless the context clearly indicates otherwise.

Act—Texas Civil Statutes, Article 6252-29a, Incentive and Productivity Act and the General Appropriations Act.

Savings measurement account—A cost center into which cash, in an amount equal to the projected savings/revenue resulting from approved employee suggestions, is transferred from the agency's other cost centers.

§273.7. Agency's Role.

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

(e) Establishment of savings measurement account. Upon implementation of an approved employee suggestion, an agency shall establish a savings measure-

ment account and transfer into this account the share of the projected net first-year savings/revenue attributable to the suggestion during that fiscal year. Savings/revenue attributable to implementation of subsequent approved employee suggestions may be transferred into the agency's initial savings measurement account or may be transferred into a newly established savings measurement account. If a new fiscal year begins prior to the agency's certification of savings, at the beginning of the fiscal year, the agency shall transfer into the savings measurement account(s) the share of the projected net savings/revenue attributable to the suggestions(s) during the new fiscal year. In the event that the certified savings/revenue amount differs from the balance in a savings/measurement account, the agency shall use the procedures outlined in the General Appropriations Act.

(f) Calculation and certification of net savings. Upon implementation of an approved suggestion, an agency shall track savings for one year in preparation for making the certification and funds transfers described in the Act, §2.002(f). The commission may certify a savings amount prior to the completion of a full implementation year if the suggestion involves a one-time savings or if the commission finds the agency's projected savings to be based on a reasonable and reliable method.

(g) Allocation of net annual savings. Net annual savings realized from employee suggestions adopted by a state agency must be allocated by the state agency as provided in the Act, §2.002(f), the General Appropriation Act, and Comptroller's Accounting Policy Statement Number 34.

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

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

TRD-9115211
M. Elaine Powell
Executive Director
Texas Incentive and
Productivity
Commission

Effective date: December 26, 1991

Proposal publication date: September 13, 1991

For further information, please call: (512) 475-2393

Chapter 275. Productivity Bonus Program

• 1 TAC §§275.1, 275.6, 275.13, 275.17

The Texas Incentive and Productivity Commission (TIPC), adopts new §275.6 and the amendments to §§275.1, 275.13, and 275.17, concerning the Productivity Bonus Program. Section 275.1 and new §275.6 are adopted

with changes to the proposed text as published in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5024). Amendments to §275.13 and §275.17 are adopted without changes and will not be published.

The definition of "Act" was amended, and a definition of "Savings measurement account" was added to §275.1. Section 275.6 was added to describe transfers to the savings measurement account. Section 275.13 was amended to include a reference to the savings measurement account. The bonus limit in §275.17 was lowered to \$1,000 to reflect statutory changes.

Changes not previously published are to §275.1 and §275.6. The definition "Savings measurement account" was reworded in §275.1. Instructions on establishing a savings measurement account were also reworded in §275.6. The changes were made to address concerns and comments submitted by the Texas Department of Transportation.

The Texas Department of Transportation submitted comments regarding the proposal. TIPC addressed the valid concerns and reworded language to clarify the definition of a savings measurement account from an accounting perspective and to allow agencies to choose whether to use one or multiple savings measurement accounts.

The new section and amendments are adopted under Texas Civil Statutes, Article 6252-29a, §1, which authorize the Texas Incentive and Productivity Commission to promulgate rules for its programs.

§275.1. Definitions for the Productivity Bonus Program. The following words and terms, when used in this chapter shall pertain only to the Productivity Bonus Program and shall have the following meanings, unless the context clearly indicates otherwise.

Act—Texas Civil Statutes, Article 6252-29a, Incentive and Productivity Act and the General Appropriations Act.

Savings measurement account—A cost center into which cash, in an amount equal to the projected savings resulting from approved productivity plans, is transferred from the agency's other cost centers.

§275.6. Establishment of a Savings Measurement Account. Upon implementation of an approved productivity plan, an agency shall establish a savings measurement account for that plan and transfer into this account the share of the projected net savings attributable to the plan during that fiscal year. Savings attributable to implementation of subsequent approved productivity plans may be transferred into the agency's initial savings measurement account, or may be transferred into a newly established savings measurement account.

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

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

TRD-9115212

M. Elaine Powell
Executive Director
Texas Incentive and
Productivity
Commission

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Proposal publication date: September 13, 1991

For further information, please call: (512) 475-2393

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 21. Practice and Procedure

Docketing and Notice

• 16 TAC §21.28

The Public Utility Commission of Texas adopts new §21.28, concerning notice of unclaimed funds, without changes to the proposed text as published in the June 28, 1991, issue of the *Texas Register* (16 TexReg 3572).

This section provides that the State Treasurer will be notified of proceedings, other than fuel refund proceedings, in which there may be a specific amount of money to be refunded to ratepayers who may need to be located.

The following submitted comments in response to the June 28, 1991, *Texas Register* publication: Houston Lighting & Power (HL&P) and Southwestern Public Service Company (SPS).

HL&P had no objection to the rule, but did suggest that the language be modified by deleting the words "who may need to be located".

HL&P believed that the language should be deleted because a determination would need to be made of whether refunds should be distributed to past or current customers before evidence was taken in order to provide notice to the State Treasurer. HL&P state that this threshold determination may be perceived as an ultimate finding of the commission that a refund must be made to past customers. HL&P argues that the initial determination for notice purposes may be confused by parties with ultimate commission finding on substantive issue of how refunds should be distributed.

The commission is satisfied that the rule is clear on its face and will not result in confusion by the parties. The rule clearly states that in situations in where there may be refunds to customers who may need to be located, that the Treasurer will be given notice. By the use of the word "may", the rule clearly contemplates that merely an initial determination will be made for notice purposes only. Furthermore, the Treasurer would have the greatest interest in proceedings where there exists the possibility of unclaimed funds. Circumstances in which the issue of unclaimed funds may arise would be in those proceedings in which there may be customers who may need to be located.

HL&P also expressed concern that the language should be deleted because an initial determination concerning whether customers may need to be located may unfairly limit the Treasurer's ability to participate in the proceedings. HL&P argues that the Treasurer's right participate in the proceedings would be eliminated if a determination was made that no customers needed to be located.

The commission believes that the rule in no way limits the Treasurer's ability to intervene in any proceeding in which the Treasurer has a justiciable interest. Like any other potential intervenor, the Treasurer may challenge and appeal any determination made concerning its right participate. Additionally, although the Treasurer may not receive direct notice, of all proceedings is published in the *Texas Register*.

Although Southwestern Public Service Company (SPS) shares the commission's concern to return funds to all eligible customers, SPS believes that the rule duplicates Texas escheat statutes and permits too easily the intervention of the Treasurer. SPS also requests that the rule allow exemption of not only fuel refund cases but also base revenue refund cases from the notification requirement.

The commission is unpersuaded by SPS's arguments. First, the commission believes that the rule provides yet another source from which customers who can not be located may be able to collect their money. The direct participation of the Treasurer guarantees that the customer's name is promptly added to the list of those citizens who have money collected in the Unclaimed Money Fund. Therefore, the State Treasurer's participation will make it more likely that the customer can be located.

Second, the rule does not allow for the automatic intervention of the State Treasurer. No new standard for intervention is contemplated by the rule. The rule merely states that in the proper situations, the Treasurer will be given notice and the opportunity to intervene. The Treasurer must meet the same requirements of intervention as any other party.

Finally, the commission does not believe exclusion of base revenue refunds from the notice requirements would be in the public interest. Although the commission's substantive rules have a special mechanism for returning fuel over collections, no such provision exists for base revenue funds. Furthermore, in electric proceedings, base revenue refunds encompass all refunds situations other than fuel refund cases. If the commission were to exempt base revenue refunds from the notice requirements, then all electric proceedings would be effectively exempted from the rule. The commission perceives a need to give the State Treasurer an opportunity to intervene in order to grant extra protection to those rate payers that cannot be identified. To exclude all electric proceedings from the notice rule would run contrary to the commission's intent.

The new section adopted under Texas Civil Statute, Article 1446c, §16(a), which provide the Public Utility Commission of Texas with the authority to make and enforce the rules reasonably required in the exercise of its powers and jurisdiction.

This agency hereby certifies that the rule as

adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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

TRD-9115358

Mary Ross McDonald
Secretary
Public Utility Commission

Effective date: December 27, 1991

Proposal publication date: June 28, 1991

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

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 75. Curriculum

Subchapter D. Essential Elements-Grade Nine-12

• 19 TAC §§75.61-75.65, 75.67-75.70, 75.85

The Texas Education Agency adopts amendments §§75.61-75.65, 75.67-75.70, and 75.85. The amendments to §§75.61, 75.63, 75.65, and 75.85 are adopted with changes to the proposed text as published in the October 11, 1991, issue of the *Texas Register* (16 TexReg 5645). The amendments to §§75.62, 75.64, and 75.67-75.70 are adopted without changes and will not be republished. The sections are being amended as a result of the five-year curriculum review process, preliminary discussions with the State Board of Education, and changes in content that were included in Proclamations 68, 1991, and 1992.

Justification for the amendment will be the revision of curriculum essential elements to reflect content changes made in Textbook Proclamations 68, 1991, and 1992.

The amendment will function by allowing school districts sufficient time to update curriculum guides and materials and to plan staff development programs for implementing new textbooks based on the reviewed essential elements, assist publishers in developing teacher editions with references to the revised essential elements, and assist textbooks reviewers in reviewing coverage of the revised essential elements in the textbooks.

Comments were received regarding adoption of the amendments from the State Board of Education. The board directed the agency to implement the following changes as a result of these comments. Section 75.61(ss)(5)(C) has been changed for editorial clarification. Section 75.63(cc)(4)(F) has been changed to eliminate functions defined by integrals. Section 75.63(p) has been changed to correct the incorrect cross-reference to subsection (ee). Section 75.65(c)(1)(B) has been changed to add additional emphasis on discussing the relevance of the grief process in health education. Section 75.65(c)(D)(i) and (iv) have been changed editorially and to add the concept of prevention to the study of diseases. Section 75.65(c)(1)(F)(iv) has been changed to emphasize the evaluation of both positive and negative methods of weight control. Sec-

tion 75.65(c)(2)(B)(i) and (ii) were changed to eliminate the specificity on the study of the adolescent and geriatric populations and editorially to specify the Human Immunodeficiency Virus (HIV) as a disease. Section 75.65(c)(2)(F) has been changed editorially. Section 75.65(c)(3)(C) has been changed to add "schools" to the entities whose roles are examined in health education. Section 75.65(c)(3)(D) has been changed to correct a typographical error in the word "medial." Section 75.85(a)(1)(A) has been changed to return to the previous term of "demonstrate" skills, characteristics, and responsibilities of leaders and effective group members. Section 75.85(f)(8) was changed editorially for clarification.

The amendments are adopted under §21.101, which provides the State Board of Education with the authority to adopt rules designating the essential elements for a well-balanced curriculum for state school districts.

§75.61. English Language Arts.

(a) English I (one unit). Essential elements described in this subsection for English I shall be superseded by the essential elements described in subsection (gg) of this section effective September 1992. English I shall include the following essential elements.

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

(b) English II (one unit). Essential elements described in this subsection for English II shall be superseded by the essential elements described in subsection (hh) of this section effective September 1992. English II shall include the following essential elements.

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

(c) English III (one unit). Essential elements described in this subsection for English III shall be superseded by the essential elements described in subsection (ii) of this section effective September 1992. English III shall include the following essential elements.

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

(d) English IV (one unit). Essential elements described in this subsection for English IV shall be superseded by the essential elements described in subsection (jj) of this section effective September 1992. English IV shall include the following essential elements.

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

(e) (No change.)

(f) Correlated Language Arts I (one unit). Essential elements described in this subsection for Correlated Language Arts I shall be superseded by the essential elements described in subsection (kk) of this section effective September 1992. Correlated Language Arts I shall include the following essential elements.

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

(g) Correlated Language Arts II (one unit). Essential elements described in this subsection for Correlated Language Arts II shall be superseded by the essential elements described in subsection (ll) of this section effective September 1992. Correlated Language Arts II shall include the following essential elements.

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

(h) Correlated Language Arts III (one unit). Essential elements described in this subsection for Correlated Language Arts III shall be superseded by the essential elements described in subsection (mm) of this section effective September 1992. Correlated Language Arts III shall include the following essential elements.

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

(i) Correlated Language Arts IV (one unit). Essential elements described in this subsection for Correlated Language Arts IV shall be superseded by the essential elements described in subsection (nn) of this section effective September 1992. Correlated Language Arts IV shall include the following essential elements.

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

(j) English for Speakers of Other Languages I, II, III (1/2-one unit). The essential elements and the course title described in this subsection for English for Speakers of Other Languages I, II, III shall be superseded by the essential elements and the course title described in subsection (tt) of this section effective September 1992. English for Speakers of Other Languages I, II, III shall include the following essential elements.

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

(k) Reading Improvement I, II, III (1/2-one unit). Reading Improvement I, II, III shall include the following essential elements.

(1) Determine the meaning of words in oral and written communication. The student shall be provided opportunities to:

(A) develop strategies to decode written language in connected text including structural analysis and contextual clues;

(B) develop strategies to use dictionaries and thesauruses to analyze and produce meaningful communication; and

(C) develop strategies to expand vocabulary, including the use of content area vocabulary and multimeaning words.

(2) Construct implicit and explicit meaning from oral and written communication, including student writing. The student shall be provided opportunities to:

(A) develop and expand language through wide reading;

(B) develop and expand language by listening to text read aloud;

(C) develop and activate background knowledge central to the text;

(D) integrate new information with background knowledge to increase reading and listening comprehension; and

(E) use oral and written composing processes.

(3) Apply listening, speaking, reading, and writing strategies to a variety of purposeful language situations. The student shall be provided opportunities to:

(A) develop fluency through wide reading at an independent level on a daily basis;

(B) develop fluency in writing by writing for a variety of purposes including journal entries, writing in response to written text, writing to summarize, etc., on a daily basis;

(C) experience success in reading, writing, listening, and speaking in order to develop positive attitudes about the language arts;

(D) set an appropriate purpose for reading and/or listening prior to engaging in reading and/or listening activities;

(E) predict, confirm predictions about text, and/or reread to modify predictions;

(F) understand events in sequential order, determine the main ideas and supporting details, predict probable future outcomes or actions, distinguish between fact and nonfact, recognize points of view, recognize forms of propaganda, make inferences and draw conclusions, perceive cause and effect relationships, summarize written text, and evaluate and make judgments and generalizations based on an analysis of information provided in the text by producing oral and written texts;

(G) respond to text or to a speaker by writing to extend ideas;

(H) read flexibly by adjusting reading rate according to purpose including reading for pleasure, reading for information, and reading to monitor understanding of text; and

(I) read text presented or formatted in a variety of ways including interpreting graphic sources and life skills materials, following complex written directions, and using reader aids such as bold faced headings and italics.

(4) Apply a variety of study strategies to practical situations including materials and assignments from other classes in which students are enrolled. The student shall be provided opportunities to:

(A) use library resources;

(B) develop strategies for note taking in a variety of contexts;

(C) use a variety of study techniques including skimming, scanning, surveying, and reviewing;

(D) use a variety of strategies for time management and organization of materials; and

(E) develop strategies for test taking in a variety of contexts.

(l)-(t) (No change.)

(u) Introduction to speech communication (1/2-one unit). Essential elements described in this subsection for introduction to speech communication shall be superseded by the essential elements described in subsection (qq) of this section effective September 1994. Introduction to speech communication shall include the following essential elements.

(1)-(7) (No change.)

(v)-(w) (No change.)

(x) Debate I, II, III (1/2-one unit). Essential elements described in this subsection for Debate I, II, III shall be superseded by the essential elements described in subsection (rr) of this section effective September 1995. Debate I, II, III shall provide a program that includes the following essential elements.

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

(y) Public Speaking I, II, III (1/2-one unit). Essential elements described in this subsection for Public Speaking I, II, III shall be superseded by the essential elements described in subsection (ss) of this section effective September 1995. Public Speaking I, II, III shall provide a program that includes the following essential elements.

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

(z) (No change.)

(aa) Journalism (1/2-one unit). Essential elements described in this subsection for journalism shall be superseded by the

essential elements described in subsection (oo) of this section effective September 1993. Journalism shall include the following essential elements.

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

(bb)-(cc) (No change.)

(dd) Photojournalism (1/2-one unit). Essential elements described in this subsection for photojournalism shall be superseded by the essential elements described in subsection (pp) of this section effective September 1993. Photojournalism shall include the following essential elements.

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

(ee)-(nn) (No change.)

(oo) Journalism (1/2-one unit). Essential elements for journalism as described in this subsection shall be effective September 1993. Journalism shall include the following essential elements.

(1) Basic features of journalism. The student shall be provided opportunities to:

(A) identify significant persons and events in the history of journalism of the United States;

(B) define the responsibility of the media to the audience; and

(C) distinguish fact from opinion.

(2) Journalistic writing. The student shall be provided opportunities to:

(A) differentiate among and write straight, interpretive, and feature news stories, including effective leads;

(B) understand the elements of news;

(C) use inverted pyramid form;

(D) use journalistic style;

(E) gather information through interviews and incorporate direct and indirect quotes; and

(F) write captions.

(3) Editing. The student shall be provided opportunities to:

(A) recall and employ the rules of writing headlines;

(B) recall and employ the rules of style;

(C) edit copy using appropriate copyreading and proofreading symbols;

(D) demonstrate the ability to apply the rules of standard usage; and

(E) rewrite copy.

(4) Specialized writing. The student shall be provided opportunities to:

(A) analyze policies;

(B) write an editorial;

(C) write a column;

(D) write a review; and

(E) write a feature.

(5) Layout. The student shall be provided opportunities to:

(A) describe the characteristics of front, news, editorial, feature, and sports pages and distinguish among them;

(B) describe the characteristics of yearbook layouts by section and distinguish among them;

(C) explain the significance of placement;

(D) demonstrate the relationship among the elements of design;

(E) identify size, contrast, and variety of type;

(F) select, crop, and scale photographs;

(G) paste up a layout;

(H) proofread a layout; and

(I) recognize good, usable photos and demonstrate proficiency in cropping the photos to fit the overall page plan.

(6) Advertising. The student shall be provided opportunities to:

(A) study trends in advertising;

(B) design an advertisement;

(C) explain the purpose of advertisements;

(D) analyze economic costs of a publication; and

(E) differentiate between advertising appeals and propaganda.

(pp) Photojournalism (1/2-one unit). Essential elements for photojournalism as described in this subsection shall be effective September 1993. Photojournalism shall include the following essential elements.

(1) Photography for journalistic purposes. The student shall be provided opportunities to:

(A) plan photographs in relation to assignments from an editor;

(B) illustrate news events with appropriate photos and captions; and

(C) plan photo layout.

(2) Camera. The student shall be provided opportunities to:

(A) operate a 35mm single-lens reflex camera with a variety of lenses;

(B) operate a flash;

(C) read a light meter;

(D) illustrate news events with appropriate photos;

(E) demonstrate knowledge of ASA, aperture, and shutter; and

(F) understand available light, depth of field, and the rule of thirds.

(3) Film processing. The student shall be provided opportunities to:

(A) process film;

(B) print photos;

(C) understand developing chemistry;

(D) understand printing chemistry; and

(E) understand darkroom equipment.

(4) Composition. The student shall be provided opportunities to:

(A) apply principles of balance and contrast;

- (B) crop and scale photos;
- (C) lay out articles with photos; and
- (D) write captions.

(5) Photo editing. The student shall be provided opportunities to:

- (A) set up an assignment system;
- (B) meet deadlines;
- (C) set up a system of keeping track of negatives and contact sheets; and
- (D) evaluate photographs for technical quality and composition.

(qq) Speech communication (1/2-one unit). Essential elements for speech communication as described in this subsection shall be effective September 1994. Speech communication shall include the following essential elements.

(1) Communication as process. The student shall be provided opportunities to:

- (A) demonstrate awareness of the importance of communication in daily interaction;
- (B) demonstrate an understanding of the components of the communication process and their interrelationships;
- (C) demonstrate understanding of the components of the listening process and their interrelatedness;
- (D) demonstrate understanding of the basic principles of communication as a basis for effective interaction; and
- (E) describe the ethical and social responsibilities of a communicator.

(2) Communication in interpersonal interaction. The student shall be provided opportunities to:

- (A) demonstrate competence in using appropriate language skills in a variety of interpersonal situations;
- (B) demonstrate competence in using appropriate nonverbal behaviors in a variety of interpersonal situations;

(C) demonstrate competence in reflective and empathic listening in a variety of interpersonal situations;

(D) develop proficiency in assessing and using information, value judgments, and logical thinking processes for managing conflict, solving problems, and making decisions in a variety of social, academic, or occupational situations; and

(E) demonstrate understanding of interpersonal interaction through evaluation of the interpersonal skills of self and others.

(3) Communication in groups. The student shall be provided opportunities to:

- (A) demonstrate an awareness of the importance of groups in democratic process;
- (B) analyze the purposes and functions of a variety of informal and formal groups;
- (C) analyze the roles of group members or participants in a variety of informal and formal groups;
- (D) demonstrate competence in the use of verbal and nonverbal skills in groups;
- (E) demonstrate competence in problem solving and decision making in group process;
- (F) demonstrate effective use of parliamentary procedure in legislative group settings; and
- (G) demonstrate competence in evaluating group effectiveness.

(4) Communication in public-speech preparation. The student shall be provided opportunities to:

- (A) demonstrate competence in choosing and limiting topics for speeches;
- (B) demonstrate competence in choosing specific purposes for the speech from among informing, persuading, or promoting social cohesion;
- (C) demonstrate competence in using effective research skills to gather information and support data for speeches;
- (D) demonstrate competence in organizing and outlining speeches

through appropriate use of logical patterns of organization to support the topic and purpose;

(E) demonstrate competence in using logical, ethical, and emotional proofs and appeals for support and clarification of ideas;

(F) demonstrate competence in composing effective introductions, transitions, and conclusions for speeches; and

(G) demonstrate competence in writing manuscripts for speeches in manuscript or memorized presentations and/or organizing notes for extemporaneous speeches.

(5) Communication in public-speech presentation. The student shall be provided opportunities to:

- (A) demonstrate competence in using effective rehearsal strategies to overcome communication apprehension, build self-confidence, enhance the sense of purpose, and allow revision of speech choices;
- (B) demonstrate competence in using a variety of methods for delivering speeches;
- (C) demonstrate effective verbal skills and language choices in presenting speeches;
- (D) demonstrate effective use of voice and diction in presenting speeches; and
- (E) demonstrate effective use of posture, movement, gesture, facial expression, and eye contact in presenting speeches.

(6) Communication in public-speech evaluation. The student shall be provided opportunities to:

- (A) demonstrate competence in critical listening by analyzing and evaluating class, public, or media presentations of speeches;
- (B) demonstrate competence in analyzing and evaluating written speech models; and
- (C) demonstrate competence in presenting and justifying written and oral evaluations of speeches.

(rr) Debate I, II, III (1/2-one unit). Essential elements for Debate I, II, III as described in this subsection shall be effective September 1995. Debate I, II, III shall

provide a program that includes the following essential elements.

(1) Skills of analysis. The student shall be provided opportunities to:

(A) demonstrate competence in distinguishing among propositions of fact, value, and policy;

(B) demonstrate skills in analyzing and interpreting various propositions;

(C) demonstrate skills in identifying issues within a given proposition and their implications for case development; and

(D) demonstrate skills in evaluating propositions and related issues presented by classmates or by political, religious, or social advocates in the public arena.

(2) Logical and critical thinking. The student shall be provided opportunities to:

(A) demonstrate skills in distinguishing among and utilizing various forms of logical and critical thinking; and

(B) demonstrate skills in evaluating the logical and critical thinking of self and others through the identification of fallacies and the application of criteria specific to any form of reasoning.

(3) Research skills. The student shall be provided opportunities to:

(A) demonstrate skills in effective use of a wide variety of primary and secondary sources;

(B) demonstrate understanding of types of proof appropriate for debate;

(C) demonstrate competence in source citation and note-taking techniques; and

(D) demonstrate use of ethical guidelines for debate research and use of evidence in debate.

(4) Debate formats. The student shall be provided opportunities to:

(A) demonstrate understanding of the distinctive characteristics of a variety of debate formats; and

(B) demonstrate competence in the use of cross-question techniques.

(5) Case construction skills for propositions of value. The student shall be provided opportunities to:

(A) demonstrate understanding of the strategies for case construction and argumentation in Lincoln-Douglas debate;

(B) demonstrate understanding of universal values which underlie the issues inherent within a given proposition of value;

(C) demonstrate competence in applying universal values in the analysis of a given proposition of value;

(D) demonstrate competence in developing and supporting a line of affirmative argumentation relative to the appropriate universal value which would cause the audience to accept the proposition; and

(E) demonstrate competence in developing and supporting a line of negative argumentation relative to the universal value which would cause the audience to reject the proposition.

(6) Case construction skills for propositions of policy. The student shall be provided opportunities to:

(A) demonstrate understanding of the strategies for case construction and argumentation in standard and/or cross-examination debate;

(B) demonstrate understanding of the affirmative responsibilities and options in case construction;

(C) demonstrate understanding of the negative responsibilities and options in case construction;

(D) demonstrate skills in selecting the most viable approach to an affirmative case from a variety of approaches for a given proposition;

(E) demonstrate skills in selecting the most viable negative approaches to a given proposition from a variety of negative approaches; and

(F) demonstrate skills in constructing briefs.

(7) Presentation skills. The student shall be provided opportunities to:

(A) demonstrate effective use of verbal skills for speech presentation;

(B) demonstrate effective use of nonverbal skills for speech presentation;

(C) demonstrate effective communication skills in the presentation of speeches appropriate for the audience and debate format; and

(D) demonstrate appropriate extension of ethics and courtesy to the opponent(s) and the audience.

(8) Refutation skills. The student shall be provided opportunities to:

(A) demonstrate skills in the oral and/or written evaluation of arguments;

(B) demonstrate skills in listening to and flowing arguments in a debate;

(C) demonstrate effective refutation of arguments within the given debate format; and

(D) demonstrate the ability to extend cross-questioning into formal refutation.

(9) Evaluation skills. The student shall be provided opportunities to:

(A) demonstrate skills in evaluating case construction, refutation, and presentation of debate by classmates, public figures, and self; and

(B) demonstrate skill in presenting written and/or oral critiques of debates.

(ss) Public Speaking I, II, III (1/2-one unit). Essential elements for Public Speaking I, II, III as described in this subsection shall be effective September 1995. Public Speaking I, II, III shall provide a program that includes the following essential elements.

(1) A rhetorical perspective. The student shall be provided opportunities to:

(A) demonstrate awareness of the role of classical rhetoric in shaping Western thought;

(B) demonstrate awareness of the roles of the classical canons of invention, organization, style, memory, and delivery in public speaking;

(C) demonstrate awareness of the impact of modern public address in swaying public opinion and bringing about change;

(D) demonstrate understanding of the concept of freedom of speech and the ethical responsibilities of the communicator in a democracy; and

(E) analyze outstanding models for public speeches throughout history.

(2) Speech form. The student shall be provided opportunities to:

(A) demonstrate understanding of the critical attributes of a speech given for informing;

(B) demonstrate understanding of the critical attributes of a variety of speeches given for the purpose of persuading, such as speeches to advance propositions of fact, value, problem, and policy; and

(C) demonstrate understanding of the critical attributes of speeches given for special occasions such as after-dinner speeches, graduation speeches, acceptance speeches, inaugural addresses, eulogies, and/or keynote speeches.

(3) Planning a speech. The student shall be provided opportunities to:

(A) demonstrate use of effective criteria for selecting and limiting topics for speeches;

(B) demonstrate use of effective criteria for selecting purposes for speeches;

(C) demonstrate proficiency in conducting research through the use of a variety of primary and secondary sources; and

(D) demonstrate proficiency in evaluating speakers' choices of topics, purposes, and supporting data through the analysis of written and oral models of contemporary speeches.

(4) Organizing a speech. The students shall be given opportunities to:

(A) demonstrate proficiency in choosing an appropriate pattern of organization to support the chosen topic and purpose of a speech;

(B) demonstrate proficiency in preparing an outline consisting of an introduction, transitions, body, and a conclusion reflecting the chosen pattern of organization; and

(C) evaluate the organization of speeches through the analysis of written and oral models of contemporary speeches.

(5) Using supporting and amplifying devices. The students shall be given opportunities to:

(A) demonstrate proficiency in the use of ethical criteria for choosing supporting and amplifying devices and emotional and value appeals;

(B) demonstrate proficiency in choosing proofs which meet standard tests of evidence;

(C) demonstrate proficiency in choosing logical, ethical, emotional, and value proofs and appeals that enhance the speaker's topic, purpose, and tone;

(D) demonstrate proficiency in the selection of appropriate devices for introductions and conclusions; and

(E) evaluate speakers' choices of supporting and amplifying devices through the analysis of written and oral models of contemporary speeches.

(6) Writing a speech. The student shall be provided opportunities to:

(A) demonstrate proficiency in choosing appropriate language strategies to achieve clarity, force, and aesthetic effect and to enhance the subject, purpose, appeal, and tone of the speech;

(B) demonstrate proficiency in the use of appropriate rhetorical and stylistic devices; and

(C) evaluate speakers' choices of language strategies, rhetorical devices, and stylistic devices through the analysis of written and oral models of contemporary speeches.

(7) Rehearsing and presenting a speech. The student shall be provided opportunities to:

(A) demonstrate proficiency in using effective rehearsal strategies to reduce communication apprehension, develop self-confidence, and facilitate command of information and ideas;

(B) demonstrate proficiency in using effective rehearsal strategies to accommodate a variety of types of delivery;

(C) demonstrate proficiency in using effective rehearsal strategies to develop effective verbal, vocal, and physical skills for delivering speeches;

(D) demonstrate proficiency in using effective rehearsal strategies to

promote the effective use of notes, manuscripts, podium, microphone, visual aids, and/or electronic devices;

(E) demonstrate proficiency in making original speeches which indicate the use of effective choices of topic and purpose, appropriate organization, effective use of proofs and appeals, effective language choices, and skills gained in rehearsal;

(F) demonstrate proficiency in communicating a clear sense of purpose and maintaining a lively sense of interaction with an audience; and

(G) participate in cooperative activities with classmates to build and enhance presentation skills.

(8) Evaluating a speech. The student shall be provided opportunities to:

(A) demonstrate proficiency in critical listening by presenting an oral and/or written analysis of oral presentations heard in class, in public, or through the use of audio or video recordings or film; and

(B) demonstrate proficiency in rhetorical analysis through oral and/or written critiques of written models of public speeches.

(t) English as a Second Language I, II, III, grades 9-12, (1/2-one unit). Essential elements for English as a Second Language I, II, III as described in this subsection shall be effective September 1992. English as a Second Language I, II, III shall include the following essential elements which include recursive processes as well as products within integrated strands. The student shall develop an awareness of similarities and differences between first language and English.

(1) Integrated listening and speaking behaviors to receive and produce meaning. The student shall be presented opportunities to:

(A) listen attentively in different settings for a variety of purposes:

(i) focus attention on and listen to both adult and peer speakers during large and small group interactions;

(ii) listen to receive direction, gain information, and enhance appreciation of language in a variety of situations including content area (e.g., mathematics, science, social studies);

(iii) respond to a speaker by retelling what was heard, by asking questions, and/or by contributing information; and

(iv) analyze and evaluate the intent and content of the speaker's message;

(B) speak fluently in different settings for a variety of purposes and audiences:

(i) speak clearly and at an appropriate rate;

(ii) use a variety of words to convey meaning;

(iii) express personal ideas, feelings, and experiences;

(iv) entertain others with stories, poems, and dramatic activities;

(v) give directions;

(vi) share information;

(vii) persuade others using language appropriate to the listener; and

(viii) develop skill in using the conventions of English to produce effective oral communication.

(2) Integrated writing and language concepts and skills, using written and oral composing processes to plan and generate both oral and written compositions for a variety of purposes and in a variety of modes. The student shall be provided opportunities to:

(A) prewrite and plan for specific purposes and modes, using material from sources such as personal experience and literature and using idea-generating strategies including conferencing where appropriate;

(B) draft compositions for specific audiences and purposes in a variety of modes:

(i) write for expressive, informative, persuasive, and literary purposes;

(ii) use narrative, descriptive, classificatory, and evaluative modes; and

(iii) write paragraphs, multi-paragraph compositions, and compositions incorporating information from sources other than personal experience;

(C) revise compositions using self-assessment, peer interaction, conferences, and individualized techniques:

(i) evaluate content, organization, topic development, appropriate transition, clarity of language, and appropriate word and sentence variety according to the purpose and audience for which the piece is intended; and

(ii) proofread written work for effective use of parts of speech; conventional usage and syntax; conven-

tional punctuation, capitalization, spelling, and manuscript form as well as legibility;

(D) choose appropriate words to convey intended meaning while recognizing the meanings and uses of colloquialism, slang, idiom, and jargon;

(E) share products of written composition in a variety of ways; and

(F) apply language concepts and skills in the context of oral composition.

(3) Integrated literature and reading concepts and skills. Using meaningful, culturally valuable pieces of literature, the student shall be provided opportunities to:

(A) understand and analyze the major differences among poems, short stories, plays, and nonfiction as the characteristics of each genre contribute to the meaning of the individual work;

(B) understand and analyze the basic sound devices and figurative language as they contribute to meaning;

(C) recognize cultural attitudes and customs in literary selections;

(D) broaden and deepen experience through imaginative and emotional engagement with literature;

(E) understand and analyze the elements of fiction as they contribute to meaning;

(F) participate in cooperative learning and a variety of oral activities to elicit meaning from literature;

(G) expand vocabulary through determining word meanings by context clues and using specialized dictionaries for determining meaning;

(H) use comprehension skills in oral and written context:

(i) identify the stated or implied main idea of a selection;

(ii) recognize relevant details;

(iii) identify the sequential order of events;

(iv) perceive cause and effect relationships;

(v) distinguish between fact and nonfact;

(vi) draw conclusions and make inferences (e.g., in determining characterization and theme); and

(vii) predict outcomes and future actions (e.g., in anticipating plot sequence);

(L) develop study skills:

(i) locate information using the format and organization of a book and appropriate reference material such as the dictionary, encyclopedia, almanac, and bibliographies; and

(ii) vary rate of reading according to purpose.

(4) Culture. Learning concepts that result in knowledge and awareness of the history and culture of another people with a range of situations. The student shall be provided opportunities to:

(A) learn the behaviors of the school culture;

(B) recognize and respect differences in behavior and expressions of other cultures;

(C) value one's own culture and heritage; and

(D) develop awareness of the relationships between language and culture.

§75.63. Mathematics.

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

(c) Pre-algebra (one unit). Essential elements described in this subsection for pre-algebra shall be superseded by the essential elements described in subsection (y) of this section effective September 1992. Pre-algebra shall include the following essential elements.

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

(d) Informal geometry (one unit). Essential elements described in this subsection for informal geometry shall be superseded by the essential elements described in subsection (w) of this section effective September 1992. Informal geometry shall include the following essential elements.

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

(e) Algebra I (one unit). Algebra I shall include the following essential elements.

(1) Comparison of the real number system and its various subsystems in terms of structural characteristics including operations. The student shall be provided opportunities to:

(A) classify real numbers as members of the appropriate subset of real numbers;

(B) identify and use properties of the real numbers;

(C) investigate the density property of real numbers: that between every two real numbers there exists another real number;

(D) investigate the order of operations;

(E) evaluate monomials with integral exponents; and

(F) compare algebraic and geometric definitions of absolute value.

(2) Algebraic representation, solution, and evaluation of problem situations. The student shall be provided opportunities to:

(A) write and evaluate linear expressions from verbal descriptions;

(B) use the properties of equality or models to explain and justify the equation-solving process;

(C) determine the solution to problem situations by writing and solving linear one-variable equations and inequalities;

(D) make a convincing informal argument, orally or in writing, justifying the solution to a problem situation;

(E) solve literal equations for a specified linear variable;

(F) solve systems of equations using linear combinations and substitution as appropriate;

(G) use systems of equations in applications and problem-solving situations; and

(H) solve absolute value equations and inequalities.

(3) Graphing as a tool to interpret linear relations, functions, and inequalities. The student shall be provided opportunities to:

(A) investigate and compare the properties of relations and functions;

(B) describe the domains and ranges of various functions and relations;

(C) identify the relationships among a linear equation, a set of ordered

pairs of numbers, and a set of points on a coordinate plane;

(D) explore the concepts of slope and intercept by changing the parameters of a linear equation;

(E) graph a line given characteristics such as two points, one point and slope, table, etc.;

(F) graph a line from its equation in point-slope, general, slope-intercept, or nonstandard forms;

(G) design a statistical experiment to study a problem, recording the results using techniques such as scatter plots, and communicating the outcomes;

(H) write an equation of a line given its graph or description;

(I) use linear equations as models of real-world problem situations;

(J) make predictions from scatter plots that fit linear models;

(K) solve systems of linear equations;

(L) graph linear inequalities with two variables;

(M) graph systems of inequalities; and

(N) explore the relationship between the graph of an absolute value function such as $y = |AX + B| + C$ and the parameters A, B, and C, using computer graphing techniques.

(4) Quadratic equations. The student shall be provided opportunities to:

(A) evaluate quadratic functions for one and for many values of the variable, using a computer or calculator where appropriate;

(B) explore the effects of simple parameter changes on the graphs of quadratic relations, using computer graphing techniques where appropriate;

(C) obtain decimal approximations for the solutions of quadratic equations, using the quadratic formula and a calculator; and

(D) use quadratic equations to make predictions in problem situations.

(5) Polynomials. The student shall be provided opportunities to:

(A) use the definition of polynomial to distinguish between expressions that are polynomials and expressions that are not;

(B) classify polynomials by degree and number of terms;

(C) add, subtract, multiply, and divide polynomials, using concrete models where appropriate;

(D) apply the laws of exponents to include zero and negative integral exponents; and

(E) factor simple polynomials using concrete models where appropriate.

(6) Rational expressions. The student shall be provided opportunities to:

(A) evaluate rational expressions, avoiding division by zero;

(B) apply operations on simple rational expressions (linear or monomial numerators and denominators only);

(C) solve rational equations with linear numerators and denominators;

(D) solve problem situations using ratio and proportion;

(E) use the definition of probability as a ratio of numbers of outcomes to solve problems involving uncertainty;

(F) apply the concept of dimensional analysis (carrying units throughout a computation) in problem situations, to determine appropriate units for denominate numbers; and

(G) perform operations on numbers in scientific notation, both mentally and by calculator, and use these numbers in problem situations.

(7) Properties of and operations with square roots. The student shall be provided opportunities to:

(A) use the calculator to approximate numeric radical expressions involving square roots;

(B) simplify algebraic radical expressions involving square roots;

(C) add, subtract, multiply, and divide numeric and algebraic radical expressions involving square roots;

(D) solve simple radical equations involving square roots; and

(E) use the Pythagorean Theorem in problem situations.

(f) Algebra II (one unit). Algebra II shall include the following essential elements:

(1) Development of mathematical structure. The student shall be provided opportunities to:

(A) compare and contrast the real number system and its various subsystems in terms of structural characteristics;

(B) investigate examples and nonexamples of fields using the real number system and its various finite and infinite subsystems; and

(C) develop the complex number system and its operations.

(2) Quadratic functions. The student shall be provided opportunities to:

(A) solve quadratic equations by completing the square;

(B) develop and apply the quadratic formula;

(C) find a quadratic equation given its roots;

(D) explore the effects of simple parameter changes on the graph of a quadratic function, using computer graphing techniques where appropriate;

(E) use characteristics of a quadratic function to sketch the related curve;

(F) determine the equation of quadratic functions from their graphs; and

(G) use quadratic functions as models in real-world problem situations.

(3) Quadratic relations. The student shall be provided opportunities to:

(A) explore the graphs of algebraic representations of conic sections and make generalizations that allow classification of these algebraic representations as circles, ellipses, hyperbolas, or parabolas, using calculators or computers where appropriate;

(B) verify graphs of conic sections using computer graphing techniques where appropriate;

(C) use characteristics of conic sections to sketch the related curves;

(D) determine equations of conic sections from their graphs; and

(E) use quadratic relations as models in real-world problem situations.

(4) Systems of equations. The student shall be provided opportunities to:

(A) use the linear combination (addition-subtraction) method to solve systems of three linear equations in three variables;

(B) use augmented matrices by hand or by computer to solve two- or three-variable linear systems;

(C) apply linear programming techniques to model and solve real-world situations, using the computer or calculator, where appropriate; and

(D) solve quadratic-quadratic and quadratic-linear systems, and confirm the solution by computer graphing techniques.

(5) Numerical methods and higher degree polynomials. The student shall be provided opportunities to:

(A) use successive approximations on the calculator or computer to solve higher degree equations;

(B) apply synthetic substitution to find functional values of higher degree polynomials;

(C) use the Fundamental Theorem of Algebra and the Factor Theorem to factor higher degree polynomials;

(D) graph higher degree polynomial functions using computer graphing techniques;

(E) solve higher degree polynomial equations using computer graphing techniques; and

(F) use an iterative process (algebraic or geometric) to approximate irrational roots of higher degree functions.

(6) Exponential and logarithmic functions. The student shall be provided opportunities to:

(A) investigate the concept of n th root and convert between exponential and radical forms of an expression;

(B) extend the properties of exponents to include rational exponents;

(C) investigate exponential functions and their inverses to develop the definition of logarithm;

(D) explore the graphs of exponential and logarithmic functions using computer graphing techniques;

(E) convert between logarithmic and exponential forms of an equation;

(F) apply properties of logarithms to solve equations; and

(G) apply logarithmic and exponential functions in problem situations using the computer or calculator.

(7) Rational algebraic functions. The student shall be provided opportunities to:

(A) simplify complex fractions;

(B) graph rational algebraic functions (using computer graphing techniques where appropriate) to develop an intuitive understanding of the concept of limit; and

(C) use direct and inverse variation functions as models to make predictions in real-world situations.

(8) Sequences and series. The student shall be provided opportunities to:

(A) investigate patterns in given sequences and use the patterns or recursive or generator formulas to find additional terms;

(B) investigate and graph geometric and arithmetic sequences;

(C) find the n th partial sum of geometric or arithmetic series and find n given the n th term or partial sum;

(D) investigate convergent geometric series;

(E) use sequences and series as models in real-world problem situations;

(F) use the Binomial Theorem to expand powers of binomial expressions; and

(G) solve enumeration problems involving permutations and combinations.

(9) Data handling and analysis. The student shall be provided opportunities to:

(A) recognize the importance of unbiased sampling and valid reasoning in statistical arguments;

(B) select an appropriate sampling method for a given real-world problem situation;

(C) interpret probabilities relative to the normal distribution;

(D) design a simple statistical experiment to test a hypothesis generated by a real-world problem situation and interpret the results; and

(E) use computer simulation methods to represent and solve problem situations involving uncertainty.

(g) Geometry (one unit). Geometry shall include the following essential elements.

(1) Axiomatic systems. The student shall be provided opportunities to:

(A) distinguish intuitively between the concepts of validity of an argument and truth of a statement;

(B) distinguish between inductive and deductive reasoning;

(C) use conditional statements in logical arguments;

(D) investigate the relationship among a conditional statement and its converse, inverse, and contrapositive;

(E) identify patterns of inference that produce valid conclusions and apply in real-world situations;

(F) apply logical arguments to geometric problem situations; and

(G) explore Euclidian geometry as an axiomatic system (undefined terms, defined terms, postulates, and theorems).

(8) Lines, segments, and angles. The student shall be provided opportunities to:

(A) use a coordinate approach to:

(i) develop distance, midpoint, and betweenness properties;

(ii) investigate slopes of parallel and perpendicular lines using computer graphing techniques; and

(iii) write equations for lines given prescribed geometric conditions (locus);

(B) use a synthetic approach to:

(i) construct figures using a computer where appropriate;

(ii) make a convincing informal argument, orally or in writing, to justify angle relationships such as vertical, supplementary, complementary, congruent, and angles formed by transversals; and

(iii) write formal proofs related to parallel lines;

(C) use a vector approach to:

(i) determine whether two line segments are parallel; and

(ii) determine whether two line segments are perpendicular.

(D) solve real-world problems involving lines, segments, and angles.

(3) Triangles. The student shall be provided opportunities to:

(A) use a coordinate approach to:

(i) investigate specific examples of properties of segments associated with triangles (altitudes, medians, perpendicular bisectors, angle bisectors, etc.);

(ii) make generalizations inductively about these properties; and

(iii) make a convincing informal argument orally or in writing to validate these generalizations;

(B) use a transformational approach to:

(i) express translations, rotations, reflections, and dilations as functions; and

(ii) explore congruence and similarity through transformations;

(C) use a synthetic approach to:

(i) discover triangle congruence postulates through construction;

(ii) use triangle congruence propositions in proofs;

(iii) explore triangle similarity postulates and proportionality of associated linear measures (sides, altitudes, medians, angle bisectors, perimeters, etc.);

(iv) compare various proofs of the Pythagorean Theorem;

(v) investigate special right triangles;

(vi) develop trigonometric functions using the right triangle (sin, cos, tan);

(vii) use theorems related to angle measures of triangles in formal proofs; and

(viii) investigate triangle inequalities.

(D) solve real-world problems involving triangles.

(4) Other polygons. The student shall be provided opportunities to:

(A) use a coordinate approach to:

(i) explore specific examples of properties of quadrilaterals;

(ii) make generalizations inductively for these properties; and

(iii) make a convincing informal argument orally or in writing to validate these generalizations;

(B) use a transformational approach to:

(i) explore symmetry of polygons; and

(ii) generalize concepts of congruence and similarity;

(C) use a synthetic approach to:

(i) prove properties of quadrilaterals;

(ii) use properties of quadrilaterals in proofs;

(iii) explore specific examples of functional angle relationships in polygons, including regular polygons;

(iv) make generalizations inductively about these relationships; and

(v) make a convincing informal argument orally or in writing to validate these functional relationships;

(D) Solve real-world problems involving polygons.

(5) Circles. The student shall be provided opportunities to:

(A) use a coordinate approach to graph equations and circles:

(i) use the distance formula to develop the equations for circles; and

(ii) graph equations of circles;

(B) use a synthetic approach to:

(i) investigate lines, segments, and angles related to circles;

(ii) investigate inscribed and circumscribed circles using a computer; and

(iii) solve geometric problems involving segments and angles related to circles;

(C) solve real-world problems involving circles.

(6) Solid geometry. The student shall be provided opportunities to:

(A) use a synthetic approach to:

(i) investigate properties of polyhedra using concrete models (and computers where possible);

(ii) investigate properties of cylinders, cones, and spheres using concrete models (and computers where possible);

(iii) draw three-dimensional figures (using computers where possible); and

(iv) build three-dimensional models;

(B) use a transformational approach to explore symmetry of polyhedra and spheres in space; and

(C) solve real-world problems involving three-dimensional figures.

(7) Measurement. The student shall be provided opportunities to:

(A) use a transformational approach to:

(i) explore distance and area as invariant conditions under translations, rotations, and reflections;

(ii) explore the ratio of distances as an invariant condition under dilations; and

(iii) explore angle measure as an invariant condition under translations, rotations, reflections, and dilations.

(B) use a synthetic approach to:

(i) make a convincing informal argument (using models and computers where possible) to validate area and volume formulas;

(ii) investigate the circumference and area of a circle as the limits of perimeters and areas of inscribed regular polygons;

(iii) use ratio to investigate arc length and areas of sectors of circles; and

(iv) investigate the proportional relationships among linear measures, areas, and volumes in similar figures;

(C) solve real-world problems involving measurement.

(h) Trigonometry (1/2 unit). Trigonometry shall include the following essential elements.

(1) Circular/trigonometric functions. The student shall be provided opportunities to:

(A) explore periodic real-world phenomena;

(B) apply definitions of sine, cosine, tangent, secant, cosecant, and cotangent functions;

(C) analyze the interrelationship between circular and trigonometric representations of functions;

(D) find exact values of special cases of trigonometric functions; and

(E) find approximate values of trigonometric functions using the computer or calculator.

(2) Graphs of circular/trigonometric functions. The student shall be provided opportunities to:

(A) investigate the effects of the parameters in the equation on the graph of a trigonometric function;

(B) use these generalizations to sketch circular/trigonometric functions;

(C) verify sketched graphs of trigonometric functions using computer graphics;

(D) write the equation given the graph of a trigonometric function; and

(E) use circular functions that model real-world phenomena to solve problems.

(3) Properties of circular/trigonometric functions and their inverses. The student shall be provided opportunities to:

(A) use trigonometric properties, including those involving functions of more than one argument, to transform a trigonometric expression to another equivalent form;

(B) verify trigonometric identities using computer graphics;

(C) investigate the properties of inverse functions and relations;

(D) analyze the interrelationship between circular/trigonometric functions and their inverses;

(E) solve trigonometric equations, and verify by accurate graphing; and

(F) use inverses of trigonometric functions that model real-world phenomena to solve problems.

(4) Triangle problems. The student shall be provided opportunities to:

(A) solve right triangle problems that model real-world situations;

(B) find the area of a triangle by trigonometric techniques;

(C) derive the Law of Sines and the Law of Cosines and apply these laws to problem situations; and

(D) use vectors to solve real-world problems.

(5) Applications of trigonometry to other areas of mathematics. The student shall be provided opportunities to:

(A) analyze the connection between circular/trigonometric functions and polar coordinates;

(B) analyze the connection between circular/trigonometric functions and complex numbers; and

(C) analyze the connection between circular/trigonometric functions and series.

(i) Elementary analysis (1/2 unit). Essential elements described in this subsection for elementary analysis shall be superseded by the essential elements described in subsection (2) of this section effective September 1994. Elementary analysis shall include the following essential elements.

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

(j) Analytic geometry (1/2 unit). Essential elements described in this subsection for analytic geometry shall be superseded by the essential elements described in subsection (aa) of this section effective September 1994. Analytic geometry shall include the following essential elements.

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

(k) Precalculus (1/2-one unit). Essential elements described in this subsection for precalculus shall be superseded by the essential elements described in subsection (bb) of this section effective September 1994. Precalculus shall include the following essential elements.

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

(l) Mathematics of consumer economics (1/2-1 unit). Essential elements described in this subsection for mathematics of consumer economics shall be superseded by the essential elements described in subsection (x) of this section effective September 1992. (The mathematics of money course will replace the mathematics of consumer economics course.) Mathematics of consumer economics shall include the following essential elements.

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

(m)-(o) (No change.)

(p) Calculus (1/2-one unit). Essential elements described in this subsection for calculus shall be superseded by the essential elements described in subsection (cc) of this section effective September 1995. Calculus shall include the following essential elements.

(1)-(5) (No change.)

(q)-(v) (No change.)

(w) Informal geometry (one unit). Essential elements for informal geometry as described in this subsection shall be effective September 1992. Informal geometry shall include the following essential elements.

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

(x) Mathematics of money (1/2-one unit). Essential elements for mathematics of money as described in this subsection shall be effective September 1992. (The mathematics of money course will replace the mathematics of consumer economics course.) Mathematics of money shall include the following essential elements.

(1)-(5) (No change.)

(y) Pre-Algebra (one unit). Essential elements for pre-algebra as described in this subsection shall be effective September 1992. Pre-algebra shall include the following essential elements.

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

(z) Elementary analysis 2-1 unit/2 unit). Essential elements for elementary

analysis as described in this subsection shall be effective September 1994. Elementary analysis shall include the following essential elements.

(1) Properties of the real number system and other mathematical systems. The student shall be provided opportunities to:

(A) understand the structure of mathematical systems (undefined terms, operations, postulates, and theorems);

(B) investigate groups, rings, and fields;

(C) investigate properties of ordered fields and construct appropriate proofs; and

(D) use matrices to solve equations, using computers where appropriate.

(2) Relations, functions, and their graphs. The student shall be provided opportunities to:

(A) explore the characteristics of functions, including discrete functions;

(B) graph functions and relations, including the use of computer/calculator graphics technology;

(C) identify increasing and decreasing functions, including the use of computer/calculator graphics technology;

(D) identify and graph periodic functions, including the use of computer/calculator graphics technology;

(E) understand the meaning of absolute value and the distance formula;

(F) use symmetries;

(G) perform operations on functions;

(H) explore characteristics of composite and inverse functions;

(I) model problem situations with functions, including the use of computer/calculator graphics technology;

(J) represent equations from graphs for discrete and continuous functions;

(K) investigate the behavior of graphs of algebraic and transcendental functions by changing parameters;

(L) use graphic representations for data (e.g., boxplots, stem-and-leaf, lineplots, histograms, scatterplots), including the use of computer/calculator graphics technology; and

(M) explore the application of linear regression to mathematics modeling using real world data, including the use of computer/calculator graphics technology.

(3) Polynomial functions. The student shall be provided opportunities to:

(A) use linear functions, linear inequalities, and models;

(B) use linear transformations, geometric transformations, and models;

(C) determine and apply relative maximum and minimum values, including the use of computer/calculator graphics technology;

(D) identify intervals on which the polynomial function is increasing or decreasing;

(E) model problem situations with polynomial functions;

(F) use the Remainder Theorem and the Factor Theorem;

(G) use synthetic division;

(H) use the Rational Root Theorem;

(I) use Descartes' Rule of Signs, the Upper and Lower Bounds Theorem, and the Location Theorem;

(J) find roots of polynomials, including the use of computer/calculator graphics technology;

(K) apply the Fundamental Theorem of Algebra;

(L) graph polynomial functions, including the use of computer/calculator graphics technology;

(M) examine the continuity and end behavior of a function, including the use of computer/calculator graphics technology; and

(N) solve and graph polynomial inequalities.

(4) Rational functions and functions involving radicals. The student shall be provided opportunities to:

(A) investigate the limit concept, including the use of computer/calculator graphics technology;

(B) find vertical, horizontal, and slant asymptotes, including points of exclusion;

(C) graph rational functions, including the use of computer/calculator graphics technology;

(D) apply rational functions to real problem situations;

(E) solve equations and inequalities with rational expressions;

(F) investigate the graphs of radical functions, including the use of computer/calculator graphics technology;

(G) solve equations and inequalities involving radicals both algebraically and graphically, including the use of computer/calculator graphics technology; and

(H) find partial fractions.

(5) Exponential and logarithmic functions. The student shall be provided opportunities to:

(A) define and explore the characteristics of exponential functions (including base e), including the use of computer/calculator graphics technology;

(B) apply exponential functions (including data analysis) to other disciplines and societal situations, including the use of computer/calculator graphics technology;

(C) use laws of exponents to simplify expressions with positive and negative integral and rational exponents;

(D) define and explore the characteristics of logarithmic functions, including the use of computer/calculator graphics technology;

(E) use properties of logarithms;

(F) investigate the graphs of logarithmic functions, including the use of computer/calculator graphics technology;

(G) solve exponential and logarithmic equations, using algebraic and graphing methods, including the use of computer/calculator graphics technology;

(H) solve exponential and logarithmic inequalities, using algebraic and graphing methods, including the use of computer/calculator graphics technology;

(I) apply logarithms (including the natural logarithm), using calculators where appropriate; and

(J) study linear regression, residuals, and correlation as it relates to linear, exponential, and variation models.

(6) Sequences and series. The student shall be provided opportunities to:

(A) find specific terms of arithmetic/geometric sequences;

(B) find the general term of a sequence;

(C) write the sigma notation for a series and find the sum;

(D) use mathematical induction to perform proofs;

(E) find the limit of a sequence and investigate convergent and divergent series, using technology where appropriate;

(F) use the Binomial Expansion Theorem to develop the Binomial Probability Distribution Function and explore the use of Monte Carlo simulations to reinforce abstract study of the Binomial Probability Distribution Function;

(G) explore concepts of expected value (mean), and standard deviation;

(H) explore patterns in sequences and series;

(I) apply sequences, series, and iterative procedures (e.g., fractals), using technology where appropriate; and

(J) investigate the series expansion of the sine and cosine functions and the Euler number e .

(7) Second degree relations. The student shall be provided opportunities to:

(A) derive the equations for circles, parabolas, ellipses, and hyperbolas, using the locus definitions;

(B) graph second degree equations, including the use of computer/calculator graphics technology;

(C) perform transformations (including the use of matrices), including the use of computer/calculator graphics technology; and

(D) apply conics to real-world situations (including other disciplines).

(aa) Analytic geometry (1/2 unit). Essential elements for analytic geometry as described in this subsection shall be effective September 1994. Analytic geometry shall include the following essential elements.

(1) Relations, functions, and their graphs. The student shall be provided opportunities to:

(A) explore the characteristics of functions, including discrete functions;

(B) graph functions and relations, including the use of computer/calculator graphics technology;

(C) identify increasing and decreasing functions, including the use of computer/calculator graphics technology;

(D) use symmetries;

(E) perform operations on functions;

(F) explore characteristics of composite and inverse functions;

(G) model problem situations with functions, including the use of computer/calculator graphics technology;

(H) represent equations from graphs for discrete and continuous functions;

(I) investigate the behavior of graphs of algebraic and transcendental functions by changing parameters;

(J) explore the analytic geometry of lines (to include parallel and perpendicular lines, angle of inclination, angle between two lines, coordinates of a point which divides a line segment in a given ratio, distance from a point to a line, and

the equation of the family of lines having a given property);

(K) perform analytic proofs of geometric theorems;

(L) use linear transformations, geometric transformations, and models;

(M) investigate the limit concept, including the use of computer/calculator graphics technology;

(N) find vertical, horizontal, and slant asymptotes, including points of exclusion; and

(O) use curve fitting to describe problem situations.

(2) Space coordinates and surfaces. The student shall be provided opportunities to:

(A) use space coordinates;

(B) investigate the geometry of ordered triples;

(C) determine the angle between two planes;

(D) determine the distance between a point and a plane;

(E) investigate surface of revolution and quadric surfaces;

(F) find parametric equations for given surface equations; and

(G) find normals and tangents in planes and space.

(3) Vectors and parametric equations. The student shall be provided opportunities to:

(A) investigate vectors in the plane;

(B) use vectors in space;

(C) use vector equations for lines and planes;

(D) find and apply dot and cross products of vectors;

(E) find and apply the angle between vectors;

(F) apply vectors to real-world situations (e.g., force, navigation);

(G) define and derive parametric equations;

(H) graph curves defined by parametric equations; and

(I) apply parametric equations (e.g., motion problems), including the use of computer/calculator graphics technology.

(4) Second degree relations. The student shall be provided opportunities to:

(A) derive the equations for circles, parabolas, ellipses, and hyperbolas, using the locus definitions;

(B) investigate loci with respect to points of intersections, tangents, and normals to the conic sections (to include families of lines which pass through curves);

(C) graph second degree equations, including the use of computer/calculator graphics technology;

(D) perform transformations (including the use of matrices), including the use of computer/calculator graphics technology; and

(E) apply conics to real-world situations (including other disciplines).

(5) Complex numbers and polar coordinates. The student shall be provided opportunities to:

(A) represent complex numbers graphically;

(B) use the trigonometric forms of complex numbers for finding powers and roots;

(C) transform equations and formulas from rectangular to polar coordinates and vice-versa;

(D) investigate equations of lines and conic sections in polar coordinates;

(E) explore the intersection of polar curves (by solving simultaneously for r , θ); and

(F) graph equations in polar form, include the use of computer/calculator graphics technology.

(bb) Precalculus (1/2-one unit). Essential elements for precalculus as de-

scribed in this subsection shall be effective September 1994. Precalculus shall include the following essential elements.

(1) Relations, functions and their graphs. The student shall be provided opportunities to:

(A) explore the characteristics of functions, including discrete functions;

(B) graph functions and relations, including the use of computer/calculator graphics technology;

(C) identify increasing and decreasing functions, including the use of computer/calculator graphics technology;

(D) identify and graph periodic functions, including the use of computer/calculator graphics technology;

(E) use symmetries;

(F) perform operations on functions;

(G) explore characteristics of composite and inverse functions;

(H) model problem situations with functions, including the use of computer/calculator graphics technology;

(I) represent equations from graphs for discrete and continuous functions;

(J) investigate the behavior of graphs of algebraic and transcendental functions by changing parameters;

(K) use graphic representations for data (e.g., boxplots, stem-and-leaf, lineplots, histograms, scatterplots), including the use of computer/calculator graphics technology; and

(L) explore the application of linear regression to mathematics modeling, using real world data; including the use of computer/calculator graphics technology.

(2) Polynomial functions. The student shall be provided opportunities to:

(A) use linear functions, linear inequalities, and models;

(B) explore the analytic geometry of lines (e.g., parallel and perpendicular lines, angle of inclination, angle between two lines, coordinates of a point which divides a line segment in a given

ratio, distance from a point to a line, the equation of the family of lines having a given property);

(C) use linear transformations, geometric transformations, and models;

(D) determine and apply relative maximum and minimum values, including the use of computer/calculator graphics technology;

(E) identify intervals on which the polynomial function is increasing or decreasing;

(F) model problem situations with polynomial functions;

(G) use the Remainder Theorem and the Factor Theorem;

(H) use synthetic division;

(I) use the Rational Root Theorem;

(J) use Descartes' Rule of Signs, the Upper and Lower Bounds Theorem, and the location theorem;

(K) find roots of polynomials, including the use of computer/calculator graphics technology;

(L) apply the Fundamental Theorem of Algebra;

(M) graph polynomial functions, including the use of computer/calculator graphics technology;

(N) examine the continuity and end behavior of a function, including the use of computer/calculator graphics technology; and

(O) solve and graph polynomial inequalities.

(3) Rational functions and functions involving radicals. The student shall be provided opportunities to:

(A) investigate the limit concept, including the use of computer/calculator graphics technology;

(B) find vertical, horizontal, and slant asymptotes, including points of exclusion;

(C) graph rational functions, including the use of computer/calculator graphics technology;

(D) apply rational functions to real problem situations;

(E) solve equations and inequalities with rational expressions;

(F) investigate the graphs of radical functions, including the use of computer/calculator graphics technology;

(G) solve equations and inequalities involving radicals both algebraically and graphically, including the use of computer/calculator graphics technology; and

(H) find partial fractions.

(4) Exponential and logarithmic functions. The student shall be provided opportunities to:

(A) define and explore the characteristics of exponential functions (including base e), including the use of computer/calculator graphics technology;

(B) apply exponential functions (including data analysis) to other disciplines and societal situations, including the use of computer/calculator graphics technology;

(C) use laws of exponents to simplify expressions with positive and negative integral and rational exponents;

(D) define and explore the characteristics of logarithmic functions, including the use of computer/calculator graphics technology;

(E) use properties of logarithms;

(F) investigate the graphs of logarithmic functions, including the use of computer/calculator graphics technology;

(G) solve exponential and logarithmic equations using algebraic and graphing methods, including the use of computer/calculator graphics technology;

(H) solve exponential and logarithmic inequalities using algebraic and graphing methods, including the use of computer/calculator graphics technology;

(I) apply logarithms (including the natural logarithm), using calculators where appropriate; and

(J) study linear regression, residuals, and correlation as it relates to linear, exponential, and variation models.

(5) Circular trigonometric functions, their properties, and applications. The student shall be provided opportunities to:

(A) find angle measurement using degrees and radians;

(B) identify periodic functions, including the use of computer/calculator graphics technology;

(C) use applications of circular functions, including the use of computer/calculator graphics technology;

(D) find and apply inverse functions (including modeling), including the use of computer/calculator graphics technology;

(E) define the trigonometric functions;

(F) find values of the trigonometric functions using calculators;

(G) graph the trigonometric functions, including the use of computer/calculator graphics technology;

(H) solve right triangle problems, including the use of computer/calculator graphics technology;

(I) solve general triangles (Law of Sines, Law of Cosines, and area of triangles), including the use of computer/calculator graphics technology;

(J) solve trigonometric equations;

(K) derive fundamental identities; and

(L) prove and use identities, including the use of computer/calculator graphics technology.

(6) Complex numbers and polar coordinates. The student shall be provided opportunities to:

(A) represent complex numbers graphically;

(B) use the trigonometric forms of complex numbers for finding powers and roots;

(C) transform equations and formulas from rectangular to polar coordinates and vice versa; and

(D) graph equations in polar form, including the use of computer/calculator graphics technology.

(7) Vectors and parametric equations. The student shall be provided opportunities to:

(A) investigate vectors in the plane;

(B) use vectors in space;

(C) use vector equations for lines and planes;

(D) find and apply dot and cross products of vectors;

(E) find and apply the angle between vectors;

(F) apply vectors to real-world situations (e.g., force, navigation);

(G) define and derive parametric equations;

(H) graph curves defined by parametric equations; and

(I) apply parametric equations (e.g., motion problems), including the use of computer/calculator graphics technology.

(8) Sequences and series. The student shall be provided opportunities to:

(A) find specific terms of arithmetic/geometric sequences;

(B) find the general term of a sequence;

(C) write the sigma notation for a series and find the sum;

(D) use mathematical induction to perform proofs;

(E) find the limit of a sequence and investigate convergent and di-

vergent series, using technology where appropriate;

(F) use the Binomial Expansion Theorem to develop the Binomial Probability Distribution Function and explore the use of Monte Carlo simulations to reinforce abstract study of the Binomial Probability Distribution Function;

(G) explore concepts of expected value (mean), and standard deviation;

(H) explore patterns in sequences and series;

(I) apply sequences, series, and iterative procedures (e.g., fractals), using technology where appropriate; and

(J) investigate the series expansion of the sine and cosine functions and the Euler number e .

(9) Second degree relations. The student shall be provided opportunities to:

(A) derive the equations for circles, parabolas, ellipses, and hyperbolas, using the locus definitions;

(B) investigate loci with respect to points of intersections, tangents, and normals to the conic sections (to include families of lines which pass through curves);

(C) graph second degree equations, including the use of computer/calculator graphics technology;

(D) perform transformations (including the use of matrices), including the use of computer/calculator graphics technology; and

(E) apply conics to real-world situations (including other disciplines).

(cc) Calculus (one unit). Essential elements for calculus as described in this subsection shall be effective September 1995. Calculus shall include the following essential elements.

(1) Concepts and skills associated with elementary functions. The student shall be provided opportunities to:

(A) use algebraic, trigonometric, exponential, and logarithmic functions;

(B) investigate properties of functions, including:

(i) sum, product, quotient, composition, and inverse (including domain and range of each);

(ii) absolute value;

(iii) odd and even;

(iv) zeros of a function; and

(v) one-to-one function;

(C) use fundamental identities including addition formulas for trigonometric functions;

(D) graph functions, using a graphing calculator or computer, emphasizing:

(i) symmetry;

(ii) asymptotes; and

(iii) periodicity and amplitude.

(2) Concepts associated with the limit of a function. The student shall be provided opportunities to:

(A) investigate the definition of a limit experimentally using a calculator or a computer;

(B) represent the ϵ - δ definition of the limit of a function graphically, and use this definition in proofs;

(C) apply limit theorems and properties (e.g., the limit of a constant, a sum, a product, a quotient);

(D) investigate special limits, including:

(i) the limit defining the Euler number e ;

(ii) limits involving trigonometric functions (e.g.,

$$\lim_{x \rightarrow 0} \frac{\sin x}{x} = 1; \text{ and}$$

(iii) nonexistent limits including, but not restricted to

$$\lim_{x \rightarrow 0} (1/x), \quad \lim_{x \rightarrow 0} \sin(1/x), \quad \text{and} \quad \lim_{x \rightarrow 0} (|x|/x);$$

(E) define and investigate continuity, including statements and applications of continuity theorems:

(i) intermediate value theorem; and

(ii) existence of a maximum and minimum for a continuous function on a closed interval.

(3) Concepts and skills associated with the derivative. The student shall be provided opportunities to:

(A) investigate definitions of the derivative of a function;

(B) derive formulas for the derivatives from the definition of derivatives as the limit of a function;

(C) use theorems and properties of the derivative including the relationship between differentiability and continuity;

(D) find derivatives, including:

(i) elementary functions (e.g., trigonometric, logarithmic, exponential);

(ii) sums, products, and quotients;

(iii) composite functions (chain rule);

(iv) implicitly defined functions;

(v) inverse of a function (including Arcsin x and Arctan x);

(vi) higher order derivatives;

(vii) functions defined parametrically; and

(viii) logarithmic differentiation;

(E) investigate and apply Rolle's Theorem and the Mean Value Theorem;

(F) perform curve sketching, including:

(i) techniques for identifying intervals on which the curve is constant, increasing, or decreasing;

(ii) critical numbers, relative maximum or minimum points, absolute maximum or minimum points;

(iii) concavity;

(iv) points of inflection;

(v) Newton's approximation of zeros of a function;

(vi) the relationship of the first and second derivative to each of the previous concepts; and

(vii) calculator and computer approach to curve sketching;

(G) apply the derivative to:

(i) slope of a curve with tangent lines and normal lines;

(ii) extreme value problems including marginal analysis, etc.;

(iii) particle motion on a line or in a plane;

(iv) velocity, acceleration, and speed;

(v) average and instantaneous rates of change;

(vi) differential approximation;

(vii) L'Hospital's rule to evaluate limits of the form

$0/0, \pm \frac{0}{0}, \infty \cdot 0, \infty - \infty, 0^0, (\pm\infty)^0, 1^{\pm\infty}$; and

(viii) related rates of change.

(4) Concepts and skills associated with the integral and techniques of integration. The student shall be provided opportunities to:

(A) find antiderivatives (indefinite integrals) of functions;

(B) apply antiderivatives to solve problems, including:

(i) finding distance and velocity given acceleration and initial conditions; and

(ii) solving differential equations with separable variables, including growth and decay problems from equations of the form $y' = ky$;

(C) investigate the definite integral, including:

(i) concept of the definite integral as an area;

(ii) approximations to the definite integral using rectangles;

(iii) definition of the definite integral as the limit of a sum;

(iv) Trapezoidal Rule;

(v) properties of the definite integral; and

(vi) the fundamental theorems of integral calculus;

(D) apply concepts of the definite integral to solve problems involving:

(i) the average value of a function;

(ii) area between curves;

(iii) volume of a solid of revolution (disc, washer, and shell method) about the x -axis, y -axis, or a line parallel to one of the axes; and

(iv) surface area of a solid of revolution;

(E) use techniques of integration, including:

(i) basic integration formulas;

(ii) integration by substitution (change of variables, identities);

(iii) integration by parts; and

(iv) investigation of the previous techniques through calculator and computer-oriented problems;

(F) integrate special functions, including:

(i) trigonometric functions;

(ii) logarithmic functions; and

(iii) exponential functions.

(5) Applications of calculus to real-world problems in the fields of life science, business and economics, social science, physics, and engineering. The student shall be provided opportunities to:

(A) solve problems which can be solved without the use of a calculator or computer throughout the instruction of calculus; and

(B) solve problems which can most reasonably be solved using a scientific or graphing calculator or computer technology throughout the instruction of calculus.

§75.65. Health.

(a) Health education (1/2 unit). Essential elements described in this subsection for health education shall be superseded by the essential elements described in subsection (c) of this section effective September 1994. Health education shall include the following essential elements.

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

(b) (No change.)

(c) Health education 1/2 unit). Essential elements for health education as described in this subsection shall be effective September 1994. Health education shall include the following essential elements.

(1) Concepts and skills that foster individual personal health and safety.

The student shall be provided opportunities to:

(A) relate personal behavior to wellness by:

(i) assessing personal wellness; and

(ii) identifying and evaluating personal behaviors on a health continuum ranging from life threatening to optimally health affirming;

(B) emphasize health and safety as a personal priority through:

(i) reviewing and applying positive life skills;

(ii) identifying and discussing the means to reduce risk factors that affect wellness; and

(iii) discussing the relevance of the grief process;

(C) identify and compare factors that influence mental and emotional well-being including causes, symptoms, prevention, and treatment of mental disorders;

(D) analyze the behaviors related to the use of drugs, including alcohol and tobacco by:

(i) reviewing classifications of drugs and the laws and regulations for possession, use, delivery, and sale of alcohol, tobacco, and other drugs;

(ii) discussing the health risks and harmful effects of drug use and misuse of prescription medications;

(iii) examining the detrimental effects of operating equipment and vehicles while under the influence; and

(iv) examining the disease prevention concept and the addiction process and the importance of prevention, intervention, and treatment, including the methods of recovery;

(E) determine the benefits and the possible side effects of properly used over-the-counter and prescription medications; and

(F) apply knowledge in food selection and predict the effects that contribute to wellness including:

(i) examining nutritional needs required at different stages of life;

(ii) determining factors that affect fluid intake and electrolyte balance;

(iii) analyzing the influence of health conditions, economics, environment, heredity, and culture on dietary selections;

(iv) evaluating positive and negative methods of weight control;

(v) identifying causes, symptoms, and treatment of eating disorders; and

(vi) relating personal patterns of food selection to current United States government dietary guidelines.

(2) Health-related concepts and skills that involve interaction between individuals. The student shall be provided opportunities to:

(A) develop and demonstrate effective expression of emotions through verbal and nonverbal communication skills;

(B) determine the causes, risk factors, symptoms, prevention, and treatment for communicable and non-communicable diseases by:

(i) studying prevalent diseases at various stages of life;

(ii) identifying and studying sexually transmitted diseases, including HIV disease; and

(iii) examining genetic and congenital diseases and disorders;

(C) demonstrate skills and procedures for emergency care including first-aid to persons not breathing, choking, or in cardiac distress/arrest;

(D) contrast responsible and irresponsible behavior in interpersonal relationships at various stages of maturity by:

(i) studying functional and dysfunctional families including conflicts and sibling relationships;

(ii) examining dating, marriage, pregnancy, parenthood, divorce, and/or remarriage;

(iii) identifying and discussing physical, emotional, and sexual abuse of a child, spouse, parent, and/or the elderly; and

(iv) analyzing sexual assault including date rape.

(E) discriminate between responsible and irresponsible choices concerning sexual behavior by:

(i) analyzing the benefits of delaying sexual activity and determining responsible choices in preventing school-age pregnancy;

(ii) analyzing human sexuality and examining gender roles and stereotypes;

(iii) applying a decision-making process and refusal skills including the effects of peer pressure; and

(iv) reviewing the function of the human reproductive system;

(F) analyze the emotional, physical, and societal consequences of school-age sexual intercourse including legal responsibilities that pregnancy and parenthood may have on the attainment of personal, educational, and economical goals; and

(G) demonstrate consideration for the well-being of individuals whose culture, lifestyles, age, handicapping conditions, and/or chronic health problems cause them to have special needs and concerns.

(3) Health-related concepts and skills that affect the well-being of people collectively. The student shall be provided opportunities to:

(A) determine that an environment in ecological balance enhances well-being by:

(i) analyzing the homeostatic relationship between the population and environmental health that makes well-being possible;

(ii) investigating the health effects of common household products, their use and misuse, and suggestions for environmentally safer alternatives;

(iii) evaluating the effects of personal lifestyles on the environment, and predicting healthy benefits of change;

(iv) relating the effects of malnutrition, hunger, increased population, pollution, and waste management to health issues and diseases; and

(v) exploring the health-related and economic benefits of energy conservation and possible sources of energy for the future;

(B) evaluate the mixed messages given by the media, including the advertising and entertainment industries related to legal and illegal products, personal and group behaviors, health service providers, or other current health issues;

(C) examine the roles of individuals, families, schools, communities, health agencies, organizations, and health professions in health promotion, disease prevention, and health care, including peer assistance programs, support groups, public health systems, volunteer efforts, and rehabilitation;

(D) investigate the role of pharmacological and medical research in reducing the effects of illness and disease;

(E) examine current health issues, including laws and ethics, related to advanced medical technology including life-support systems, organ donations, and transplants; and

(F) investigate health care finances.

§75.85. Industrial Technology Education.

(a) The elements in this subsection are common to all industrial technology education courses unless otherwise indicated and shall be included in each course at the appropriate level. They are described here to preclude repetition in each course. Every school offering industrial technology education shall provide courses which include the following essential elements.

(1) Leadership concepts and skills. The student shall be provided opportunities to:

(A) demonstrate skills, characteristics, and responsibilities of leaders and effective group members; and

(B) plan and conduct leadership activities using parliamentary procedures.

(2) Concepts and skills related to successful employment and/or postsecondary training. The student shall be provided opportunities to:

(A) identify employment opportunities and preparation requirements;

(B) (No change.)

(C) demonstrate productive work habits and attitudes; and

(D) describe the importance of taking pride in the quality of work performed.

(3) Concepts and skills associated with entrepreneurship. The student shall be provided opportunities to:

(A) describe the risk and profit motive factor; and

(B) explain the role of small business in the free enterprise system.

(4) Concepts and skills related to the application of safety practices. The student shall be provided opportunities to:

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

(5) Concepts and skills related to social/cultural impacts of technology. The student shall be provided opportunities to:

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

(C) project how selected technological developments may impact future cultures and societies; and

(D) (No change.)

(6) Concepts and skills related to the daily application of technology. The student shall be provided opportunities to:

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

(C) service selected products and equipment of technology;

(D)-(F) (No change.)

(7) Concepts and skills related to the tools, materials, and processes of technology. The student shall be provided opportunities to:

(A) demonstrate the proper use of appropriate tools, machines, and equipment;

(B)-(D) (No change.)

(8) Concepts and skills related to the application of problem solving techniques. The student shall be provided opportunities to:

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

(b) Communication systems (1/2-one unit). Communication systems is a laboratory-oriented course that includes the common essential elements for industrial technology education, plus concepts and skills related to communication systems. The student shall be provided opportunities to:

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

(3) use appropriate drafting standards to describe the shape and size of products and objects;

(4) use a computer-generated publishing system;

(5) apply drafting standards to produce drawings in the fields of manufacturing and construction graphics;

(6)-(8) (No change.)

(9) explore telecommunication systems; and

(10) investigate the applications of communication systems in a space environment.

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

(e) Communication graphics (1/2-one unit). Communication graphics is a laboratory-oriented course that includes the common essential elements for industrial technology education, plus concepts and skills related to communication graphics. The student shall be provided opportunities to:

(1) -(5) (No change.)

(6) use a computer generated publishing system;

(7)-(8) (No change.)

(9) investigate the applications of communication graphics in a space environment.

(f) Energy systems (1/2-one unit). Energy systems is a laboratory-oriented course that includes the common essential elements for industrial technology education, plus concepts and skills related to energy systems. The student shall be provided opportunities to:

(1) (No change.)

(2) construct and apply conventional and alternate sources of energy;

(3) (No change.)

(4) analyze and apply the principles of mechanical, electrical, and fluid power;

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

(8) apply methods of transporting people, materials, and information in all environments;

(9) explore the impact energy systems will have in the future; and

(10) investigate the application of energy in a space environment.

(g)-(k) (No change.)

(l) Technology systems (1/2-one unit). Essential elements described in this subsection for technology systems shall be superseded by the essential elements described in subsection (q) of this section effective September 1993. Technology systems is a laboratory-oriented course that includes the common essential elements for industrial technology education, plus the following essential elements.

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

(m)-(p) (No change.)

(q) Technology systems (1/2-one unit). Essential elements described in this subsection for technology systems shall be effective in September 1993. Technology systems is a laboratory-oriented course that includes the common essential elements for industrial technology education, plus the following concepts and skills related to communication, energy, and production technology. The student shall be provided opportunities to:

(1) use sketching techniques to develop drawing format and graphic problem solving;

(2) describe objects accurately through the principles of shape and size description;

(3) develop products using photographic materials and equipment;

(4) design and produce graphic arts materials;

(5) explore the major electronic communication systems, including telecommunication;

(6) apply computer software to design and make drawings;

(7) explore the conversion, control, storage, and transmission of various forms of energy;

(8) demonstrate the use of conventional and alternate sources of energy;

(9) apply and explain the principles of internal/external combustion engines;

(10) demonstrate the principles of mechanical, electrical, and fluid power;

(11) explore the basic principles of electrical systems;

(12) investigate the methods of transporting people, material, and information;

(13) apply production processes of casting, forming, separating, conditioning, assembling, and finishing to selected materials;

(14) use the manufacturing management components, such as planning, organizing, directing, and controlling personnel, to design, engineer, produce, and market a product;

(15) investigate the construction subsystems of design, management, and building;

(16) apply automated systems in the production of products, including robotics and computer numerical control (CMC);

(17) organize a construction enterprise to design and build a simulated structure;

(18) identify the criteria for selecting materials used in the various types of construction;

(19) explore applications of communication, energy, and production technology in a space environment.

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

Issued in Austin, Texas, on November 25, 1991.

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Cris Cloudt
Director, Planning
Coordination
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For further information, please call: (512) 463-9701

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 325. Solid Waste Management

Subchapter A. General Information

The Texas Department of Health (department) adopts amendments to existing §§325.5 and new §§325.1101-325.1109. Sections 325.5, 325.1102, and 325.1105 are adopted with changes to the proposed text as published in the September 10, 1991 issue of the *Texas Register* (16 TexReg 4927). Sections 325.1101, 325.1103-325.1104, and 325.1106-325.1109 are adopted without changes and will not be republished.

Section 325.5 covers definitions and new §§325.1101-325.1109 cover management of lead-acid batteries and the amendment and new sections implement Senate Bill 1340, 72nd Legislature, 1991, which contains special new requirements with respect to the management of lead-acid batteries. The amendment adds definitions of various words and terms which are contained in the new sections, while the new sections contain requirements for persons who generate, handle, recycle, and/or dispose of lead-acid batteries.

The department did not receive any comments on the proposal either at the public hearing or during the comment period; however, the department made a few minor editorial changes to §§325.5, 325.1102, and 325.1105 for purposes of clarification.

• 25 TAC §325.5

The amendment and new sections are adopted under the Health and Safety Code, §361.024, which provides the Texas Board of Health with the authority to adopt rules to manage and control municipal solid waste; §12.011, which provides the Texas Board of Health authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of

Health; and Senate Bill 1340, 72nd Legislature, 1991, concerning the management of lead-acid batteries.

§325.5. Definitions. The following words, terms, and abbreviations when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions, pertinent to specific sections are contained within the appropriate sections.

Acid—A substance containing hydrogen which will release hydrogen (hydronium) ions when dissolved in water. Acids usually have a sour taste and will cause blue litmus dye to turn red.

Battery—An electrochemical device that generates electric current by converting chemical energy to electrical energy. Its essential components are positive and negative electrodes made of more or less electrically conductive materials, a separate medium, and an electrolyte. There are four major types:

(A) primary batteries (dry cells);

(B) storage or secondary batteries;

(C) nuclear and solar cells or energy converters; and

(D) fuel cells.

Battery acid (also known as electrolyte acid)—A solution of not more than 47% sulfuric acid in water, suitable for use in storage batteries, which is water white, odorless, and practically free from iron.

Battery retailer—A person or business location which sells lead-acid batteries to the general public, without restrictions to limit purchases to institutional or industrial clients only.

Battery wholesaler—A person or business location which sells lead-acid batteries directly to battery retailers, to government entities by contract sale, or to large volume users either directly or by contract sale.

EPA—United States Environmental Protection Agency.

Lead—A heavy malleable, ductile, soft, gray, solid metallic element that is soluble in dilute nitric acid, insoluble in water but dissolves slowly in water containing a weak acid, resists corrosion, and is impenetrable to radiation. Its atomic number is 82, its atomic weight is 207.2, and its chemical symbol is Pb.

Lead-acid battery—A secondary or storage battery that uses lead as the electrode and dilute sulfuric acid as the electrolyte and is used to generate electrical current.

Storage battery—A secondary battery, so called because the conversion from chemical to electrical energy is reversible

and the battery is thus rechargeable. Secondary or storage batteries contain an electrode made of sponge lead and lead dioxide, nickel-iron, nickel-cadmium, silver-zinc, or silver-cadmium. The electrolyte used is sulfuric acid. Other types of storage batteries contain lithium, sodium-liquid sulfur or chlorine-zinc using titanium electrodes.

Storage cell—An electrolytic cell for generating electric energy, in which the cell, after being discharged, may be restored to a charged condition by sending a current through the cell in a direction opposite to that of the discharging current.

Sulfuric acid—A toxic, strongly corrosive, dense, oily liquid that is colorless to dark brown, depending on purity, and that is miscible with water. It is reactive, will dissolve most metals, and will oxidize, dehydrate, or sulfonate most organic compounds when in its concentrated form. Its chemical symbol is H₂SO₄.

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

Issued in Austin, Texas, on December 9, 1991.

TRD-9115405

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

Effective date: January 1, 1992

Proposal publication date: September 10, 1991

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

Subchapter Z. Waste Minimization and Recyclable Materials

Management of Lead-Acid Batteries

• 25 TAC §§325.1101-325.1109

The new sections are adopted under the Health and Safety Code (code), §361.427, which provides the department with the authority to adopt rules concerning recycling; §§361.011 and 361.024 which establish the department's jurisdiction over municipal solid waste management and provide the Board of Health (board) with the authority to adopt rules to manage and control municipal solid waste; and §12.001 which provides the board with the authority to adopt rules for the performance of every duty imposed by law on the board, the department, and the Commissioner of Health. The amendments and new section will affect §§361.421-361.431 specifically and Chapter 361 generally of the code.

§325.1102. Applicability.

(a) The sections in this subchapter are applicable to persons who are involved in the sale, transportation, collection for recycling, and disposal of lead-acid type storage or secondary batteries regulated by

the Texas Department of Health pursuant to the Texas Health and Safety Code, §§361.451-361.470.

(b) While these sections are only applicable specifically to lead-acid type storage or secondary batteries, any other type of multi-cell storage or secondary battery, primary battery, nuclear cell, solar cell, or fuel cell should be managed in a similar manner.

§325.1105. Wholesale Sale of Lead-acid Batteries. A battery wholesaler in Texas shall:

(1) accept from the customer, if offered by the customer, at the point of transfer, used lead-acid batteries of the type and in a quantity equal to the number of new lead-acid batteries sold; or

(2) if accepting batteries in transfer from a battery retailer or retail facility, remove all used lead-acid batteries from the retail point of collection within 90 days after acceptance; and

(3) shall post written notice, containing the universal recycling symbol, concerning the sale and disposal of lead-acid batteries. The notice shall conform to the requirements of §325.1106 of this title (relating to Notice Requirements) and shall be provided by the Texas Department of Health.

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

Issued in Austin, Texas, on December 9, 1991.

TRD-9115406 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Effective date: January 1, 1992

Proposal publication date: September 10, 1991

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

TITLE 28. INSURANCE Part I. Texas Department of Insurance

Chapter 7. Corporate and Financial Regulations

Subchapter A. General Regula- tion of Surplus Lines Insur- ance

• 28 TAC §7.82

The State Board of Insurance adopts new §7.82, without changes to the proposed text as published in the October 1, 1991, issue of the *Texas Register* (16 TexReg 5384).

Section 7.82 concerns forms and instructions for the preparation and filing of tax returns by surplus lines insurance agents for the 1991

calendar year. This new section is necessary to provide forms and instructions which will facilitate compliance with statutory requirements for reporting and payment of taxes to the Texas Department of Insurance.

New §7.82 adopts by reference forms and instructions for the preparation of tax returns by surplus lines agents. Proposal of this section includes proposal for adoption by reference of forms and instructions.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 1.04 and 1.14-2. Article 1.04 authorize the State Board of Insurance to determine rules in accordance with the laws of this state. Article 1.14-2, §12, requires surplus lines agents to collect, report, and pay gross premium tax on premium collected by those agents on policies of insurance.

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

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

TRD-9115386 Linda von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: December 27, 1991

Proposal publication date: October 1, 1991

For further information, please call: (512) 463-6328

Subchapter F. Reinsurance Undesignated Head: Credit for Reinsurance

• 28 TAC §7.615

The Texas Department of Insurance adopts new §7.615, concerning the accounting of reinsurance agreements by property and casualty insurers, with changes to the proposed text as published in the October 1, 1991, issue of the *Texas Register* (16 TexReg 5384).

The section concerns the accounting of reinsurance agreements by property and casualty insurers. This adoption includes several changes to the proposed text for the reasons explained in the following sentences. This adoption includes a change to subsection (a)(2) to specify that the section applies to all reinsurance agreements entered into by property and casualty insurers. A change was made to subsection (c) by deleting paragraphs (1) Anniversary, (2) Assuming insurer (Reinsurer), (3) Ceding insurer, (6) Insurer, and (8) Reinsurance, since these definitions are repetitive of some of the definitions in §7.602 of this subchapter, relating to credit for reinsurance, and renumbering the definitions for Commutation, insurance, risk, and Obligations. A change was made to subsection (d)(1) by deleting the first sentence which stated, "A reinsurance agreement shall disclose the reinsurer's maximum liability for assumed obligations under the agreement, if such liability is capped or limited." New language was added to show that reinsurance

agreements often cap or limit the reinsurer's maximum liability. The first and last sentences of subsection (d)(2) were deleted for clarification and to not impose burdens on the ceding insurer which it may not be able to meet. A change was made to subsection (d)(3) by inserting the phrase "the premiums are" for clarification into the following phrases: "settlement of premiums as the premiums are earned" and "automatic recapture of premiums as the premiums are earned" and changing the word "by" to "to" as suggested by a commenter. A change was made to subsection (d)(4) to clarify its application to unearned premiums. A change was made to subsection (d)(6) to clarify which reinsurance recoverables should be reflected as a liability and which conditions must be present before an application for waiver of the subsection may occur. A change was made to subsection (d)(7) by adding new subparagraphs (A) and (B) to indicate the contract provisions which may be found objectionable, subparagraph (A), and those contract provisions which will result in denial of credit for reinsurance, subparagraph (B). The previous subparagraphs of subsection (d)(7) were appropriately renumbered. A change was made to subsection (d)(7)(C)(i) by renumbering the clause to subsection (d)(7)(A)(ii)(I) to clarify the application of the provision regarding adjustments for actual experience. A change was made to subsection (d)(7)(C)(ii) by renumbering the clause to subsection (d)(7)(A)(ii)(II) to replace the word "negative" with "adverse" and the phrase "experience refunds" with the phrase "commission adjustments" as the latter are more technically correct. A change was made to subsection (d)(7)(H) by renumbering to subsection (d)(7)(B)(iv) to delete unnecessary language and to delete the term "in-force" as suggested by a commenter. A change was made to subsection (d)(7)(I) and it was renumbered to subsection (d)(7)(A)(v) to reduce the number of days of written notice and to clarify that the contract can be automatically terminated upon termination of the underlying policy. Subsection (d)(7)(M) was deleted to avoid repetition as to concern was addressed by another subparagraph. A change was made to subsection (e) to allow the use of letters of intent to indicate the intent to enter into a reinsurance agreement and explaining what a letter of intent may consist of. Changes were made to subsections (f) and (g) to change various dates used in the rule including the effective date of the rule.

The section is necessary to regulate the accounting of reinsurance agreements and other agreements represented to be reinsurance when such latter arrangements, despite their legal form, are in substance and effect financing arrangements, which have the principal purpose of producing increased surplus for the ceding insurer, typically on a temporary basis, but which provide little or no indemnification of insurance risks by the reinsurer. The section prevents a ceding insurer from improperly reducing liabilities or establishing assets, resulting in distorted financial statements, by using a financing arrangement represented to be a reinsurance agreement. The section defines terms commonly used in reinsurance accounting and financing arrangements. The section establishes certain general provisions which are acceptable in any reinsurance agreement. The section also sets forth those con-

tract provisions that are not permitted and will result in disallowance of credit for reinsurance in any agreement.

A commenter expressed concern over the public benefit/cost note and felt that some reinsurers may find certain provisions in the section to be objectionable and withdraw from providing reinsurance, thus resulting in the reduction in reinsurance coverage available and possibly resulting in the increase in the cost of insurance due to a reduced reinsurance market. The commenter was not specific about which provisions were so objectionable that a reinsurer would not provide reinsurance. The department does not feel that the section places an unreasonable burden on insurers and does not feel that it would cause reinsurers to withdraw from the market. A similar provision has been applicable to life insurers as §7.27 of this title for several years and withdrawal of insurers from the market as a result of that rule has not occurred. Commenters noted that the rule appears to be based on the NAIC model regulation on life reinsurance agreements and expressed concern that applying the rule to property and casualty insurers raises numerous issues which may have not been fully explored. There are several provisions which the commenters felt did not apply to property and casualty insurers and were overly broad and would prevent the allowance of credit for reinsurance even though an underwriting risk had been transferred. One commenter suggested that the rule as proposed regulates nonfinancial reinsurance agreements which have as their legitimate purpose the indemnification of insurance risks by the reinsurer and thus is unfair. The commenter contends that the rule is broad and misleading since in practical effect it regulates all reinsurance agreements, not just financial reinsurance agreements as stated in the purpose of the rule. This commenter does not believe that the department has the authority to regulate all reinsurance contracts. The department responds that this rule is not an expansion of the life rule to property and casualty insurers but rather certain portions of the existing rule applicable to life insurers, §7.27 of this title, were utilized since the provisions are also applicable to property and casualty insurers. The department believes that financing arrangements touted as reinsurance should be regulated whether the insurer is a life insurer or a property and casualty insurer. It is the department's position that many reinsurance arrangements other than so called "financial reinsurance" arrangements have financial elements and should be appropriately regulated. The department was granted additional authority in House Bill 2 to regulate all reinsurance agreements entered into by property and casualty insurers with the adoption of new subsection (n) to Article 5.75- 1.

Commenters suggested that subsection (b) be limited to insurers domiciled in Texas and not apply to all insurers authorized to do business in Texas. The commenters felt that applying the rule extraterritorially could result in conflicts between Texas and an insurer's domiciliary state. A commenter does not believe that the substantially similar exception, in the rule, will be utilized much since this rule is unique to the property and casualty area. One commenter suggested that additional inquiries be addressed to the company or require additional certification by the company.

The department responds that the Texas Insurance Code, Article 5.75-1, and the rules adopted pursuant thereto apply to all insurers authorized in Texas, not just Texas domiciled insurers. Also, the department wants to ensure that there is a level playing field for all insurers. If this rule is unique in this area, then the agency is not certain that there will be a problem with conflict with regulations of other states.

One commenter questioned the need for definitions in the rule, subsection (c), since the terms have accepted meanings and/or are defined in insurance texts or similar publications. The commenter took exception to the definition of "Assuming insurer (Reinsurer)," subsection (c)(2), and noted that it should be revised to show that the assuming insurer's obligation is to indemnify, and that the reinsurer's liability is contingent on the ceding company's incurring the liability and paying the loss. Commenters objected to the definition of "reinsurance," subsection (c)(8), as being overly broad, requiring the reinsurance agreement to be "written," and inclusion of the reference "consideration commensurate with the risk transferred," and requested deletion of this phrase. The department disagrees and responds that the definitions complained of are existing definitions previously adopted by the board in §7.602 of this title and are currently used by the department in the regulation of credit for reinsurance for all insurers. The department is, however, deleting from this subsection the following definitions since they are consistent with the existing definitions in §7.602 of this title: (1) Anniversary, (2) Assuming insurer (Reinsurer), (3) Ceding insurer, (6) Insurer, and (8) Reinsurance. The remaining three definitions, Commutation, Insurance risk, and Obligations will be renumbered.

One commenter noted that subsection (d)(1) requires disclosure of the reinsurer's maximum liability and that few reinsurance contracts provide for unlimited liability, which if no limit were indicated would benefit the reinsured. The agency agrees and clarifies the paragraph by deleting the first sentence and substituting the following: "Reinsurance agreements often cap or limit the reinsurer's maximum liability for assumed obligations under the contract."

A commenter felt that subsection (d)(2) by requiring that reinsurance agreements be in a form which reflects the intent of the parties and not contain language which renders the parties intent unclear is too vague a standard for reinsurance agreements and another commenter expressed concern over the ability of the ceding insurer to obtain the assuming insurer's verification if the insurers are in arbitration, etc. The agency agrees and deletes the first and last sentences from subsection (d)(2).

A commenter suggested that two phrases in subsection (d)(3), "settlement of premiums as earned" and "automatic recapture of premiums as earned" be defined or the problem and solution desired be explained since the terminology is unclear. Another commenter requested clarification. The department agrees and clarifies subsection (d)(3) by inserting the phrase "the premiums are" into each of the phrases commented upon as follows: "settlement of premiums as the premiums are earned" and "automatic recapture

of premiums as the premiums are earned." One commenter also suggested that the phrase "subsequent retrocession by the original insurer" be changed to "subsequent retrocession to the original insurer," as well as questioning the use of the term "retrocession" in this phrase. The agency agrees, in part, with the comment and has made the change; however, the agency feels that the use of the term "retrocession" is appropriate.

Commenters felt that subsection (d)(4) as proposed needs more clarification or is incomprehensible as to its objectives and procedures, in that it fails to specify acceptable computation methods. The department agrees that subsection (d) (4) is vague and has clarified the provision to read as follows: "Credit for unearned premium ceded under reinsurance agreements written on an excess or nonproportional basis shall not be allowed for minimum and fully earned reinsurance premiums."

A commenter suggested that the department defer subsection (d)(5) to the NAIC and an anticipated amendment to the *Accounting Practices and Procedures Manual for Fire and Casualty Insurance Companies* which the commenter expects to be adopted in December by NAIC. The department responds that subsection (d)(5) requires for credit for reinsurance purposes that reinsurance agreements contain both components of insurance risk, underwriting and timing. The department disagrees with the commenter and believes that this provision provides the proper tool to assure that a transfer of insurance risk occurs. Texas is on the NAIC Reinsurance Task Force and reports that the NAIC is adamant that insurance risk contain both underwriting risk and timing risk.

Commenters expressed concern over subsection (d)(6) claiming that Texas is requiring different accounting for reinsurance recoverables which are 90 days overdue than that required by the NAIC. The agency agrees and rather than nonadmitting the asset the establishment of a liability shall be required. One commenter suggested that amounts in dispute be included. The agency agrees in part and will permit applications for waiver of this subsection based on certain conditions. A commenter questioned the applicability to authorized and secured unauthorized balances and requested that the department pursue a change through the NAIC Blanks Task Force. The agency responds that regardless if an account is collateralized, if it is over 90 days old, then it is not being settled in accordance with the agency's regulations and therefore its collectability is questionable. Texas is urging the NAIC to strengthen its requirements.

Commenters felt that some of the conditions which deprive a company of surplus and the denial of credit as stated in subsection (d)(7) require a precise definition since this is not a common phrase in the property and casualty area and could result in confusion. A precise definition can not be provided because of the numerous situations where there can be deprivation of surplus. The provisions in subsection (d)(7) address the situation where a company enters into a reinsurance arrangement today and books an amount to surplus as if the surplus were permanent or would have a lasting effect only to later be returned to the reinsurer by its electing to invoke an

onerous cancellation or other provision. The commenter believes that some contracts which contain aggregate retentions could be considered in violation of the rule and credit denied. The agency changed subsection (d)(7) based on written and oral comments received to clarify the paragraph. The agency has added new subparagraphs (A) and (B) and has provided guidance to examiners in subparagraph (A) and set forth prohibited provisions in subparagraph (B).

A commenter suggested that subsection (d)(7)(A) should be eliminated since actuarial interpretations or standards for property and casualty insurers have not been adopted in Texas and if adopted should go through the administrative rule making process. The agency is merely advising insurers what standards will be applied and also acknowledges that proper rule making procedure will be followed. Subsection (d)(7)(A) was revised and is now part of subsection (d)(7).

A commenter suggested changing subsection (d)(7)(B), as he felt the existing language confusing, to read as follows: "the reserve credit taken by the ceding insurer is greater than the reserve previously established by the ceding company to support the policy obligations." The department disagrees and feels that existing language is clear. Subsection (d)(7)(B) is now subsection (d)(7)(A)(i).

A commenter claimed unfamiliarity with the terms "negative experience" and "experience refunds" in subsection (d)(7)(C) and suggested that the terms be precisely defined. The department disagrees as regards the terms "experience" as it is routinely used in property and casualty insurance; however, the word "negative" was replaced with "adverse" in the phrase "negative experience" and the phrase "experience refunds" has been changed to "commission adjustments" as this is more technically correct. Commenters suggested language changes in subsection (d)(7)(C) and clauses (i) and (ii), with which the agency agrees and the requested changes have been made. Subsection (d)(7)(C) is now subsection (d)(7)(A)(ii) and subsection (d)(7)(A)(ii) and subsection (d)(7)(C)(i)-(ii) is now subsection (d)(7)(A)(ii)(i)-(ii).

A commenter contended that subsection (d)(7)(D) is vague, unduly restrictive and suggested that the department use the NAIC standards related to loss portfolio transactions. The agency disagrees since it is relying on NAIC pronouncements on loss portfolio transactions. The agency is addressing, in particular, so called "guaranteed profit" contracts where there is essentially a no loss situation for the reinsurer. The agency's position is consistent with the position of the American Institute of Certified Public Accountants (AICPA), as evidenced by an exposure draft. Subsection (d)(7)(D) is now subsection (d)(7)(A)(i).

A commenter suggested that subsection (d)(7)(F) either be limited to insolvency of the ceding insurer or specifically identify the other triggering events which could activate this provision. The agency disagrees since it would be impossible to identify all the various contractual provisions which a reinsurer could put into a contract to absolve it of liability. A commenter suggested that the exception for termination for nonpayment of reinsurance premiums in subsection (d)(7)(F) also be in-

cluded in subsection (d)(7)(G)-(I). The agency responds that the commenters' concerns were adequately addressed in former subsection (d)(7)(F) which is now subsection (d)(7)(B)(ii) and part of the prohibited provisions.

One commenter felt that subsection (d)(7)(H) is unclear and confusing and contended the terms "subsequent" and "in-force" are confusing and appear unnecessary. The department disagrees regarding the term "subsequent" and believes that commutation needs to be a separate, negotiated contract. The agency agrees with the comment on the term "in-force" and has deleted the term. The commenter questioned whether the provision would prohibit cancellation on a cut-off basis. The agency responds that the provision would require the reinsurer to indemnify all obligations reinsured prior to and up to the date of termination, which may be in excess of the unearned premium returned. Subsection (d)(7)(H) is now subsection (d)(7)(B)(iv).

Commenters expressed concern over subsection (d)(7)(I) which disallows reinsurance credit if the contract contains language which permits the agreement to be terminated automatically or at the sole option of the reinsurer on less than 60 days prior notice. The commenters do not believe that the length of the termination notice should be one of the factors that the department uses to distinguish between financial and nonfinancial reinsurance agreements. The commenters contend that many legitimate, reinsurance agreements are terminable with less than 60 days' notice and this provision of the rule is too broad. The commenter suggested either deleting subsection (d)(7)(I) or change the time period from "less than 60 days" to "less than 30 days." The agency believes that the length of termination notice often is a distinguishing factor in financial arrangements. The agency agrees with the suggestion of changing the period to 30 days rather than 60 days. Another commenter suggested that automatic termination should be allowed for fraud, breach of contract, or similar actions or upon termination of the underlying policy. The agency agrees that automatic termination should occur upon termination of the underlying policy but does not agree that automatic termination should occur for fraud or breach of contract due to the proof aspect and believes the 30 day notice of termination provision addresses this problem. Subsection (d)(7)(I) is now subsection (d)(7)(A)(v).

Commenters expressed concern over subsection (d)(7)(L) requiring that the consideration be reasonable in relation to the risk transferred and the difficulty in making this determination. The agency understands the commenters' concern with the difficulty in making the determination but asserts that some reasonable relation between consideration and the risk transferred must exist. In addition, the provision is consistent with the agency's definition of reinsurance, as evidenced in §7.602. Subsection (d)(7)(L) is now subsection (d)(7)(A)(iv).

Commenters contended that subsection (d)(7)(M) is an unsophisticated perspective of pricing reinsurance or incomprehensible to property and casualty reinsurance and should be deleted. The agency deleted the subparagraph to avoid repetition as the concern was covered in another subparagraph.

Commenters felt that the requirements in subsection (e) are unrealistic and impractical. The department agrees and have incorporated changes which allow letters of intent duly executed by both parties, however, the department reminds the commenters that the existing credit for reinsurance rules, specifically §7.602 of this title, require a written contract.

A commenter suggested that subsection (f) is unclear and exceeds the stated purpose of the rule as well as exceeds the authority of the board to apply the rule as proposed to previously approved existing rules. The commenter suggests changing the reference in subsection (f) from "subsection (d)" to "subsection (d)(7)(A)-(M)." The agency disagrees and the provision does not exceed the authority of the board as additional authority was granted in House Bill 2 with the adoption of new subsection (n) to Article 5.75-1. A commenter felt that subsection (f)(2) is unnecessary and disruptive and one commenter felt that subsection (f) raises possible constitutional questions because of its application to existing contracts and penalizes companies by applying to agreements in effect before adoption of the rule. The agency disagrees. It is willing to give an insurer sufficient time to renegotiate a new contract but does not want to grandfather any contracts. Several dates which appear in subsection (f) were changed to address the concerns that subsection (f) would be disruptive or pose any constitutional questions. A commenter suggested that subsection (f)(5) is unnecessary and burdensome to the department. The agency disagrees and believes that it needs to be notified regarding all noncomplying contracts as this is part of its regulatory function.

Three commenters were generally in favor of the proposed section; however, objections were made to certain specific provisions by Progressive County Mutual Insurance Company regarding the possible inadvertent regulation of non-financial reinsurance agreements and specifically subsection (d)(7)(I) and subsection (f), Texas Farmers Insurance Company and Underwriters at Lloyd's, London, objected to subsection (d)(6). The Reinsurance Association of America and the National Association of Independent Insurers are generally opposed to the proposed section.

The new section is adopted under the Insurance Code, Articles 1.32 and 5.75-1. Article 1.32 authorizes the Texas Department of Insurance to promulgate rules and regulations which evaluate the financial condition of insurers. Article 5.75-1 authorizes rules relating to accounting and financial statement requirements and the treatment of reinsurance agreements between insurers.

§7.615. Regulation of Accounting for Reinsurance Agreements by Property and Casualty Insurers.

(a) Purpose.

(1) The Texas Department of Insurance recognizes that licensed insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.

(2) The Texas Department of Insurance, however, has become aware that some insurers, in the capacity of ceding insurer, have at times entered into reinsurance agreements primarily as financing arrangements which have the principal purpose of producing increased surplus for the ceding insurer, typically on a temporary basis, but which provide little or no indemnification of insurance risks by the reinsurer. The purpose of this section is to provide for the regulation of the accounting for reinsurance agreements and agreements represented to be, or styled as, reinsurance, when such latter arrangements, despite their legal form, are in substance and effect financing arrangements. The terms of such latter agreements do not comply in essence with the requirements of subsection (d) of this section and violate one or more of the following:

(A) the Insurance Code, Articles 1.10, 1.32, 6.04, 6.05, 6.11, 6.12, 8.07, 15.13, 15.15, 16.18, 16.20, 17.11, 17.25, 18.08, 18.12, 19.06, 19.08, 20.02, and 21.21 relating to the financial condition of insurers, thus resulting in distorted financial statements which do not properly reflect the financial condition of the ceding insurers;

(B) the Insurance Code, Article 5.75-1, relating to reinsurance reserve credits, thus, resulting in a ceding insurer improperly reducing liabilities or establishing assets for reinsurance ceded; and

(C) the Insurance Code, Articles 1.32 and 21.28-A, relating to creating a situation that may be hazardous to policyholders of this state.

(b) Scope. This section applies to all insurers writing all forms of insurance regulated by the Insurance Code, Chapter 5, including, but not limited to, property and casualty insurance, fire insurance, auto insurance, fidelity, guaranty and surety bonds, and workers' compensation insurance in this state, including all insurers authorized to do the business of insurance in this state under the Insurance Code, Chapters 2, 5, 6, 8, 15-19, and 21. The provisions of this section shall not apply to ceding insurers domiciled in another state that regulates the accounting for reinsurance agreements by property and casualty insurers under law, rule, or bulletin substantially similar in substance and effect to Texas law and rules. To pursue this exception the ceding insurer shall provide, upon request, to the commissioner of insurance evidence of similarity in the form of statutes, regulations, and interpretation of the standards utilized by the state of domicile. The provisions of this section are supplementary to and cumulative of existing statutes and rules of the Texas Department of Insurance. In the case of an ambiguity or contradiction between any of the provisions in this section and any

statute, the provisions of the statute controls.

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

(1) Commutation—A transaction which results in the recapture by the ceding insurer of risks previously reinsured with an assuming insurer which provides payment and complete discharge of all present and future obligations between the parties arising from the reinsurance agreement.

(2) Insurance risk—Uncertainty as to the ultimate amount of any claim payments (underwriting risk) and the timing of those payments (timing risk).

(3) Obligations—As pertains to reinsurance agreements:

(A) losses and loss adjustment expenses paid by the ceding insurer, but not recovered from the assuming insurer;

(B) reserves for losses reported and outstanding;

(C) reserves for losses incurred but not reported;

(D) reserves for loss adjustment expenses related to losses reported and outstanding and to losses incurred but not reported;

(E) reserves for unearned premiums; and

(F) any other balances due under the reinsurance agreement.

(d) Accounting and other requirements.

(1) Reinsurance agreements often cap or limit the reinsurer's maximum liability for assumed obligations under the contract. The credit taken by an insurer for reinsurance ceded to an assuming insurer under an agreement shall be exclusive of all deductibles and retentions and may not exceed the reinsurer's liability for obligations as capped or limited actually transferred under the agreement.

(2) For purposes of determining whether credit for reinsurance will be allowed under an agreement, the ceding insurer has the responsibility to satisfactorily explain all provisions of an agreement to the Texas Department of Insurance. The Texas Department of Insurance may require such explanations to be in writing and include both cash flow projections and mathematical models using various interest rate and other assumptions.

(3) Credit for unearned premiums ceded shall not be allowed a ceding insurer under reinsurance agreements writ-

ten on a pro-rata or proportional basis which provide for the settlement of premiums as the premiums are earned or for the automatic recapture of premiums as the premiums are earned. Credit for unearned premiums ceded shall not be allowed a ceding insurer under a series of reinsurance agreements written on a pro-rata or proportional basis which provide for initial settlement of premiums as the premiums are written and the subsequent retrocession to the original insurer of premiums as the premiums are earned.

(4) Credit for unearned premium ceded under reinsurance agreements written on an excess or nonproportional basis shall not be allowed for minimum and fully earned reinsurance premiums.

(5) Reinsurance agreements must contain both components of insurance risk (underwriting and timing) for credit for reinsurance to be allowed in financial statements filed with the Texas Department of Insurance.

(6) A ceding insurer shall reflect reinsurance recoverable on paid losses and loss adjustment expenses which is more than 90 days overdue as a liability in financial statements filed with the Texas Department of Insurance, provided that the Texas Department of Insurance may waive the application of this subsection if the department determines that good faith efforts are being made by both parties to resolve the claim(s) or disputes arising therefrom as soon as practicable after consideration by the department of the following factors:

(A) the nature of the business giving rise to the losses;

(B) the number of years of coverage involved in the claim(s);

(C) the number of assuming insurers involved in the claim(s);

(D) the payment history between the ceding insurer and assuming insurer(s);

(E) the level of communication with respect to the claim(s);

(F) any other evidence of efforts to resolve the claim(s) as expeditiously as possible; and

(G) any other factor deemed relevant by the department.

(7) In addition to the requirements of paragraphs (1)-(6)

(6) of this subsection, no insurer subject to this section shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with

the Texas Department of Insurance if the contract or agreement is not in compliance with the Insurance Code, or with the rules or regulations, including actuarial interpretations or standards, adopted by the State Board of Insurance.

(A) The following descriptions of treaty provisions are provided as guidance to examiners to determine if reserve credits are proper and in no way limit the department's authority:

(i) the reserve credit taken by the ceding insurer is greater than the underlying reserve of the ceding insurer supporting the policy obligations transferred under the contract;

(ii) the ceding insurer is required to reimburse the reinsurer for adverse experience under the contract in an amount greater than 5.0% of the net written premium to any extent, except that

(I) any provision for subsequent adjustment on the basis of actual experience in excess of 5.0% of net written premium is allowable so long as a reserve is established at the inception of the agreement equal to the full amount of the potential adjustment in excess of 5.0% and that reserve is maintained until such time as the subsequent adjustments are due and payable, pursuant to the terms of the agreement.

(II) commission adjustments which provide that adverse experience may be carried forward and offset against future commission adjustments will not be considered a reimbursement to the reinsurer for adverse experience;

(iii) the ceding insurer must, at specific points in time, terminate or automatically recapture all or part of the reinsurance ceded in a manner which deprives the ceding insurer of surplus;

(iv) the consideration to be paid by the ceding insurer is not reasonable in relation to the amount of insurance risk transferred under the agreement;

(v) any language which allows termination of the agreement automatically, except upon termination of the underlying policy, or at the sole option of the reinsurer on less than 30 days prior written notice;

(vi) any language that specifies the amounts to be reimbursed to the ceding insurer at fixed or determinable future dates, or includes predetermined payment schedules, delayed payment clauses, or formulas that, in substance, delay reimbursement to the ceding insurer; or

(vii) no cash payment is due from the reinsurer throughout the lifetime of the contract with all settlements

prior to the termination date of the agreement made only in a reinsurance account.

(B) The following descriptions of treaty provisions are prohibited provisions which, if included in substance or effect in a contract shall, for reinsurance ceded, result in disallowance of credit for reinsurance:

(i) the agreement provides for adjustments that allow the assuming insurer's gain or loss to be determinable in advance;

(ii) the ceding insurer can be deprived of surplus at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer; except that termination of the contract for nonpayment of reinsurance premiums shall not be considered to be such a deprivation of surplus;

(iii) the entry of an order of rehabilitation including the appointment of a supervisor, conservator, or receiver of the ceding insurer shall constitute either an anticipatory breach of any contracts of the ceding insurer; grounds for retroactive commutation or retroactive cancellation; or grounds for retroactive revocation of any contracts of the ceding insurer; or

(iv) any language which allows cancellation regarding obligations reinsured prior to the date of termination of the agreement, except that nothing contained herein would preclude a subsequent commutation of reinsurance coverage upon terms mutually agreeable to the parties to the agreement. This paragraph is not intended to limit the actions of the supervisor, conservator, rehabilitator, liquidator, or receiver of the ceding company.

(8) Notwithstanding paragraphs (1)-(7) inclusive, of this subsection, a ceding insurer subject to this section may, with the prior written approval of the commissioner of the Texas Department of Insurance, reduce its liability or establish an asset in an amount as the commissioner may allow. All its financial statements thereafter shall, by footnote, identify such reduced liability or increased asset established on the financial statement and shall reference the commissioner's prior written approval.

(e) Written contracts.

(1) No reinsurance contract or amendment to any such contract may be used to reduce liability or to establish any asset in any quarterly or annual financial statement filed with the Texas Department of Insurance, unless the contract or amendment thereto or a letter of intent has been duly executed by both parties, except for facultative certificates duly executed by the reinsurer or its duly appointed agent, no later than the "as of" date of the quarterly or annual financial statement. A letter of intent may consist of a cover note or placement

slip signed by the assuming insurer or its designated agent and accepted in writing by the ceding insurer.

(2) In the case of a letter of intent, a contract or amendment to a contract must be executed within a reasonable period of time, not exceeding 90 days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded. This provision shall govern unless it is explained to the satisfaction of the Texas Department of Insurance why such contract has not been executed within 90 days. The Texas Department of Insurance may, at its discretion, allow an additional period of time for execution not to exceed an additional 90 days (for a total of 180 days) from the execution date of the letter of intent.

(f) Existing contracts. Insurers subject to this section may continue to reduce liabilities or establish assets in financial statements filed with the State Board of Insurance for reinsurance ceded under the types of reinsurance contracts described in subsection (a)(2) of this section and in subsection (d) of this section, provided:

(1) the reinsurance contracts were executed and in force prior to December 31, 1991;

(2) no new business is ceded under the contract after the effective date of this section;

(3) the reduction of the liability or the asset established for the reinsurance ceded is reduced to zero by December 31, 1993, or such later date approved by the commissioner of the Texas Department of Insurance as a result of an application made by the ceding insurer within 120 days of the adoption date of this section;

(4) the reduction of the liability or the establishment of the asset is otherwise permissible under all other applicable provisions of the Insurance Code or rules or regulations, including actuarial interpretations or standards, adopted by the Texas Department of Insurance; and

(5) the Reinsurance Activity of the Texas Department of Insurance is notified, within 90 days following the effective date of this section, of the existence of such contracts and all corresponding credit for reinsurance taken in the ceding insurer's December 31, 1991, financial statement and all subsequent financial statements.

(g) Effective date. This section becomes effective December 31, 1991.

(h) Severability. If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not effect the other provisions of this section which can be given effect without the invalid provisions or application. To this end, all provisions of this section are declared to be severable.

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

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

TRD-9115387 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: December 27, 1991

Proposal publication date: October 1, 1991

For further information, please call: (512) 463-6328

Chapter 9. Title Insurance

Subchapter A. Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas

• 28 TAC §9.31

The State Board of Insurance adopts new §9.31, without changes to the proposed text as published in the June 18, 1991, issue of the *Texas Register* (16 TexReg 3301).

Section 9.31 concerns adoption by reference of an amendment to a rate rule for providing a credit on a subsequent issuance of a mortgage policy, under certain conditions. The section is necessary to provide replacement or substitute mortgagee policies available to consumers in the event an insolvent insurer has been placed in permanent receivership.

Section 9.31 adopts by reference new Rate Rule R-6c in the Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas. Rate Rule R-6c provides for a credit of one-half of the basic premium rate for a subsequent issue of a mortgagee policy, on a lien already covered by an existing mortgagee policy, but not to take up, renew, extend, or satisfy an existing lien, in the event an insolvent insurer is placed in permanent receivership. The new section also requires surrender of the original mortgagee policy to the company when requesting a subsequent issue.

No comments were received regarding adoption of the new section.

The new section is adopted under the Insurance Code, Articles 1.04, 9.07, 9.21 and 9.30, and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 1.04, authorizes the State Board of Insurance to determine policy and rules. The Insurance Code, Article 9.07, authorizes and requires the board to promulgate or approve forms for policies of title insurance, to require title insurance companies and agents to submit information material for the board's consideration, and otherwise to provide for the regulation of the business of title insurance. The Insurance Code, Article 9.21, authorizes the board to promulgate and enforce rules and regulations prescribing underwriting standards and practices, and to promulgate and enforce all other rules and regulations necessary to accomplish the purposes of the Insur-

ance Code, Chapter 9, concerning the regulation of title insurance. The Insurance Code, Article 9.30, prohibits rebates and discounts and provides for division of premiums between title insurance companies and title insurance agents as shall be set by the State Board of Insurance. Texas Civil Statutes, Article 6252-13a, §4, authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirements of available procedures. Section 5 of that article prescribes the procedure for adoption of rules by a state administrative agency.

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

Issued in Austin, Texas, on December 4, 1991.

TRD-9115198 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: December 26, 1991

Proposal publication date: June 18, 1991

For further information, please call: (512) 463-6328

Chapter 15. Surplus Lines Insurance

Subchapter A. General Regulation of Surplus Lines Insurance

• 28 TAC §15.24

The State Board of Insurance adopts an amendment to 28 TAC §15.24, without changes to the proposed text as published in the October 1, 1991, issue of the *Texas Register* (16 TexReg 5387).

Section 15.24 concerns premium tax on surplus lines insurance coverage. The amendment updates the tax rate from 3.85% to 4.85% to comport with the current Article 1.14-2, §12(a).

This amendment is necessary to ensure that the tax rate indicated under §15.24 corresponds to current law. This will preclude confusion and permit surplus lines agents to use the correct and applicable tax rate in collection of surplus lines premium taxes from the insureds.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Articles 1.04 and 1.14-2. Article 1.04 authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. Article 1.14-2, 3A, provides that the State Board of Insurance may promulgate rules to enforce Articles 1.14-2 and provides that the Texas Department of Insurance shall monitor the activities of surplus lines to the extent necessary to protect the public interest.

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

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

TRD-9115388 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: December 27, 1991

Proposal publication date: September 27, 1991

For further information, please call: (512) 463-6328

• 28 TAC §15.25

The State Board of Insurance adopts an amendment to 28 TAC §15.25, without changes to the proposed text as published in the September 27, 1991, issue of the *Texas Register* (16 TexReg 5316).

Section 15.25 concerns administration and maintenance of surplus lines premium tax trust accounts.

This amendment is necessary to ensure that the balances in surplus lines premium tax trust accounts are maintained at an amount less than the depositor's insurance maximum of \$100,000. The amendment offers direction to agents in maintaining trust accounts by providing an option to prepay taxes in an amount of not less than \$50,000, or requires current rules regarding multiple accounts, each below the insured limit, to be followed.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Articles 1.04 and 1.14-2. Article 1.04 authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. Article 1.14-2, 3A, provides that the State Board of Insurance may promulgate rules to enforce Article 1.14-2 and provides that the Texas Department of Insurance shall monitor the activities of surplus lines to the extent necessary to protect the public interest.

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

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

TRD-9115389 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: December 27, 1991

Proposal publication date: September 27, 1991

For further information, please call: (512) 463-6328

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 57. Fisheries and Wildlife

Commercially Protected Finfish

• 31 TAC §§57.371-57.375

The Texas Parks and Wildlife Department adopts amendments to §§57.371-57.373 and new §57.374 and §57.375, concerning commercially protected finfish. Sections 57.372 and 57.373 are adopted with changes to the proposed text as published in the October 4, 1991, issue of the *Texas Register* (16 TexReg 5485). Sections 57.371, 57.374, and 57.375 are adopted without changes and will not be republished.

Specifically, the changes were to §57.372(b), concerning the size of the container in which commercially protected finfish can be packaged; §57.372(d) (2)(F), (e)(2)(F), and (f)(2)(F), concerning requirements for information on the commercially protected finfish shipping invoice; and §57.373(b)(2), concerning the labeling of packages. The proposed regulations were liberalized in these sections to allow for the packaging of large fish in any size container as long as no more than three fish are contained therein and to allow only a requirement for weight on the shipping invoices and the package labels when the commercially protected finfish being shipped is king mackerel or Spanish mackerel.

The adopted rules have as their factual basis the requirement to comply with provisions of House Bill 2494, Acts, 72nd Legislature concerning commercially protected finfish species and department experience with the methods to manage the packaging and shipping of commercially protected finfish.

The new rules and amendments are needed to provide for the protection of commercially protected finfish as designated by House Bill 2494, Acts, 72nd Legislature.

The new rules and amendments will provide for the packaging and shipping of commercially protected finfish that is exported, imported, or transported intrastate.

Comments by the public about the proposed amendment were presented to the Parks and Wildlife Commission in its November 7, 1991, public hearing. The comments were summarized from the meetings conducted with representatives of the seafood marketing industry with the state. While the proposed regulations were distributed to approximately 125 seafood marketers, no letters or telephone calls were received on the proposals.

Comments made at the public hearing on November 7, 1991, concerned balancing the need to protect the resource with consideration for the economic well-being of the seafood industry; opposition to the regulations; complexity of the record keeping and paperwork requirements; the proposed container size was considered too small; fish weight should be used in the invoicing rather than numbers and weight especially in king mack-

erel and Spanish mackerel; bulk shipments should be allowed on imported shipments; and impacts on aquaculturists.

The representative of a coalition of seafood marketers expressed concern for the limited size of the proposed container; the requirement to count commercially protected finfish for invoicing purposes; and the absence of provisions to exempt commercially protected finfish shipped in bulk on ice specifically, king mackerel, Spanish mackerel, cobia, and jewfish.

The commission disagreed with several comments received specifically dealing with measures that would allow for bulk shipments of king mackerel, Spanish mackerel, cobia, and jewfish since it would limit the ability to track commercially protected finfish in commerce and therefore have the potential the protection of these resources within the state's waters. Cobia was mentioned by the commission as one example of a fisheries resource which is in need of protection due to concerns over the available stocks. The commission accepted the concerns expressed over the size of the proposed container and the requirement to count king mackerel and Spanish mackerel. The proposed rules were modified in consideration of these concerns.

The new sections and amendments are adopted under the Texas Parks and Wildlife Code, §66.020, which provides the Texas Parks and Wildlife Commission with authority to regulate the importation of commercially protected finfish into Texas.

§57.372. Packaging Requirements.

(a) All commercially protected finfish imported into this state for sale, exported from this state for sale, or being transported intrastate for sale, shall be packaged, one species per package.

(b) A package is defined as a container (and such invoices and identifying documents as are required by these rules) whose volume is no greater than six cubic feet or any container that does not contain more than three individual fish. Each container must be independent of any other container and of any trailer, vehicle, or other type of conveyance.

(c) Each packaged shipment of commercially protected finfish shall be accompanied by an import commercially protected finfish shipping invoice, an intrastate commercially protected finfish shipping invoice, or an export commercially protected finfish shipping invoice (Figure 1).

(d) An import commercially protected finfish shipping invoice shall:

(1) accompany all shipments of commercially protected finfish entering the state;

(2) contain all of the following information, correctly stated and legibly written:

(A) commercially protected finfish shipping invoice number;

(B)-(D) (No change.)

(E) shipper's and receiver's Texas finfish import license number when required;

(F)-(G) (No change.)

(3) be submitted in Figure 1, with an "X" placed in the import box for shipments originating outside Texas with a destination within Texas:

(4) (No change.)

(e) An intrastate commercially protected finfish shipping invoice (Figure 1) shall:

(1) accompany all shipments of commercially protected finfish shipped from within the state to a destination within the state;

(2) contain all of the following information, correctly stated and legibly written:

(A) commercially protected finfish shipping invoice number;

(B)-(D) (No change.)

(E) shipper's and receiver's Texas finfish import license number when required;

(F) number and weight of whole fish or fillets, by species, contained in the shipment except that invoices for shipments of king mackerel and Spanish mackerel are not required to contain the number of fish; and

(G) state (or country, if outside the United States) of origin.

(3) be submitted in Figure 1, with an "X" placed in the Intrastate box for shipments originating inside Texas with a destination within Texas:

(4) (No change.)

(f) An export commercially protected finfish shipping invoice (Figure 1) shall:

(1) accompany all shipments of commercially protected finfish shipped from within the state to a destination outside Texas;

(2) contain all of the following information, correctly stated and legibly written:

(A) commercially protected finfish shipping invoice number;

(B) date of shipment;
shipper;
(C) name and address of
receiver;
(D) name and address of re-
ceiver;
(E) shipper's and receiver's
Texas finfish import license number when
required;
(F) number and weight of
whole fish or fillets, by species, contained
in the shipment except that invoices for
shipments of king mackerel and Spanish
mackerel are not required to contain the
number of fish; and

(G) state (or country, if out-
side the United States) of origin.

(3) be submitted in Figure 1,
with an "X" placed in the Export box for
shipments originating inside Texas with a
destination outside of Texas:

(4) be sequentially numbered
during the license period. No invoice num-
ber may be used twice during any one
license period by an individual licensee.

(g) Each commercially protected
finfish shipping invoice shall be duplicated
by the licensee.

(1) One copy shall be submitted
to the Texas Parks and Wildlife Department
Regional Law Enforcement Office by the
shipper by the 10th day of the month fol-
lowing the month of shipping of each intra-
state or export shipment.

(2) One copy shall be retained
by the licensee for a period of one year
from the date of receipt of each imported
shipment or from the date of shipping of
each intrastate or exported shipment.

(3) One copy shall be retained
by the receiver for a period of one year
from the date of receipt of each import,
intrastate, or export shipment.

(4) One copy shall be submitted
to the Texas Parks and Wildlife Department
Regional Law Enforcement Office by the
receiver of each import, intrastate, or export
shipment by the 10th day of the month
following the month of receipt.

COMMERCIALLY PROTECTED FINFISH SHIPPING INVOICE

IMPORTANT: All information must be correctly stated and legibly written

(A) Type of Shipment (Check **one** box only)

Import Intrastate Export

(B) _____ Invoice Number

SHIPPER:

NAME _____
 ADDRESS _____
 CITY _____
 STATE _____ ZIP _____
 PHONE () _____

(C) ____ / ____ / ____ Date of Shipment

RECEIVER:

NAME _____
 ADDRESS _____
 CITY _____
 STATE _____ ZIP _____
 PHONE () _____

(D) _____ Shipper's Texas
 Finfish Import
 License Number
 (If Required)

(E) _____ Receiver's Texas
 Finfish Import
 License Number (If
 Required)

| SPECIES SHIPPED | NO. OF WHOLE FISH | NO. OF FILLETS | NET SHIPPING WEIGHT IN LBS | STATE OR COUNTRY OF ORIGIN |
|-----------------|-------------------|----------------|----------------------------|----------------------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

FIGURE 1

§57.373. Package Labels.

(a) Each package of commercially protected finfish shall be labeled as to its contents.

(b) The package label shall be placed on the outside of each package and shall contain all of the following information, correctly stated and legibly written:

(1) commercially protected finfish shipping invoice number of the shipment of which the container is a part; and

(2) the number, kind, and weight of whole fish or fillets by species contained in each package except that package labels for shipments of king mackerel and Spanish mackerel are not required to contain the number of fish.

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

Issued in Austin, Texas, on December 9, 1991.

TRD-9115293

Paul M. Shinkawa
Director, Legal Services
Texas Parks and Wildlife
Department

Effective date: December 28, 1991

Proposal publication date: October 4, 1991

For further information, please call: 1-800-792-1112, ext. 4863 or (512) 389-4863

Regulation for Importation of Redfish and Speckled Seatrout

• 31 TAC §§57.374, 57.375, 57.376

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing held November 7, 1991, adopts repeal of §§57.374-57.376, concerning the marking of vehicles transporting red drum and speckled sea trout, without changes to the proposed text as published in the October 4, 1991, issue of the *Texas Register* (16 TexReg 5489). The repeal will comply with the provisions of House Bill 2494, Acts, 72nd Legislature, and to simplify and avoid duplication in the regulations.

The repeal allows new rules and amendments to be adopted in 31 TAC §§57.371-57.376, which protects additional finfish species.

The repeal allows new rules and amendments to be adopted.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Parks and Wildlife Code, §66.020, which authorizes the Texas Parks and Wildlife Commission to regulate the importation of commercially protected finfish into Texas.

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

Issued in Austin, Texas on December 6, 1991

TRD-9115294

Paul M. Shinkawa
Director, Legal Services
Texas Parks and Wildlife
Department

Effective date: December 28, 1991

Proposal publication date: October 4, 1991

For further information, please call: 1-800-792-1112, ext 4863, or (512) 389-4863

Part III. Texas Air Control Board

Chapter 101. General Rules

• 31 TAC §101.1

The Texas Air Control Board (TACB) adopts an amendment to §101.1, concerning definitions, without changes to the proposed text as published in the June 7, 1991, issue of the *Texas Register* (16 TexReg 3128).

The amendment to §101.1 adds a definition for liquid fuel. This definition is added in support of a simultaneous revision to §112.6, concerning Allowable Rates-Liquid Fuel-Fired Steam Generators, which limits the sulfur content of liquid fuel in Harris and Jefferson Counties. The new definition would be consistent with terminology now used by the United States Environmental Protection Agency (EPA).

Public hearings were held in Beaumont on July 1, 1991 and in Houston on July 2, 1991, to consider proposed revisions to TACB Regulation II and the General Rules. One individual supported the entire proposal. No other written or oral testimony was received on this amendment during the comment period which ended July 5, 1991.

The amendments are adopted under the Texas Clean Air Act (TCAA), Texas Health and Safety Code, (Vernon 1990), §382.017, which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

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

Issued in Austin, Texas, on December 4, 1991.

TRD-9115225

Lane Hartsack
Deputy Director, Air Quality
Planning
Texas Air Control Board

Effective date: December 26, 1991

Proposal publication date: June 7, 1991

For further information, please call: (512) 908-1451

Chapter 112. Control of Air Pollution from Sulfur Compounds

• 31 TAC §112.6, §112.20

The Texas Air Control Board (TACB) adopts amendments to §112.6 and §112.20, concerning control of sulfur dioxide. Section

112.6 is adopted with changes to the proposed text as published in the June 7, 1991, issue of the *Texas Register* (16 TexReg 3128). Section 112.20 is adopted without changes and will not be republished. The amendments have been developed to reduce existing and potential exposure to sulfur dioxide in Harris and Jefferson Counties. The primary effect of the amendments is to supersede and remove the permitted flexibility of numerous sources in the two counties which currently enables them to convert from natural gas and/or low sulfur liquid fuels to high sulfur liquid fuels. Removal of the flexibility to utilize high sulfur liquid fuel is expected to help prevent future air quality deterioration.

The amendment to §112.6, concerning allowable rates-liquid fuel-fired steam generators, adds a requirement that limits the sulfur content of liquid fuels combusted in Harris and Jefferson Counties to 0.3 weight percent, and sulfur dioxide emissions from liquid fuel combustion to 150 parts per million by volume (ppmv). Existing stocks of sulfurized fuels above 0.3 weight percent may be co-burned with low sulfur fuels as long as the 150 ppmv emissions limit is achieved. The amendment to §112.20, concerning compliance deadlines, adds a compliance date for the new requirements.

Public hearings were held in Beaumont on July 1, 1991, and in Houston on July 2, 1991 to consider proposed revisions to TACB Regulation II and the general rules. Testimony was received from six commenters during the comment period which ended July 5, 1991. One individual supported the entire proposal. The following discussion addresses the other comments received, all of which concerned the proposed revision to §112.6.

Several commenters, The Greater Houston Partnership; Houston Lighting & Power Company; ProCycle Oil, Inc. (Procycle), requested clarification concerning the use of blended, mixed, or reclaimed fuels as long as the limits of the rule were met. The language of the proposed regulation allows whatever methods industry chooses, including blending, mixing, or co-burning of any fuels, as long as the end result is liquid fuel with a sulfur content not greater than 0.3 percent by weight or emissions of sulfur dioxide not exceeding 150 ppmv. After further review, the staff feels that additional clarification is needed on the requirement of 150 ppmv sulfur dioxide emissions and is recommending the addition of a requirement that the sulfur dioxide emissions be calculated based upon 20% excess air.

Two commenters, ProCycle and Texas Hot Mix Asphalt Pavement Association (Texas Hot Mix), requested clarification on whether the proposed regulations applied to hot mix asphalt kilns, and if so, they requested an exemption. The proposed rules apply to all liquid fuel-fired steam generators, furnaces, or heaters in Harris and Jefferson Counties, including those operated at hot mix asphalt plants. The fuel for hot mix asphalt kilns can be blended, mixed, or co-burned with low sulfur fuels so that the requirements of the regulation are met; however, a specific exemption will not be allowed. Furthermore, this regulation precludes the use of 1.5 weight percent sulfur as allowed in TACB Standard Exemption 99 in Harris and Jefferson Counties.

For purposes of clarification, however, it should be stated that it was not the intent of these proposed revisions to apply to combustion devices related to sulfuric acid plants. Sulfuric acid plants require a high sulfur content to produce the acid.

Texas Hot Mix requested that consideration be given to the fact that hot mix asphalt plants operate intermittently. The intention of the proposed regulations is to establish instantaneous standards for sulfur dioxide emissions. Therefore, it is irrelevant how often a plant operates.

The United States Environmental Protection Agency raised the concern that without the requirement for continuous emissions monitoring there is no method of enforcing the proposed regulation. The addition of continuous emissions monitoring requirements would be more restrictive than the proposed regulation and can not be added without the opportunity for public comment. Revised regulations requiring continuous emissions monitoring for sulfur dioxide emissions will be considered in future rulemaking.

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

§112.6. Allowable Rates-Liquid Fuel-Fired Steam Generator.

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

(d) No person in Harris or Jefferson Counties may cause, suffer, allow, or permit the use of liquid fuel for combustion from any stationary liquid fuel-fired steam generator, furnace, or heater with a sulfur content greater than 0.3% by weight or emissions of sulfur dioxide from any liquid fuel-fired steam generator, furnace, or heater to exceed 150 ppm, by volume, as calculated based on 20% excess air. The requirements of this subsection are not intended to apply to sulfuric acid plants.

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

Issued in Austin, Texas, on December 4, 1991.

TRD-9115228 Lane Hartssock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Effective date: December 26, 1991

Proposal publication date: June 7, 1991

For further information, please call: (512) 908-1451



Part IX. Texas Water Commission

Chapter 305. Consolidated Permits

Subchapter M. Waste Treatment Inspection Fee Program

The Texas Water Commission adopts amendments to §§305.501, 305.502, and 305.504, the repeal of §305.503, and new §305.503, concerning the waste treatment inspection fee program. New §305.503 is adopted with changes to the proposed text as published in the October 4, 1991, issue of the *Texas Register* (16 TexReg 5492). The amendments to §§305.501, 305.502, and 305.504 are adopted without changes and will not be republished.

The Water Code, §26.0291, authorizes the commission to assess an annual fee against each permittee holding a permit for wastewater treatment or discharge issued under the Water Code, Chapter 26. In determining the revenue to be derived from these assessments, the commission considers the funds available from all authorized sources and the requirements to meet budgeted expenses of the water quality activities to which these fee revenues may be allocated. In determining the amount of the fee, the commission may consider permitting factors such as flow volume, toxic pollutant potential, levels of traditional pollutants, and heat load. In addition, the commission may consider the designated uses and the ranking classifications of the waters affected by discharges from the permitted facility.

Senate Bill 1525, Acts of the 71st Legislature, 1989, amends the Water Code to enable the commission to obtain delegation from the federal government of the national pollutant discharge elimination system (NPDES) regulatory authority in accordance with the Federal Water Pollution Control Act, §402(b). Senate Bill 1525 amends the Water Code, §26.0291 by adding provisions which will be effective upon delegation of NPDES permit authority to the commission. In order to provide the funding necessary to pay the expenses of the commission in administering the NPDES program, Senate Bill 1525 authorizes the commission to increase the maximum allowable annual wastewater facility fee from \$11,000 to \$15,000 and to consider the costs of obtaining and administering the NPDES program, in addition to the other factors, in establishing rates for fee assessments. The commission has previously proposed rules, published December 14, 1990 (15 TexReg 7152), which would have increased all wastewater facility fees and conditionally implemented an incremental fee for designated major permits to fund the NPDES program under the authority of Senate Bill 1525. Due to uncertainties regarding the anticipated funding that would be required for both existing program activities and potential new functions under the NPDES program in the 1992-1993 biennium, this proposal was withdrawn and no action taken. These rules, as adopted, incorporate some authority of Senate Bill 1525 to make certain revisions to the fee program, including increasing the maximum fee, but do not contemplate any

increase in the maximum fee at this time nor any differential treatment of major and minor permits beyond the provisions that are in the current rule. To meet the requirements for funds anticipated during the 1992-1993 biennium, the commission proposes to modify certain features of the rate schedule for determination of wastewater inspection fees and increase the fee rates. In addition, the commission adopts a provision which would increase the maximum annual waste treatment facility fee from \$11,000 to \$15,000. This provision would be effective only upon completion of delegation of NPDES permit authority to the commission by the Environmental Protection Agency.

Under the current rate schedule, each permit for which discharge parameters have been established is assigned a variable number of points based on the values of the specific permit parameters. The point values for permits without variable discharge limitations are set as fixed values by rule. The fee is determined by multiplying the total number of points assigned to a permit by the rate of \$50 per point, up to a maximum of \$11,000. Inactive permits are assessed a uniform fee of \$150, regardless of the applicable permit parameters. All evaporation and land disposal permits are assessed a uniform fee of \$200, regardless of permit type or application rate. Industrial permits are evaluated and assessed fees based on pollutant potential, which is determined by categorizing permitted facilities in groups by standard industrial classification and by type of operation. Municipal (domestic) permits are not currently evaluated on a similar basis for pollutant potential.

Fee assessments for all permits will increase from \$50 to \$70 per point. This generally represents an increase of 40%, except for a permit which might exceed the maximum fee, in which case the increase would be less. In addition, other changes are adopted. The most significant change is the deletion of the fixed value of three points for an inactive permit. Under this rule, inactive permits would be evaluated and rated on the basis of the applicable permit parameters and conditions, regardless of the construction or operational status of the facility. The fee for an inactive permit would be 25% of that for an active permit for fiscal year 1992, increasing to 50% in subsequent years. All permits which do not authorize discharge to surface waters, such as those for evaporation ponds or irrigation systems, currently are assessed a fee on the basis of a set point value of four points, which under the current rate is equivalent to an annual fee of \$200. Under the rule as adopted, industrial and agricultural non-surface water discharge permits would be assigned a set point value of five points; municipal (domestic) non-surface water discharge permits would be assigned set point values of four points for facilities authorized up to 0.1 million gallons per day (mgd) and 10 points for facilities authorized at 0.1 mgd or greater.

Some permits authorize both process wastewater discharges, to which specific discharge limitations apply, and stormwater discharges, without specific discharge limitations. Under current assessment procedures, the authorization for stormwater discharge may not be considered in the determination of the total point values for the permit and the corresponding fee which is to be assessed. The

rules will clarify the determination of the assessment in these cases and ensure that all permits are evaluated equitably on the basis of all parameters and conditions applicable.

In addition, the date for which permit status and the fee assessment are determined is changed from October 1st of each year to September 1st in order to correspond to the beginning of the state fiscal year. It is the intention of the commission, in order to ensure the availability of funds for the beginning of each fiscal year and to provide for the effective management of cash resources, that fee assessments be distributed and payments received at the earliest possible time each fiscal year.

Section 305.503 is changed to reduce the impact of the proposed changes for inactive permits. Under the rule as originally proposed, some inactive facilities could be assessed fees of \$11,000, compared to the existing fee of \$150. The change adopted, with the addition of new subsection (i), will phase-in the increase for inactive facilities, imposing a fee of 25% of the calculated amount for the current fiscal year, increasing to 50% of the amount in subsequent years. This change will mitigate the full effect of the increase for inactive facilities and maintain some distinction in the amounts paid for inactive and active facilities.

Comments regarding the proposed rules were received from a number of permit holders. Commenters generally felt that an increase in fees for inactive facilities up to an amount assessed for an active permit was unjustified, and that while some increase was appropriate, the fee for an inactive facility should be less than that for an active facility. The commission agrees that a differential between fees for active and inactive facilities is justified and that the effect of the significant fee increase for inactive facilities should be mitigated. Changes made to §305.503 will reduce the proposed fee increase and allow two years for phasing-in the higher assessments.

• 31 TAC §§305.501-305.504

The amendments and new section are adopted under the Texas Water Code, §26.0291, as amended by Senate Bill 1525,

| | | |
|-----------|---|-----------|
| Group I | = | 0 Points |
| Group II | = | 10 Points |
| Group III | = | 15 Points |
| Group IV | = | 20 Points |
| Group V | = | 30 Points |
| Group VI | = | 40 Points |

(B) Domestic Discharges.

Acts of the 71st Legislature, 1989, which authorizes the Texas Water Commission to revise fee rates for waste treatment facilities in order to obtain and administer a delegated national pollutant discharge elimination system (NPDES) permit program, and §5.102 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§305.503. Fee Assessment.

(a) An annual waste treatment inspection fee is assessed against each person holding a permit issued under the authority of the Water Code, Chapter 26. The amount of the fee is determined by specific permit parameters for which a facility is authorized as of each September 1. The maximum fee which may be assessed each permit is \$11,000, except that upon delegation of national pollutant discharge elimination system (NPDES) permit authority to the commission, the maximum fee which may be assessed is \$15,000.

(b) In assessing a fee, the commission may consider the following parameters for each permit:

- (1) pollutant potential;
- (2) flow volume;
- (3) traditional pollutants;
- (4) heat load;
- (5) major/minor designation;
- (6) the designated uses and ranking classification of waters affected by waste discharges; and
- (7) the costs of obtaining and administering the Texas pollutant discharge elimination system program, upon delegation by the Environmental Protection Agency.

(c) Except as provided in subsection (g) of this section, the commission shall assign a point value to each of the permit parameters in subsection (b) of this section. The assigned value(s) shall be weighted according to the specific permit limits and the weighted values summed. Either the sum of the variable point values under subsection (f) of this section or the set point values established under subsection (g) of this section are multiplied by the current fee rate under subsection (h) of this section to determine the fee to be assessed.

(d) For the purpose of fee calculation, COD and TOC are converted to BOD values and the higher value is assessed points. The conversion for TOC is: three pounds of TOC is equal to one pound of BOD (3:1). The conversion for COD is eight pounds of COD is equal to one pound of BOD (8:1).

(e) For the purpose of fee calculation, a permit which authorizes a secondary treatment system consisting of ponds or lagoons at limits of 30 mg/l BOD and 90 mg/l TSS shall be assumed to be equivalent to 20 mg/l BOD and 20 mg/l TSS. This equivalency is based on treatment provided by different types of secondary treatment systems.

(f) Except as provided in subsection (g) of this section, each permit shall be assessed a fee based on the specific parameters assigned to the permit and determined by the following schedule. Each permit shall be reviewed to determine the individual values for the parameters covered by this schedule:

(1) Pollutant Potential.

(A) Industrial Discharges.

Group I (< 1.0 mgd, no biomonitoring
or toxicant numerical limit) = 0 Points

Group II (\geq 1 mgd and/or biomonitoring,
but no toxicant numerical limit) = 10 Points

Group III (toxicant numerical limit) = 15 Points

Pollutant Potential Points = _____

(2) Flow Volume.

(A) Type I (Contaminated):

\leq .05 mgd = 3 points
 $>$.05 but \leq .25 = 5 points
 $>$.25 but \leq 2 = 10 points
 $>$ 2 but \leq 4 = 20 points
 $>$ 4 but \leq 6 = 30 points
 $>$ 6 but \leq 8 = 40 points
 $>$ 8 but \leq 10 = 50 points
 $>$ 10 mgd = 60 points

(B) Type II (Uncontaminat-

ed):

\leq 1 mgd = 3 points
 $>$ 1 but \leq 5 = 10 points
 $>$ 5 but \leq 10 = 20 points
 $>$ 10 but \leq 50 = 30 points
 $>$ 50 but \leq 500 = 40 points
 $>$ 500 mgd = 50 points

(3) Traditional Pollutants.

(A) Oxygen demand. (COD
and TOC limits are converted to BOD val-
ues and the higher value is used.)

| | | |
|-------------------|---|-----------|
| ≤ 50 lb/day | = | 1 point |
| > 50 but ≤ 100 | = | 5 points |
| > 100 but ≤ 250 | = | 10 points |
| > 250 but ≤ 500 | = | 20 points |
| > 500 but ≤ 750 | = | 30 points |
| > 750 but ≤ 1000 | = | 40 points |
| > 1000 but ≤ 3000 | = | 60 points |
| > 3000 lb/day | = | 80 points |

Oxygen Demand Points = _____

(B) Total Suspended Solids.

| | | |
|-------------------|---|-----------|
| ≤ 50 lb/day | = | 1 point |
| > 50 but ≤ 100 | = | 5 points |
| > 100 but ≤ 250 | = | 10 points |
| > 250 but ≤ 500 | = | 20 points |
| > 500 but ≤ 750 | = | 30 points |
| > 750 but ≤ 1000 | = | 40 points |
| > 1000 but ≤ 3000 | = | 60 points |
| > 3000 lb/day | = | 80 points |

Total Suspended Solids Points = _____

(C) Ammonia.

≤ 250 lb/day = 0 points
 > 250 but ≤ 500 = 10 points
 > 500 but ≤ 1000 = 20 points
 > 1000 but ≤ 3000 = 30 points
 > 3000 lb/day = 40 points

Ammonia Points = _____

(4) Heat Load.

If heat loading parameter is not present = 0 points
 If heat loading parameter is present = 10 points

Heat Load Points = _____

(5) Major/Minor Designation.

If facility is rated as EPA minor facility = 0 points
 If facility is rated as EPA major facility = 10 points

Major Facility Points = _____

(g) Set Point Permits. The following fees are assessed for permits to which the parameters under subsection (f) of this section are not applicable:

(1) Evaporation/Land Application Permits.

Industrial Discharges = 5 points

Domestic Discharges

< .1 mgd = 4 points

≥ .1 mgd = 10 points

shall be assessed a fee under subsection (f) of this section.

(2) Stormwater/Report Permits = 12 points Stormwater permits for which discharge parameters have been established

Set Points = _____

(h) The annual fee to be assessed is calculated by multiplying the total points determined under subsection (f) of this section and/or subsection (g) of this section by the rate of \$70 per point. Permits having both process wastewater discharges assessed under subsection (f) of this section and stormwater discharges assessed under subsection (g) of this section shall be assessed the total of the fees determined under the respective subsections, not to exceed the maximum fee under subsection (a) of this section.

(i) Until August 31, 1992, the fee assessed an inactive permit shall be 25% of that calculated under subsection (f) and/or subsection (g) of this section. Beginning September 1, 1992, the fee assessed an inactive permit shall be 50% of that calculated under subsection (f) and/or subsection (g) of this section. In no event shall the fee for an inactive permit be less than \$100 per year.

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

Issued in Austin, Texas, on December 9, 1991.

TRD-9115414

John Vay
Director, Legal Services
Division
Texas Water Commission

Effective date: December 30, 1991

Proposal publication date: October 4, 1991

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

• 31 TAC §305.503

The repeal is adopted under the Texas Water Code, §26.0291, as amended by Senate Bill 1525, Acts of the 71st Legislature, 1989, which authorizes the Texas Water Commission to revise fee rates for waste treatment facilities in order to obtain and administer a delegated national pollutant discharge elimination system (NPDES) permit program, and §§5.102 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

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

Issued in Austin, Texas, on December 9, 1991.

TRD-9115413

John Vay
Director, Legal Services
Division
Texas Water Commission

Effective date: December 30, 1991

Proposal publication date: October 4, 1991

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

Chapter 320. Regional Assessments of Water Quality

Program for Assessment of Water Quality by Watershed and River Basin

• 31 TAC §§320.1-320.9

The Texas Water Commission adopts new §§320.1-320.9, concerning a program for assessment of water quality by watershed and river basin. Sections §§320.1, 320.3, 320.6, and 320.7 are adopted with changes to the proposed text as published in the November 1, 1991, issue of the *Texas Register* (16 TexReg 6195). Sections §§320.2, 320.4, 320.5, 320.8, and 320.9 are adopted without changes and will not be republished.

New §§320.1-320.9 replace §§320.1-320.9 which were adopted as emergency rules by the Texas Water Commission and which were published in the October 4, 1991, issue of the *Texas Register* (16 TexReg 5439). New §§320.1-320.9 are adopted to implement a regional water quality assessment program required by Senate Bill 818, 72nd Legislature, 1991. The new sections establish a program for the assessment of historical, existing, and projected water quality conditions in order to meet the goals of maintaining and improving the state's water resources. As stated in the preamble for the proposed rules, the new sections require that water quality assessments be performed and biennial assessment reports be prepared for each watershed and river basin in the state by river authorities, the commission, and governmental entities which have been designated by the commission to perform the assessments. The new sections are adopted with the intent of Texas Water Commission Regional Assessments of developing water quality assessments in each watershed and to encourage a cooperative partnership and avoid, as much as possible, duplication of efforts among river authorities, the Texas Water Commission, other state agencies, local governments, other political subdivisions,

and regulated entities. It is anticipated that the program established by these sections will be implemented in two phases, with the first phase focusing on information gathering, and the second phase requiring an evaluation and analysis of the information collected.

New §320.1 is adopted with changes to the proposed text. New §320.1 provides that the assessments will be conducted in a manner which avoids duplication of efforts. Regulated entities have been added to this section under the statement which provides that the assessments will be conducted in a manner which avoids duplication of efforts. Additionally, some minor grammatical changes were made to §320.1. New §320.3 is adopted with a change to the proposed text in order to make this section on definitions and abbreviations applicable to Chapter 320, and not just §§320.3-320.9. Section 320.6 is adopted with the following changes to the proposed text. Section 320.6(b)(7), which requires an identification of wells, has been amended to exclude from the reporting requirement information on active and properly plugged wells, including groundwater monitoring wells, test wells, and recovery wells. Section 320.6(b)(8), (9), and (10), which require the assessment reports to address permit violations for municipal, industrial, and stormwater permits, have been amended to require the assessment reports to address only water quality related permit violations. A requirement for an inventory of water rights permits has been added as (b)(11). The previous (b)(11), as published in the proposed text, relating to an inventory of solid waste management facilities and superfund sites, has been renumbered as (b)(12). The remaining elements (b)(12)-(25), as published in the proposed text, have been renumbered as (b)(13)-(26). Subsection (b)(7)(a), relating to steering committees, is adopted with one change to the proposed text. The word "entities" has been added to the list of entities which the steering committees shall comprise.

New §320.1 states the purposes of §§320.1-320.9. The primary purpose of new §§320.1-320.9 is to set up a program to assess historical, existing, and projected water quality conditions in order to meet the goals of maintaining and improving the quality of the state's water resources. Additionally, §320.1 provides that the regional assessment program is designed to allow citizens and private organizations an opportunity for involvement in protecting the state's water resources. New §320.1 also provides that it is not the intent of the new sections to require river authorities and designated local governments to reproduce information already contained in the files of the commission but that the performance of a meaningful water quality assessment may require existing information to be

compiled in a format that will allow for a comprehensive evaluation of the information. The purpose statement in 320.1 also provides that it is the intent of these sections that the fees collected under Chapter 320 recover no more than the actual costs incurred by river authorities and designated local governments in administering the new water quality management programs. In addition, §320.1 states that revenue generated by the program described in §§320.1-320.9 shall not be used by river authorities and designated local governments to fund their existing programs. Finally, new §320.1 provides that the commission shall ensure that water users and wastewater dischargers do not pay excessive amounts; and that no municipality shall be assessed costs for any efforts that duplicate water quality management activities carried out pursuant to the Texas Water Code, §26.177 or rules implementing that section.

New §320.2 provides that the adopted sections apply to water in the state and that the assessments shall be conducted by river authorities, local governments designated by the commission, and the commission.

New §320.3 is a list of definitions and abbreviations of terms to be used in the new sections.

New §320.4 provides an overview of the adopted sections and states that biennial assessment reports shall be prepared and provided to the governor, commission, and Texas Parks and Wildlife. New §320.4 also provides for the creation of steering committees to assist in the development of the assessment reports. This section also provides that a meaningful public input process must be established.

New §320.5 describes the procedure to be followed in conducting the regional assessments. This section provides that a work plan shall be prepared setting forth in detail how the river authority or designated local government proposes to develop the assessment as required by this chapter. This section also provides that biennial assessment reports shall be prepared which shall present in a comprehensive format the results of the biennial regional assessments of water quality. The reports shall address significant water quality problems facing the watershed. Additionally, the reports shall focus on projected water quality conditions. The assessment reports shall be prepared in accordance with these rules. It is contemplated by these rules that the amount of detail in each biennial report will vary according to the time allowed for preparation, the resources available, the complexity of the issues facing the watershed, and the amount of input received by the river authority or designated local government from other local governments and individuals.

New §320.6 sets out the specific elements to be addressed in the assessment reports and provides that the elements shall be evaluated and the reports organized by segments. This section provides that the following elements shall be discussed or provided in the reports: historic and current water quality monitoring data, measures taken by river authorities, cities, and others to promote public awareness of water quality issues and the opportunity for public involvement in water quality issues, existing population figures for political subdivisions, basin-wide surface water baseline map, basin-wide groundwater baseline map,

identification and evaluation of wells which could lead to pollution of water in the state, an inventory of permitted municipal and industrial wastewater disposal activities, an inventory of stormwater permits, an inventory of water rights permits, an inventory of solid waste management facilities and superfund sites, an inventory by segment of above-ground storage tanks and petroleum underground storage tanks, identification and evaluation of on-site disposal facilities which could lead to pollution of water in the state, identification of existing or potential water quality problems caused by toxic materials that could adversely impact human health, aquatic life, wildlife, or livestock, an evaluation of the sources of toxic substances which contribute to each water quality problem identified, depiction on a county baseline map the waters impacted by toxic materials and identification of the possible sources of pollution and source if known, an evaluation of the health and integrity of aquatic life, sources of significant nonpoint source pollution, identification and documentation of existing or potential water quality problems or impediments to uses caused by excessive growth of aquatic vegetation, identification and documentation of existing or potential water quality problems, existing and proposed methods for collection and disposal of household waste, pesticides, and toxic agricultural products, issues or instances where enforcement of water quality regulations by federal, state or local governments is inadequate or has failed to correct water quality problems, identification of water quality issues not adequately addressed as a result of the lack of authority on the part of state, or local governments, or which may be adequately addressed if Texas Water Commission authority could be delegated, federal, state, and local programs and/or actions that are attempting to respond to identified water quality problems, any other water quality problems not previously identified, a brief narrative discussing those waterbodies that are of water quality concern, a description of possible solutions and estimated costs to implement such solutions, a prioritization of waters with existing or potential water quality problems, a bibliography of previous water quality studies performed in the watershed, a description of goals and objectives that encourage, assist, and promote water conservation measures and water conservation management plans, and a discussion of existing water conservation programs and any measures taken by river authorities and local governments to implement water conservation programs.

New §320.7 provides that river authorities and designated local governments shall create steering committees to assist in the development of the assessment reports and that the committees shall reflect a diversity of interests including representatives from appropriate state agencies, political subdivisions, other governmental bodies, and individuals or entities with an expressed interest in water quality matters within each watershed.

New §320.8 provides that local governments shall assist the river authority or designated local government within the watershed in conducting the regional assessment by providing data and other relevant water quality information that pertains to the watershed.

New §320.9 provides that the role of the

steering committee is advisory in nature and that all agencies and organizations required to participate in the regional assessment shall provide available relevant water quality data to the river authorities, designated local governments, local governments, or Texas Water Commission, as appropriate.

The commission received public comments from Texas Utilities Services, Inc.; Red River Authority of Texas; Lavaca-Navidad River Authority; Mobil Oil Corporation, Beaumont, Texas Refinery; Lower Colorado River Authority; and North Central Texas Council of Governments.

One commenter suggested that he/she would like the commission to establish a format whereby all information obtained from the commission (as required under the regional assessment program) be provided in a format acceptable for inclusion in the assessment reports. The commission responds that, to the greatest extent practicable, any information supplied by the commission will be provided in a format acceptable for inclusion in the assessment reports. This commenter also stated that the assessment report elements which require submission of information regarding permit violations for industrial, municipal, and stormwater permits, will require the submission of non-water quality related permit violations, and thus, requires information which is not necessary for the performance of a water quality assessment. The commission agrees with this suggestion and has modified the requirements in §§320.6(b)(8), (9), and (10) relating to the reporting of permit violations to require only water quality related permit violations. This commenter also stated that the rules should be amended to allow industrial permittees to participate in the steering committees. The commission agrees with this suggestion and has added the word "entity" to the provision regarding steering committees members. This entity also suggested that the commission provide notice of the availability of the draft assessment reports to facilitate the correction of any errors before the final report is prepared. The commission agrees with this suggestion and will try and work with the various committees to distribute the draft reports.

Other entities provided several comments in question form. Their concerns relate to the degree of protection, if any, the commission will afford to the entities performing the assessments as it relates to citizen monitoring programs encouraged under §320.6(b)(1) of these rules. The commission responds that these rules do not establish a citizen monitoring program, but rather, they require river authorities and designated local governments to promote citizen monitoring activities. Any concern about liability as it relates to citizen monitoring programs should be addressed at the time the contracts for the monitoring programs are prepared. These commenters also asked whether an official set of population projections will be available from the Texas Water Development Board for use in the 1992 assessment report. The commission responds that it will provide the most recent population information available for use in the assessment reports. These commenters raised some specific questions with regard to the mapping requirement for industrial and municipal wastewater discharge activities. These commenters asked whether the latitude and longitude coordinates that will be

supplied by the commission will have to be checked for accuracy. Additionally, these commenters asked how the coordinates will be expressed. These entities also raised a question regarding how much of the commission's surface water monitoring spreadsheet data should be placed into Ascii files. This question relates to §§320.6(b)(16)-(18), which require an identification and evaluation of water quality problems caused by such things as toxic materials, nonpoint source pollution, and excessive growth of aquatic vegetation. These commenters also asked how the location of certain facilities, as described in §§320.6(b)(16)-(18), should be expressed, and whether a survey of the sites is required. With regard to the three previous comments, the commission responds that these concerns will be addressed in the guidance documents, workshops, and other training programs set up to assist river authorities and other entities in performing the assessments. The same commenters also inquired about plans and schedules required for certain elements in the rules, and whether the commission is going to supply any or all of the data for elements in §§320.6(b)(7), (11), (13), and (14). The commission responds that the schedules for submittal of work plans and assessment reports are clearly set out in the rules. Any other plans or schedules associated with this program will be established on an individual watershed basis in consultation with the commission staff. These entities also asked whether the commission will issue guidelines which address the problems mentioned in these comments. The commission responds that specific details regarding how the program will be implemented will be addressed in the workshops, guidance documents, and other training programs set up to assist river authorities and designated local governments in performing the assessments.

One commenter asked how long the collected data should be archived. The commission responds that this type of decision will be left to the entities performing the assessments. The commission believes that historical information should be archived for as long as it is relevant to the analysis and evaluation of water quality.

One commenter stated that it anticipates that wastewater dischargers and other types of facilities may be called upon to submit data necessary for preparation of the assessment reports. For this reason, this commenter recommended that the policy statement contained in §320.1 regarding avoidance of duplication of efforts be extended to members of the regulated community affected by the assessments. The commission agrees with this comment and has modified the purpose statement accordingly. This commenter also recommended that §320.6(b)(7), which requires an identification of wells, be modified to exclude active and properly plugged wells, including groundwater monitoring wells, test wells, and recovery wells. The commission agrees with this comment and has modified §320.6(b)(7) accordingly. This commenter stated that §320.6(b)(12)(E), which requires identification of ASTs and USTs not registered by the commission, be modified to apply only to tanks which are regulated by the commission. The commission responds that this concern has already been addressed in §320.6(b)(13) of this chapter which only requires information on tanks which are regu-

lated by the commission. This commenter also recommended that §320.9, relating to responsibilities of steering committee members, should provide a more comprehensive description of responsibilities of committee members, including responsibilities of members who are on the steering committee because they have an expressed interest in water quality matters within the watershed. The commission responds that these particular types of issues will be addressed on an individual watershed basis.

Another commenter requested that the commission add an element to the regional assessment program which would address water rights in the same format as other inventories of permitted uses such as municipal discharges. The commission agrees with this recommendation and has added an element requiring an inventory of water rights permits. (New §320.6(b)(11)).

Another commenter requested that designated regional councils be included as local entities which may be designated to perform the regional assessments. Similarly, this commenter requested that regional councils be added to the list of entities to be included in the steering committees. The commission responds that Senate Bill 818 establishes that river authorities, the commission, and local governments are authorized to perform the assessments. Where necessary, a regional council, if considered to be a local government, and if designated by the commission, may be authorized to perform an assessment. These rules track that language. The commission believes that adding the word "entity" to the provision regarding steering committee members should address the second concern of this commenter.

The new sections are adopted under the Texas Water Code, §5.103, §5.105, and §26.011, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the code and all other laws of the State of Texas and to establish and approve all general policies of the commission.

§320.1. Purpose.

(a) The purpose of this chapter is to assess historical, existing, and projected water quality conditions in order to meet the goals of maintaining and improving the quality of the state's water resources. Regional assessments of water quality shall be conducted pursuant to this chapter to provide the commission, river authorities, and local governments with sufficient information to take appropriate corrective action necessary to meet these goals. The intent of developing water quality assessments in each watershed is to identify water quality problem areas and to focus resources and future studies on these areas. The commission has the responsibility of ensuring that a comprehensive assessment of water quality is conducted for each watershed in the state. Whenever feasible, the assessments will be the result of a cooperative partnership between river authorities, designated local governments, other political subdivisions, other state agencies, and the Texas Water Commission. The assessments will be con-

ducted in a manner which avoids duplication of efforts among river authorities, the Texas Water Commission, other state agencies, local governments, other political subdivisions, and regulated entities. This program will be implemented in two phases, with the first phase focusing on information gathering, and the second phase requiring an evaluation and analysis of the information collected. Additionally, the regional assessment program is designed to allow citizens and private organizations an opportunity for involvement in protecting the state's water resources. It is not the intent of these rules to require river authorities and designated local governments to reproduce information already contained in the files of the commission, however, the performance of a meaningful water quality assessment may require existing information to be compiled in a format which will allow for a comprehensive evaluation of the information.

(b) It is the intent of these rules that the fees collected under this chapter recover no more than the actual costs of administering the new water quality management programs incurred by river authorities, designated local governments or the Texas Water Commission. Revenue generated by this chapter shall not be used by river authorities and designated local governments, to fund their existing programs. The commission shall ensure that water users and wastewater dischargers do not pay excessive amounts; and that no municipality shall be assessed cost for any efforts that duplicate water quality management activities carried out pursuant to the Texas Water Code, §26.177, or rules implementing that section.

§320.3. Definitions and Abbreviations.

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

(1) Aboveground storage tank—As defined in 31 Texas Administrative Code (TAC) §334.122(b)(1) of this title (relating to Definitions).

(2) Aquatic life—An indigenous species of aquatic or semi-aquatic life or wildlife.

(3) Assessment report—A comprehensive record of historical, existing and projected water quality conditions of a watershed.

(4) Citizen monitoring—A program conducted by students or other volunteers involving the collection, management, and dissemination of environmental information.

(5) County baseline map—State Department of Highways and Public Transportation County Map in a digital format depicting site-specific locations in latitude and longitude coordinates.

(6) Designated local government—A local government that has been designated through cooperative agreement or contract with the commission to perform a regional assessment pursuant to this chapter.

(7) Element—A component and constituent of the regional assessment report.

(8) Leaking petroleum storage tank—Those storage tanks which have been assigned a leaking petroleum storage tank (LPST) number by the Texas Water Commission.

(9) Nonpoint source pollution—Human-made or human-induced pollution caused by diffuse sources that are not regulated as point sources, resulting in the alteration of the chemical, physical, biological, and/or radiological integrity of the water.

(10) Outfall—A designated outfall pursuant to a commission issued discharge permit or NPDES permit.

(11) Permit—Any right or authorization granted by the Texas Water Commission or its predecessor agencies, including wastewater disposal permits, water rights permits, certificates of adjudication, and certified filings.

(12) Petroleum product—As defined in 31 TAC §334.122(b)(12) of this title (relating to Definitions).

(13) Pollution—The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(14) River authority (for purposes of this chapter only)—Any district or authority created by the legislature which contains an area within its boundaries of 10 or more counties and which is governed by a board of directors appointed or designated in whole or in part by the governor, or by the Texas Water Development Board, including without limitation the San Antonio River Authority, and other river authority or special district created under Article III, §52, subsection (b)(1) or (2), or Article XVI, §59, of the Texas Constitution that is designated by rule of the commission to comply with this chapter.

(15) River basins and coastal basins—The river basins and coastal basins now defined and designated by the Texas Water Development Board as separate units for the purposes of water development and inter-watershed transfers, and as they are made certain by contour maps on file in the offices of the Texas Water Development Board, including, but not limited to, the

local government to perform a service and/or provide a comprehensive regional assessment of the watershed.

(16) Solid waste—As defined in the Texas Solid Waste Disposal Act, §361.003, as amended, including both municipal solid waste and industrial solid waste as those terms are defined in the Texas Solid Waste Disposal Act, §361.003, as amended.

(17) Stream segment—The term "segment" refers to the surface waters of an approved planning area exhibiting common biological, chemical, hydrological, natural, and physical characteristics and processes. Segments will normally exhibit common reactions to external stresses (e.g., discharge or pollutants). Segments are enumerated using a four-digit number. The first two digits identify the basin in which the segment is located. The last two digits distinguish the segments within a particular river, coastal, or estuarine basin. Boundaries of bay and estuarine segments (identified with the Number 24 as the first two digits) have not been defined and are illustrated as approximations at this time. All designated segments are listed in Appendix A of §307.10 of this (relating to Appendices A-D).

(18) Stormwater drainage system—Man-made and natural features which function as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, or divert stormwater runoff.

(19) Surface water—As defined in §307.3(a)(38) of this title (relating to Definitions and Abbreviations).

(20) Superfund site—Any facilities identified in the State Registry pursuant to the Texas Health and Safety Code, §361.181 or on the National Priorities List pursuant to the Comprehensive Environmental Response Compensation and Liability Act, 42 United States Code §9601 et seq, as amended.

(21) Toxic materials—Any liquid, gaseous, or solid substance or substances in a concentration which, when applied to, discharged to, or deposited in the waters in the state, may exert a poisonous effect detrimental to man or to the propagation, cultivation, or conservation of animals, fish, or other aquatic life.

(22) Unclassified waters—Those waters for which no classification has been assigned and which have not been identified in Appendix A of §307.10.

(23) Underground storage tank—As defined in §334.2 of this title (relating to Definitions).

(24) Wetlands—As defined in 31 TAC §307.3(a)(45).

(25) Work plan—A document outlining the proposed scope of work, including a time schedule and cost expenditures, from the river authority or designated

local government to perform a service and/or provide a comprehensive regional assessment of the watershed.

(b) Abbreviations. The following abbreviations apply to this chapter.

(1) Assessment—Regional assessment of water quality to be performed biennially.

(2) AST—Aboveground storage tank.

(3) Code—Texas Water Code.

(4) Commission—Texas Water Commission.

(5) CWA—Clean Water Act.

(6) EPA—Environmental Protection Agency.

(7) LPST—Leaking petroleum storage tank.

(8) NPDES—National pollutant discharge elimination system.

(9) TAC—Texas Administrative Code.

(10) UST—Underground storage tank.

§320.6. Elements of Assessment Reports.

(a) General requirements. The assessment reports shall be evaluated and organized by stream segment. Unclassified surface waters shall be grouped with the first downstream segment in the same watershed. All data and information maintained by the commission and pertinent to the completion of this section will be assembled by the commission and disseminated to those entities conducting regional assessments of water quality as required by this chapter.

(1) Baseline maps shall be either a basin-wide surface water map, a basin-wide groundwater map, or county map. If necessary, a larger-scaled map than the county baseline map may be used, such as the 7.5 minute (1:24,000 scale) United States Geological Survey (USGS) quadrangle series maps.

(2) All assessment report elements, as identified under subsection (b) of this section, requiring a site-specific location (e.g., locations of municipal and industrial wastewater discharges, superfund sites, etc.) shall be depicted on maps with symbols indicating type of assessment element along with a unique identification number for the element. The sites' longitudinal and latitudinal coordinates with attributes (e.g., latitude, longitude, source map name, source scale, and positional reliability estimate—code) sufficient to identify individual assessment elements shall be provided in an ASCII flat file format, and placed on micro computer disks to be submitted to the commission. These files shall be consistent with the commission's computer database soft-

ware, database format, and geographical information system for a suitable importation of data.

(b) Specific elements to be addressed:

(1) a review of historic and current water quality monitoring data, to include the following:

(A) brief description and status of water quality monitoring programs currently being conducted by the authority, other political subdivisions and other agencies;

(B) evaluation of the capability of existing monitoring programs to adequately assess and analyze existing and potential water quality problems in the watershed;

(C) specific recommendations for additional monitoring and data management needed to conduct future regional assessments;

(D) monitoring plan which describes how the river authority will implement recommendations for additional monitoring in coordination with the commission;

(E) brief description of any monitoring to analyze nonpoint source loadings; and

(F) depiction of all existing and proposed monitoring sites on a county baseline map or other appropriate map;

(2) the river authority or designated local government which shall formulate goals and objectives that encourage and promote citizen monitoring activities. Additionally, the river authority or designated local government shall discuss existing citizen monitoring programs and any measures taken by the river authority and local government to implement citizen monitoring programs;

(3) any measures taken by river authorities, cities, and others to promote public awareness of water quality issues and the opportunity for public involvement in water quality issues;

(4) existing population figures for political subdivisions. Sources for population may be obtained through the Texas Water Development Board, Texas Population Totals/Bureau of the Census, Department of Commerce, Texas Natural Resources Information System, and records of political subdivisions within the watershed;

(5) a basin-wide surface water baseline map of Texas depicting all segments, significant waterways, lakes, reser-

voirs, wetlands, and significant geographical features such as: city and county boundaries, and major roadways in a digital format in latitude and longitude coordinates;

(6) a basin-wide groundwater baseline map depicting all minor and major aquifers, and significant geographical features such as: city and county boundaries, and major roadways in a digital format in latitude and longitude coordinates;

(7) an identification and evaluation of wells which could lead to pollution of water in the state (e.g., abandoned and/or improperly plugged domestic drinking water wells, oil and gas wells, but not active or properly plugged wells, including groundwater monitoring wells, test wells, or recovery wells). Depiction of the identified well or field location on a county baseline map;

(8) an inventory of permitted municipal wastewater disposal activities by:

(A) name of permittee and permit number;

(B) date of permit expiration and status of operations, (e.g., active, inactive, facility not constructed);

(C) brief description of facility operations (e.g. domestic wastewater treatment plant, dairy) and treatment processes;

(D) effluent limits (BOD5/TSS/NH3-N/DO) and any other parameters listed in the permit;

(E) effluent set in lbs/day;

(F) for agricultural facilities, estimated amount of waste produced (solids in lbs/day and liquid in gallons/day); maximum number of animals allowed under permit;

(G) permitted daily average flow;

(H) number/year of water quality related permit violations based on self-reporting data; and

(I) depiction of all permitted municipal facilities' discharge points on a county baseline map or other appropriate map;

(9) an inventory of permitted industrial wastewater disposal activities by:

(A) name of permittee and permit number;

(B) date of permit expiration and status of operations (e.g., active, inactive, facility not constructed);

(C) brief description of facility operations (e.g., steam electric station, organic chemical manufacturing plant) and treatment processes (e.g., disposal method such as surface water discharge, subsurface disposal or, if land disposal, include specific method such as irrigation, evaporation);

(D) effluent limits listed in the permit either in lbs/day or concentration based;

(E) permitted daily average flow;

(F) number/year of water quality related permit violations based on self-reporting data; and

(G) depiction of all permitted discharge points on a county baseline map or other appropriate map;

(10) an inventory of stormwater permits, as defined in the Clean Water Act of 1987, §492(p) (added by the Water Quality Act of 1987, §405), 40 Code of Federal Regulations Parts 122, 123, and 124, by:

(A) name of permittee and permit number;

(B) date of permit expiration and status of operations, (e.g., active, inactive, not constructed);

(C) publicly owned conveyances;

(D) privately owned conveyances;

(E) parameters listed in the permit;

(F) proposed stormwater pollution control;

(G) number/year of water quality related permit violations based on self-reported data; and

(H) depiction of all permitted stormwater monitoring outfall sites on a county baseline map or other appropriate map;

(11) an inventory of water rights permits (as defined in §320.3(a) of this title (relating to Definitions and Abbreviations)) to include, as applicable:

(A) name of permittee and permit number;

(B) date of permit expiration and status of operations (e.g., active or dormant);

(C) authorized diversion rate in gallons per minute or cubic feet per second;

(D) authorized annual use limit in acre-feet per year;

(E) authorized storage in acre-feet per year;

(F) indication of whether storage is on or off channel;

(G) type of use (e.g., municipal, industrial, irrigation, recreation);

(H) indication of whether permittee is a water supplier. If water rights holder is a supplier, list supplier's customers and locations of customers;

(I) depiction of all diversion points on a county baseline map or other appropriate map;

(12) an inventory of solid waste management facilities and superfund sites to include the following, as applicable:

(A) name of permittee;

(B) hazardous waste permit number;

(C) solid waste registration number;

(D) solid waste management activities conducted at the site; and

(E) depiction of all solid waste management facilities or superfund sites on a county baseline map or other appropriate map. Distinguish federal and state superfund sites on the county baseline map or other appropriate map;

(13) An inventory by segment of those ASTs and USTs regulated by the Commission pursuant to the Texas Water Code, Chapter 26 and the commission rules in 31 TAC Chapter 334, including:

(A) total number of ASTs and USTs in each segment;

(B) total number of LPSTs in each segment;

(C) storage tank registration numbers and location by street or other identifying address;

(D) LPST registration numbers and location by street or other identifying address; and

(E) location by street or identifying address of any known ASTs or USTs not registered with the commission;

(14) identification and evaluation of on-site disposal facilities which could lead to pollution of water in the state (e.g., surface failure, reported complaint regarding on-site disposal facility). Depiction of the identified facilities or location of subdivision served by on-site disposal facilities on a county baseline map;

(15) identification and documentation of existing or potential water quality problems caused by toxic materials that could adversely impact human health, aquatic life, wildlife, or livestock; and an evaluation and analysis of the sources of toxic substances which contribute to each water quality problem identified. Depiction on a county baseline map the waters impacted by toxic materials and identification of the contaminant and possible sources of pollution if known;

(16) an evaluation and analysis of the health and integrity of aquatic life based on sampling data for fish, benthic invertebrates, and any other forms of aquatic life which may be of concern; identification of existing or potential conditions and sources of pollution which adversely impact aquatic life, and identification of threatened or endangered species which could be affected by diminished water quality;

(17) sources of significant nonpoint source pollution which shall be discussed in the assessment report and depicted on a county baseline map or other appropriate map. Land use maps shall be developed for areas where nonpoint source pollution has been identified as a threat to water quality. Best professional judgment shall be utilized in determining an appropriate scale for the land use maps;

(18) identification and documentation of existing or potential water quality problems or impediments to uses caused by excessive growth of aquatic vegetation, and an evaluation of the factors contributing to the water quality problem identified;

(19) identification and documentation of existing or potential water quality problems caused by other forms of pollution—such as oxygen-demanding organic materials, excessive particulate materials (suspended solids), elevated levels of dissolved salts, or elevated levels of bacte-

rial indicators of fecal contamination; and an evaluation and analysis of the sources which contribute to each water quality problem identified;

(20) an evaluation of existing and proposed methods for collection and disposal of household waste, pesticides, and toxic agricultural products in the watershed. The river authority or designated local government shall formulate basin-wide goals and objectives for use in the watershed to promote and encourage the development of such programs. The river authority or designated local government shall identify its perceived role in promoting these programs;

(21) identification of issues or instances where enforcement of water quality regulations by federal, state, or local governments is inadequate or has failed to correct water quality problems. The river authority or designated local government shall also identify water quality issues which are not adequately addressed as a result of the lack of authority on the part of state or local governments or which may be adequately addressed if the commission's authority could be delegated. The river authority or designated local government is encouraged to suggest possible solutions to any problems identified under this subsection, including the need for legislative action;

(22) a description of federal, state, and local programs and/or actions that are attempting to respond to identified water quality problems;

(23) any other water quality problems not previously identified pursuant to this section of the rule;

(24) the regional assessment report which shall contain a brief narrative discussing those waterbodies that are of water quality concern. This should include, but not be limited to, the identification of high quality waters as well as waterbodies not meeting water quality standards. The regional assessment report shall also describe possible solutions to any identified water quality concerns and estimated costs to implement such solutions. A prioritization of waters with existing or potential water quality problems;

(25) a bibliography of previous water quality studies performed in the watershed;

(26) a description of goals and objectives that encourage, assist, and promote water conservation measures and water conservation management plans. A discussion of existing water conservation programs and any measures taken by river authorities and local governments to implement water conservation programs.

§320.7. Responsibilities of River Authorities and Designated Local Governments.

(a) Steering committees. River authorities, designated local governments, and the commission shall organize and lead basin-wide steering committees. The membership of the steering committees shall reflect a diversity of interests. The committees shall be comprised of appropriate state agencies (e.g., Texas Parks and Wildlife Department, General Land Office, Texas Department of Health, Texas Department of Agriculture, State Department of Highways and Public Transportation, Texas Water Commission, Texas Water Development Board, Texas State Soil and Water Conservation Board, and Texas Railroad Commission), political subdivisions, other governmental bodies, and individuals or entities with an expressed interest in water quality matters within each watershed.

(1) Size of committees. The steering committee should not be so small as to be unrepresentative, or so large as to become unmanageable. The size of the committee should be determined on a case-by-case basis by the complexity of the job to be done and the number of interested individuals.

(2) Meetings. A regular schedule of committee meetings should be established as soon as possible. Meetings should be held as needed, and should have an agenda. River authorities are encouraged to involve the committee in the work plan process, as described in §320.5 of this title (relating to Assessment Report and Work Plans).

(b) Public participation. River authorities, designated local governments, and the commission shall develop a public input process that provides for meaningful comments and review by private citizens and organizations.

(c) Designated local governments. Where appropriate, the commission shall designate a local government to perform a regional assessment pursuant to this chapter. When this designation occurs, the designated local governments shall comply with the requirements of this chapter.

(d) General responsibilities. The river authority or designated local government shall be responsible for the professional quality, timely completion, and coordination of all drawings, maps, assessment reports, and other services required to be furnished by the river authority or designated local government under this chapter. The commission may require the river authority or designated local government to correct or revise any errors, omissions, or other deficiencies in any assessment report or services provided by the river authority or designated local government to ensure that such assessment reports and services fulfill the purposes of this chapter.

(e) Distribution of report. The river authority or designated local government shall be responsible for the printing of all assessment reports and maps required by

this chapter. The river authority or designated local government shall provide, at a minimum, 25 copies of each to the commission and shall provide sufficient copies for distribution and review under the river authority's or designated local government's public participation program and steering committee to fulfill the purposes of this chapter.

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

Issued in Austin, Texas, on December 9, 1991.

TRD-9115418 John Vay
Director, Legal Services
Division
Texas Water Commission

Effective date: December 30, 1991

Proposal publication date: November 1, 1991

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VI. Texas Department of Criminal Justice

Chapter 152. General Allocation Rules

Subchapter A. Institutional Division Admissions

• 37 TAC §152.7

The Texas Department of Criminal Justice adopts the repeal of 37 TAC §152.7 concerning allocation formula community effort factors, without changes to the proposed text as published in the October 8, 1991, issue of the *Texas Register* (16 TexReg 5562).

This repeal deletes surplusage in the language of the allocation formula rules which resulted when the contents of §152.3 by amendments adopted by the Texas Department of Criminal Justice Board in the final rule published in the September 24, 1991, issue of the *Texas Register* (16 TexReg 5261).

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Government Code, Article 499.071(c), which provides the board of the Texas Department of Criminal Justice.

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

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

TRD-9115288 Jackee Cox
General Counsel
Texas Department of
Criminal Justice

Effective date: December 26, 1991

Proposal publication date: October 8, 1991
For further information, please call: (512) 463-9988

Part IX. Commission on Jail Standards

Chapter 273. Medical Services in County Jails

• 37 TAC §273.5

The Texas Commission on Jail Standards adopts an amendment to §273.5, without changes to the proposed text as published in the October 25, 1991, issue of the *Texas Register* (16 TexReg 6041).

The amendment allows sufficient time for each sheriff to develop a suicide prevention plan using the Suicide Prevention Plan Development Guide. The Development Guide was approved by the commission on November 20, 1991, at a regular meeting of the commission.

The amendment will extend the date by which Suicide Prevention Plans must be filed with the commission from June 1, 1991, to December 31, 1991.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation for county jails.

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

Issued in Austin, Texas, on November 20, 1991.

TRD-9115214 Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

Effective date: December 26, 1991

Proposal publication date: October 25, 1991

For further information, please call: (512) 463-5505

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

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,

concerning client eligibility criteria, without changes to the proposed text as published in the November 1, 1991, issue of the *Texas Register* (16 Tex Reg 6204).

Justification for the amendment is to allow clients' families and DHS to maximize the insurance benefits.

The amendment will function by allowing clients with limited in-home nursing care insurance to participate in the program if the insurance company is billed first, and the Waiver Program for Medically Dependent Children, as a Medicaid waiver program, is billed for the balance of the nursing hours needed according to the physician plan of care.

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 December 5, 1991.

TRD-9115269

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

Effective date: January 8, 1992

Proposal publication date: November 1, 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 Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act.)

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 Texas Department of Insurance has adopted a filing by Capital Guaranty Insurance Company of a Good Faith Deposit Financial Surety Bond Program, Form and Rate Filing.

In accordance with the provisions of the Insurance Code, Article 5.97, a text of the proposed filing has been filed in the office of the chief clerk of the Texas Department of Insurance. The proposed filing has been available for public inspection for 15 days and a public hearing was not requested by any party.

The Good Faith Deposit Financial Surety Bond Program, known as Sure-Bid, is designed to allow securities underwriters to purchase a bond, in lieu of making a good faith deposit, for bidding on a political subdivision's bond issue. The bond guarantees the successful bidder will upon winning the bid, deposit with the issuer or its financial advisory, a good faith check or wire transfer the good faith deposit. The good faith deposit usually equals 1.0% to 2.0% of the bond issue's par value. The program allows for an unspecified number of competing securities underwriter to be covered under one bond for each bid. The bond is non-cancellable.

The proposed rates for this bond are judgemental and range from \$20 (minimum premium) to \$600 based on the amount of the good faith deposit. The premium charge is for each securities underwriter listed on the bond.

This filing becomes effective on the 15th day after notice of this action is published in the *Texas Register*. This notice is filed pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Ad-

ministrative 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 December 9, 1991.

TRD-9115420

Linda von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: December 28, 1991

For further information, please call: (512) 463-6328



The Texas Department of Insurance has adopted a filing by Texas Department of Transportation, Division of Motor Vehicle Titles and Registration, of a revised motor vehicle dealer's surety bond form.

In accordance with the provisions of the Insurance Code, Article 5.97, a text of the proposed filing has been filed in the Office of the Chief Clerk of the Texas Department of Insurance. The proposed filing has been available for public inspection for 15 days and a public hearing was not requested by any party.

House Bill 1941, passed by the 72nd Texas Legislature, 1991, amends Texas Civil Statutes, 6686. Article 6686 requires persons seeking to engage in the business of buying, selling, or exchanging motor vehicles, to obtain a general distinguishing number from the Texas Department of Transportation (department). A condition precedent to the department's issuance of a general distinguishing number is that the applicant provide a surety bond which guarantees that the applicant will pay all valid bank drafts drawn for the purchase of motor vehicles and that the applicant will transfer good title to each motor vehicle that it offers for sale.

House Bill 1931 amends the applicant's guarantee to include coverage for checks. The bond form has been revised to guarantee payment of "all valid bank drafts including checks..." (New language in *italics*).

The motor vehicle dealer's surety bond has also been revised to clarify that each bond constitutes a new and separate obligation for

each year that the bond remains in force. This amendment was proposed by the department to address concerns that the current language may be ambiguous regarding a surety's liability.

This filing becomes effective on the 15th day after notice of this action is published in the *Texas Register*. This notice 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 December 9, 1991.

TRD-9115422

Linda von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: December 28, 1991

For further information, please call: (512) 463-6328



The Texas Department of Insurance has adopted a filing by Texas Education Agency (TEA) of two driver training school bonds; one for \$10,000 and the other for \$5,000 along with continuation agreements for each bond.

In accordance with the provisions of the Insurance Code, Article 5.97, a text of the proposed filing has been filed in the office of the chief clerk of the Texas Department of Insurance. The proposed filing has been available for public inspection for 15 days and a public hearing was not requested by any party.

Senate Bill 757 as passed by the Legislature a signed into law by the governor revised Texas Civil Statutes, Article 4413(29c). The effective date of the new law was September 1, 1991. Section 13(g) was added to Article 4413(29c) and requires a driver training school to submit a bond as a condition for being licensed by TEA.

A bond in the amount of \$10,000 is required of a school that teaches driver education with all other schools; i.e., defensive driving, having a bond in the amount of \$5,000. The bonds are identical in form other than the

bond amount. The continuation agreement or bond may be used for each renewal application filed with TEA. The bonds are conditioned on the licensee faithfully discharging all obligations, duties, and responsibilities contained in §13(a), (g), (h), §9, and all other applicable sections of Texas Civil Statutes, Article 4413(29c).

The bonds may be cancelled by giving 30 days written notice, by registered mail.

The rates for these bonds must be filed by the insurer with the Texas Department of Insurance for approval prior to use.

This filing becomes effective on the 15th day after notice of this action is published in the *Texas Register*. This notice 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 December 9, 1991.

TRD-9115421 Linda von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: December 28, 1991

For further information, please call: (512) 463-6328

◆ ◆ ◆
The Texas Department of Insurance has adopted a filing by Railroad Commission of Texas (commission) of a blanket performance bond form and an individual performance bond form.

In accordance with the provisions of the Insurance Code, Article 5.97, a text of the proposed filing has been filed in the Office of the Chief Clerk of the Texas Department of Insurance. The proposed filing has been available for public inspection for 15 days and a public hearing was not requested by any party.

Senate Bill 1103, as passed by the 72nd Legislature and signed into law by the governor amended the Texas Natural Resources Code (TNRC), §91.103 and §91.104, which went into effect September 1, 1991. Changes in the TNRC allows for a blanket performance bond to be submitted to cover all commission-regulated operations performed by a person, including all current wells and any additional wells that are obtained and carried on the oil and gas proration schedule. Only one blanket performance bond is required of persons performing multiple operations. "Other Commission-regulated operations," other than the operation of active and inactive wells, are listed on the commission's instruction sheet for the individual and blanket performance bonds.

The penal amount for the blanket performance bond will be based on the following: a person who operates 10 or fewer wells or performs other operations shall file a \$25,000 blanket bond; a person operates more than 10 but fewer than 100 wells shall file a \$50,000 blanket bond; a person who operates 100 or more wells shall file a \$250,000 blan-

ket bond.

The individual performance bond is conditioned on the persons operating oil and gas wells in compliance with TNRC, §91.103 and §91.104 on all active and inactive wells, to prevent pollution of any ground or surface water in the state, or any controlled escape of fluids from the strata in which they were originally located. This bond is intended for persons who operate a small number of shallow wells. The penal amount for the individual performance bond will be based on \$2.00 for each foot of well depth for each well.

The rate for those bond must be filed by the insurer with the Texas Department of Insurance for approval prior to use.

This filing becomes effective on the 15th day after notice of this action is published in the *Texas Register*. This notice 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 December 9, 1991.

TRD-9115419 Linda von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: December 28, 1991

For further information, please call: (512) 463-6328

◆ ◆ ◆
The Texas Department of Insurance in an open meeting on November 21, 1991, adopted amendments to Parts One and Two and associated retrospective endorsements and notice of election forms in the *Texas Retrospective Rating Plan Manual* pertaining to the Large Risk Alternative Rating Option and a Residual Market Factor applicable to workers' compensation policies written on a retrospectively rated basis.

The amendments to Part One pertain to the Large Risk Alternative Rating Option and indicate that the only allowable method for collecting the applicable Texas Workers' Compensation (WC) Residual Market Premium (RMP) shall be the Texas WC Residual Market Factor (RMF) determined in accordance with Part Two Section I.B.8. The amendments to Part One also indicate that residual market costs cannot be included in any other rating plan factors negotiated between the carrier and the insured. However, the RMF used in all retrospective premium adjustments shall not exceed the actual RMF that is determined by the State Board of Insurance (SBI). Any amount of RMFO in excess of the actual RMP as produced by applying the RMF determined by the SBI shall be refunded to the insured. The eligibility requirements for the Large Risk Alternative Rating Option make this option available for risks with either an estimated annual workers' compensation standard premium in excess of \$350,000 in all states subject to interstate retrospective rating or an estimated annual workers' compensation standard pre-

mium in excess of \$100,000 on an intrastate basis.

The amendments to Part Two indicate that for insureds written under any retrospective rating plan, the residual market premium shall be added to the retrospective premium calculated in accordance with the formula set forth in the rule. The actual RMF as determined by the SBI shall be calculated for policies effect during a calendar year in accordance with the following formula: $1 - Z \times (\text{Actual Assessed Texas WC Residual Market Deficit for the Accident Year} / \text{Total Assessable Texas W.C. Voluntary Written Premium for the year to which the Deficit Relates})$, where Z is the percentage of Basic Premium to Total Retro Premium. The RMF for the accident year will be updated annually by the State Board for four years to reflect any change in the assessments levied for that accident year.

The RMF which applicable to the first retrospective premium adjustment shall be updated annually through the fourth retrospective premium adjustment, provided the retrospective plan remains open, to reflect any change in the assessments levied for that accident year. The RMF at fourth adjustment shall apply to all subsequent retrospective premium adjustments, if any, until the plan is finalized. For each annual period in a three year plan or Long Term Construction Project plan, the RMF shall apply separately. The RMF at the fourth adjustment which is applicable to each such annual period shall apply until plan is finalized.

The amended rules, endorsements and forms are applicable to retrospective rating plans made effective on and after 12:01 a.m., December 31, 1991.

The Board adopted the amended rules, endorsements and forms under the authority and jurisdiction of the Insurance Code, Articles 5.55 through 5.68-1, 5.77, 5.78, 5.79 and 5.96.

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

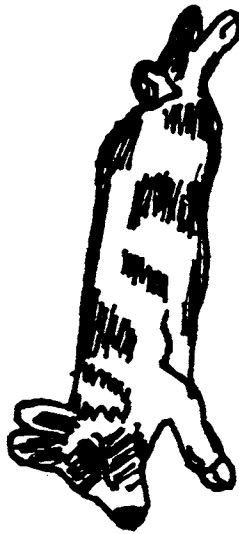
This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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

TRD-9115390 Linda von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: December 28, 1991

For further information, please call: (512) 463-6328



My dog is a very happy and friendly dog.

Brian Holt



My dog is a very happy and friendly dog.

Name: Brian Holt

Grade: 6

School: Haltom Middle School, Birdville ISD ,

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Texas Department of Agriculture

Tuesday, January 21, 1992, 9 a.m. The Texas Department of Agriculture will meet at the Stephen F. Austin Building, Texas Department of Agriculture, 1700 North Congress Avenue, Room 933, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §76.116 (Vernon 1991) and Texas Administrative Code §7.22 by William Zahn, et al.

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

Filed: December 6, 2:01 p.m.

TRD-9115347

Texas Commission on Alcohol and Drug Abuse

Tuesday, December 17, 1991, 8:30 a.m. The Board of Commissioners of the Texas Commission on Alcohol and Drug Abuse will meet at the Perry Brooks Building, 720 Brazos Street, Eighth Floor Conference Room, Suite 800, Austin. According to the complete agenda, the board will call the meeting to order; approve the September 24, 1991 minutes; hear public comments; action on statewide advisory council membership; action on revision of TCADA Advisory Council Policy statement; action on statewide advisory council by-laws revision; report on federal funding; report on the status of the Texas Summit Committee; action on adoption of final counselor licensure rules; action on emergency adoption of proposed facility licensure rules; action on proposed facility licensure rules; report on senate hearings regarding psychiatric facilities; report on audit exception information; action on proposed alcohol awareness program rules; report on Criminal Justice Initiative; report on fiscal year 1992 funding requests for proposals mechanisms; action on repeal of payments after grant or contract close out policy; hear executive director's report; chairman's report; and adjourn.

Contact: Becky Davis or David Tatum, 720 Brazos, #403, Austin, Texas 78701, (512) 867-8700.

Filed: December 9, 1991, 9:05 a.m.

TRD-9115403

Texas Alcoholic Beverage Commission

Monday, December 16, 1991, 2 p.m. The Texas Alcoholic Beverage Commission will meet at 5806 Mesa Drive, Room 180, Travis County, Austin. According to the agenda summary, the commission will approve the November minutes; hear agency activity reports; approval of affidavit of destruction; proposed bingo regulations; personnel action consideration-inspector general position; discussion of proposed changes to Rule 31.1, TAC, regarding authority and duties of administrator; discussion and action on search for a selection of permanent administrator; revisions to procedures for commission meeting; proposed agency reorganization; hear public comment; and adjourn.

Contact: Jeannene Fox, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: December 6, 1991, 10:22 a.m.

TRD-9115301

State Banking Board

Tuesday, December 17, 1991, 2:30 p.m. The State Banking Board will meet at 2601 North Lamar Boulevard, Austin. According to the agenda summary, the board will approve previous minutes; consideration or proposed rule relating to substitute members of the board; consideration of emergency rule relating to substitute members of the State Banking Board; consideration of charter application for United Bank and Trust, Dallas; consideration of conversion application for International Bank of Commerce-Zapata; review of other pending applications; and the board may convene into executive session for consideration of matters pertaining to applications as re-

quired by Article 342-115(6)(a) of TBC.

Contact: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1317.

Filed: December 9, 1991, 1:43 p.m.

TRD-9115431

State Bar of Texas

Friday, December 13, 1991, 9 a.m. The Executive Committee of the State Bar of Texas will meet at the Texas Law Center, 1414 Colorado Street, Austin. According to the agenda summary, the committee will call the meeting to order; take roll call; meet in executive session, closed pursuant to Article 6252-17(2)(g) (personnel matters) and executive session, closed pursuant to Article 6252-17(2)(e) (potential and/or pending litigation; reports of: president-elect; executive director; general counsel; immediate past president; immediate past chair of board; TYLA president; supreme court liaison; and adjourn.

Contact: Pat Hiller, 1414 Colorado Street, Austin, Texas 78711, (512) 463-1451.

Filed: December 5, 1991, 3:15 p.m.

TRD-9115266

Texas Bond Review Board

Tuesday, December 10, 1991, 10 a.m. The Texas Bond Review Board met at the Reagan Building, Room 246, Austin. According to the emergency revised agenda summary, the board reviewed and discussed application of Texas Higher Education Coordinating Board-lease purchase of computer equipment. The emergency status was necessary to allow timely consideration of additional proposed issue.

Contact: Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

Filed: December 6, 1991, 3:37 p.m.

TRD-9115364

Texas Department of Criminal Justice, Board of Pardons and Paroles

Monday-Friday, December 16-20, 1991, 10 a.m. The Board of Pardons and Paroles of the Texas Department of Criminal Justice will meet at 2503 Lake Road, Suite #9, Huntsville. According to the agenda summary, a panel (composed of three board members) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2744.

Filed: December 5, 1991, 11:14 a.m.

TRD-9115221

Interagency Council on Early Childhood Intervention

Wednesday, December 18, 1991, 9 a.m. The Interagency Council on Early Childhood Intervention will meet at the Texas Department of Health, 1100 West 49th Street, Room M-652, Austin. According to the complete agenda, the council will hear public comments; approve minutes of previous meeting; consider and possibly act on: proposed rules (§§621.61-621.64) regarding composition and responsibilities of advisory committee; nominees for advisory committee; assignment of a council member to attend every advisory committee meeting; expansion funding (contingent upon receipt of federal award letter); reallocation of funds for fiscal year 1990 under Public Law 101-476, Part H; advisory committee update; and hear executive director's report.

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

Filed: December 5, 1991, 3:54 p.m.

TRD-9115279

East Texas State University

Wednesday, December 11, 1991, 2 p.m. The East Texas State University held a meeting via telephone at the East Texas State University, McDowell Administration Building, Commerce. According to the complete agenda, the university awarded contracts for renovation of Cowling Hall; approved lease contracts for Metroplex facility; and made adjustments in ETSU, Commerce FY 1992 operating budget.

Contact: Charles Turner, East Texas State University, Commerce, Texas 75429, (903) 886-5539.

Filed: December 5, 1991, 10:43 a.m.

TRD-9115220

Task Force on Economic Transition

Friday, December 13, 1991, 9 a.m. The Secretary of State's Office of the Task Force on Economic Transition will meet at the James Earl Rudder Building, 1019 Brazos Street, Fourth Floor Conference Room, Austin. According to the agenda summary, the office will make recommendations on short term responses to base closure and industry downsizing will be presented before the committee.

Contact: Mark Bell, Capitol Building, Room 127, Austin, Texas 78711, (512) 463-5701.

Filed: December 6, 1991, 1:48 p.m.

TRD-9115331

Texas Education Agency

Monday, December 16, 1991, 9 a.m. The School Facilities 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 complete agenda, the committee will approve the minutes from the November 4, 1991, meeting; discuss State Board of Education meeting; discuss options for standards and educational specifications; update on distribution of facilities data to districts; and discuss comments on \$50 million grants.

Contact: Joe Wisnoski, 1701 North Congress Avenue, Room 3-101, Austin, Texas 78701, (512) 463-9704.

Filed: December 6, 1991, 4:24 p.m.

TRD-9115374

Monday, December 16, 1991, 10 a.m. The Ad Hoc Committee on Student Outcome Goals of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 2-115, Austin. According to the complete agenda, the committee will review charge to the committee; structure and operation of the committee; overview of current studies that address real world outcomes; and overview of program outcomes resulting from the essential elements.

Contact: Marvin Veselka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9533.

Filed: December 6, 1991, 4:24 p.m.

TRD-9115373

Monday, December 16, 1991, 1 p.m. (rescheduled from December 16, 1991, at 10 a.m.). The State Board of Education Ad Hoc Committee on Student Outcome Goals

of the Texas Education Agency will hold an emergency meeting at the William B. Travis Building, 1701 North Congress Avenue, Room 2-115, Austin. According to the complete agenda, the committee will review charge to the committee; structure and operation of the committee; overview of current studies that address real world outcomes; and overview of program outcomes resulting from the essential elements. The emergency status is necessary as the agency finds it of urgent public necessity for the agenda to be revised to reflect the correct meeting time to ensure that the meeting is held in compliance with the Open Meeting Act.

Contact: Marvin Veselka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9533.

Filed: December 9, 1991, 2:50 p.m.

TRD-9115459

Texas Employment Commission

Monday, December 16, 1991, 1:30 p.m. The Texas Employment Commission will meet at the TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will approve prior meeting notes; meet in executive session to consult with attorneys concerning Administaff, Inc. versus James Kaster, Mary Scott Nabers and Charles Haddock and Aurora Moreno versus Texas Employment Commission, et al.; actions, if any, resulting from executive session; consideration of proposed amendment to 40 TAC §301.13 regarding motions for reconsideration from commission decisions; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 51; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: December 6, 1991, 4:10 p.m.

TRD-9115372

General Services Commission

Thursday, December 19, 1991, 9 a.m. The General Services Commission will meet at the Central Services Building, 1711 San Jacinto Boulevard, Conference Room 402, Austin. According to the agenda summary, the commission will review and discuss monthly construction project report; monthly operating budget report; and monthly division activity report.

Contact: Judith M. Porras, 1711 San Jacinto Boulevard, Austin, Texas 78701, (512) 463-3446.

Filed: December 9, 1991, 4:05 p.m.

Texas Growth Fund

Wednesday, December 18, 9 a.m. The Board of Directors of the Texas Growth Fund will meet at the Teacher Retirement System Building, 1000 Red River Street, Fifth Floor, Austin. According to the agenda summary, the board will review and approve minutes of the board of trustees meeting held on November 6, 1991; receive a report on status of grantor funds' actions in regard to approval of trust agreement and investment contract; consider adopting a resolution approving the form and substance of a trust agreement contract (Texas Growth Fund-1991 Trust) among the board, the Permanent University Fund, the Permanent School Fund, the Teacher Retirement System of Texas and the Employees Retirement System of Texas and authorizing the appropriate officers of the fund to execute and deliver such contract; receive a report on the rules of the fund; receive a report on process for acquisition of directors' and officers' liability insurance; and the board may convene in closed meeting for the purpose of receiving a report from a representative of Russell Reynolds Associates, Inc., concerning the employment and duties of the Executive Director of the fund and interviewing applicants for the executive director's position, all is permitted by Article 6252-8, Vernon's Texas Civil Statutes Annotated.

Contact: Jerry E. Turner, 816 Congress Avenue, First City Centre, Austin, Texas 78701, (512) 495-8430.

Filed: December 6, 1991, 3:44 p.m.

TRD-9115366

Texas Guaranteed Student Loan Corporation

Friday, December 13, 1991, 9 a.m. The Finance Committee of the Texas Guaranteed Student Loan Corporation will meet at 12015 Park 35 Circle, Colonnade Building, Suite 300, Austin. According to the complete agenda, the committee will approve the minutes of the August 22, 1991 meeting; review and discuss loan servicing/attorney referrals; hear financial report: year-end budget variance; preview of year-end financial-update to audit; facilities; and plan future agenda items and meeting dates.

Contact: Peggy Irby, 12015 Park 35 Circle, Austin, Texas 78758, (512) 835-1900.

Filed: December 5, 1991, 2:23 p.m.

TRD-9115248

Friday, December 13, 1991, 11 a.m. The Executive Committee of the Texas Guaranteed Student Loan Corporation will meet at 12015 Park 35 Circle, Colonnade Building,

Suite 300, Austin. According to the complete agenda, the committee will approve the minutes of the November 8, 1991 meeting; reauthorization update; recent law changes to GSL; corporate update; change September board meeting; and preparations for January board meeting.

Contact: Peggy Irby, 12015 Park 35 Circle, Austin, Texas 78758, (512) 835-1900.

Filed: December 5, 1991, 2:23 p.m.

TRD-9115247

Texas Department of Health

Friday, December 6, 1991, 4 p.m. The Health Provider, Licensure and Certification Committee of the Texas Department of Health met in Room M-741, 1100 West 49th Street, Austin. According to the complete emergency revised agenda, the committee discussed and possibly acted on: emergency and proposed rules concerning registration of code enforcement officers and licensing of marriage and family therapists; proposed rules concerning dispensing opticians and removal of dispensing opticians from registry for providers of health-related services; final rules concerning massage therapists and speech-language pathologists and audiologists; appointments to respiratory care practitioner advisory board and medical radiologic technologists advisory board. The emergency status was necessary due to unforeseeable circumstances that name the agenda item of marriage and family therapists was incorrect on original agenda.

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

Filed: December 5, 1991, 3:55 p.m.

TRD-9115280

Saturday, December 7, 1991, 1:30 p.m. The Personnel and Search Committee of the Texas Board of Health met in Room M-652, 1100 West 49th Street. According to the complete emergency revised agenda, the committee met in executive session and then possibly acted on in open session: appointment to advisory committee on mental retardation facilities; appointment of chairperson advisory committee for nursing facility affairs; appointments to respiratory care practitioner advisory board, medical radiologic technical advisory board, wholesale drug advisory committee, children's vision screening advisory committee, Texas emergency medical services advisory council, and municipal solid waste management and resource advisory council; expansion of the Texas HIV medication advisory committee; final adoption of repeal of existing rules concerning the state services advisory committee; adoption of rules concerning the state HIV education, prevention and risk reduction advisory committee; selection of candidates for Commissioner of Health to

be presented to the governor; appointments to the dental technical advisory committee; and department of health salary schedule. The emergency status was necessary because of the unforeseeable circumstance of having to add the last three agenda items.

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

Filed: December 5, 1991, 3:58 p.m.

TRD-9115283

Saturday, December 7, 1991, 2:30 p.m. The Texas Board of Health of the Texas Department of Health met in Room M-739, 1100 West 49th Street, Austin. According to the complete emergency revised agenda, the board discussed and possibly acted on: previous meeting minutes; acting commissioner's report; resolutions; audits; equipment replacement plan; patient dumping or inappropriate transfers; department strategic plan; advisory committee/council/board appointments; rule petitions (nursing homes; medical waste); rules (HIV advisory committees; narcotic treatment; plumbing fixtures; used oil; solid waste public hearings and managements plans; lead-acid batteries; scrap tires; medical waste; radiation; high risk infants and pregnant women; women, infants and children; code enforcement officers; marriage and family therapists; dispensing opticians; massage therapists; speech-language pathologists and audiologists; hospital licensing; personal care facilities; resident deaths, abuse and neglect, and grading system in nursing homes); chronically ill and disabled children's services; committee reports; selection and duties of commissioner of health; discuss long term care investigation in executive session; and hear announcements and comments. According to the agenda, the emergency status was necessary due to unforeseeable circumstances because: original notice had incorrect name for rules on marriage and family therapists; and new item has been added on selection of candidates for commissioner of health because of urgency of submitting names to the governor.

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

Filed: December 5, 1991, 3:55 p.m.

TRD-9115282

Friday, December 13, 1991, 10 a.m. The Home Health Services Advisory Council of the Texas Department of Health will meet in Room M-618, 1100 West 49th Street, Austin. According to the complete agenda, the council will approve minutes of last meeting; elect officers; discuss and possibly act on: home health medication aide curriculum; proposed rule change to 25 TAC, Chapter 115; Texas Association of Home Health Agencies (TAHHA) resolutions on qualification for surveyors working for the Texas Department of Health; TAHHA request to consider home health aide duties to

include oropharyngeal suctioning; registered nurse (R.N.) pronouncement of death required by Senate Bill 23, 72nd Legislature, 1991; and hear announcements and discussion without council action.

Contact: Nance Kerrigan, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7245.

Filed: December 5, 1991, 3:55 p.m.

TRD-9115281

Friday, December 13, 1991, 10 a.m. The Texas HIV Program Advisory Committee of the Texas Department of Health will meet in Room M-652, 1100 West 49th Street, Austin. According to the complete agenda, the committee will approve minutes of previous meeting; consider and possibly act on: staff report concerning budget (Federal/State) and member terms; current drugs in formulary (AZT capsules; AZT syrup; pentamidine for inhalation solution; SMZ-TMP tablets; SMZ-TMP suspension; epoetin alfa (for children); IVGG (for children); requests for consideration for drugs in formulary (DDI (videz); epoetin alfa (for adults); fluconazole (diflucan); and other drugs in formulary (interferon; foscarnet sodium; acyclovir).

Contact: Jim Allen, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7357.

Filed: December 5, 1991, 3:58 p.m.

TRD-9115284

Texas Department of Housing and Community Affairs

Sunday, December 15, 1991, 3 p.m. The Ad Hoc Low Income Tax Credit Committee of the Texas Department of Housing and Community Affairs will meet at the Crest Hotel on Town Lake, 111 East First Street and Congress, Austin. According to the agenda summary, the committee will consider and possibly act on Low Income Tax Credit applications.

Contact: Mario Aguilar, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: December 9, 1991, 8:24 p.m.

TRD-9115395

Monday, December 16, 1991, 8 a.m. The Programs Committee of the Texas Department of Housing and Community Affairs will meet at the Crest Hotel on Town Lake, 111 East First Street and Congress, Austin. According to the agenda summary, the committee will have a public comment period; review and discuss resolution authorizing adjustment of multifamily income limits; housing needs analysis study; RTC Program 42 and 43 interest rate adjustments; Housing Trust Fund; Rental Rehabilitation Program; the department's underwriting team; San Jacinto Gardens; request

for proposal for real estate owned management contractors' and audits, reports, and House and Senate Bills.

Contact: Mario Aguilar, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: December 9, 1991, 8:29 p.m.

TRD-9115397

Monday, December 16, 1991, 10 a.m. The Board of the Texas Department of Housing and Community Affairs will meet at the Crest Hotel on Town Lake, 111 East First Street and Congress, Austin. According to the agenda summary, the committee will have a public comment period; presentations by interim directors; internal auditor; investment officer; low income tax credit program; request for proposals; needs analysis study; Housing Trust Fund; personnel mutual; income limits; RTC Program 42 and 43; rental rehabilitation program; underwriters; board committees; staff signature authority; strategic planning process; audit committee report; retreat; consultants; San Jacinto Gardens; department's organizational chart; and Senate Bill 546. While in executive session pursuant to Sections 2(c) and 2(g), Article 6252-17, Vernon's Texas Civil Statutes; consider pending or contemplated litigation and appointment, duties, evaluation, and discipline of employees; and act on executive session items as required in open session.

Contact: Mario Aguilar, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: December 9, 1991, 8:24 p.m.

TRD-9115404

Texas Department of Insurance

Monday, December 16, 1991, 8:30 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will consider and possibly act on motion for re-hearing of Board Order Number 59253 in the matter of an application of the Texas Citrus and Vegetable Insurance Exchange for exemption from membership of the Texas Workers' Compensation assigned risk pool.

Contact: Angelia Johnson, 333 Guadalupe Street, Austin, Texas 78701, Mail Code 113-2A, (512) 463-6527.

Filed: December 6, 1991, 4:07 p.m.

TRD-9115371

Monday, December 16, 1991, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at Hobby I, 333 Guadalupe Street, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Alleghany Corporation to acquire control of Armco Inc.,

Northwestern National County Insurance Company and Northwestern National Lloyds Insurance Company.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: December 6, 1991, 1:19 p.m.

TRD-9115332

Tuesday, December 17, 1991, 8:30 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will consider and determine procedure to hear a petition filed by State Farm Mutual Insurance Company for action to preserve older driver's discounts and the Office of Public Insurance Counsel's response to the petition, Reference Number A-1291-3; consider and possibly act on the appointment of private members to the Workers' Compensation Insurance Facility; consider final action on amendments to 28 TAC §5.4501 concerning the manual of rules and regulations of the Texas Catastrophe Property Insurance Association to incorporate the maximum limits of liability into the manual of rules.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: December 9, 1991, 4:38 p.m.

TRD-90115488

Tuesday, December 17, 1991, 9 a.m. The Commissioner's Hearing Section of the Texas Department 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 proposed plan of merger of California-Western States Life Insurance Company, Sacramento, California, and American General Life Insurance Company, Houston, into American General Life Insurance Company of Delaware, Wilmington, Delaware, with American General Life Insurance Company of Delaware being the survivor, and the redomestication to Texas of American General Life Insurance Company of Delaware through the amendment and restatement of its Articles of Incorporation. Docket Number 11369.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: December 9, 1991, 4:38 p.m.

TRD-9115487

Tuesday, December 17, 1991, 9 a.m. The Commissioner's Hearing Section of the Texas Department 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 proposed plan of merger of National Public Service Insurance Company, Waco, into American-Amicable Life In-

urance Company of Texas, Waco, with American-Amicable Life Insurance Company of Texas being the survivor. Docket Number 11370.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: December 9, 1991, 4:35 p.m.

TRD-9115478

Tuesday, December 17, 1991, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department 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 First Houston General Agency, Inc., which holds a managing general agent's license. Docket Number 11362.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: December 9, 1991, 4:35 p.m.

TRD-9115479

Wednesday, December 18, 1991, 9 a.m. The Commissioner's Hearing Section of the Texas Department 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 John Barry Newell of Houston, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Group II Insurance Agent's license. Docket Number 11333.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: December 9, 1991, 4:35 p.m.

TRD-9115480

Wednesday, December 18, 1991, 9 a.m. The Commissioner's Hearing Section of the Texas Department 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 for restatement with amendment to the Articles of Incorporation of Funeral Directors Life Insurance Company, Brady, changing the home office, restating the purpose clause, increasing the capital, increasing the authorized capital stock and providing for amendment to the by-laws.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: December 9, 1991, 4:36 p.m.

TRD-9115481

Wednesday, December 18, 1991, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department 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 for amendment to the Articles of Incorporation of Dallas National Life Insurance Company, Dallas, increasing the authorized capital stock.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: December 9, 1991, 4:36 p.m.

TRD-9115482

Thursday, December 19, 1991, 9 a.m. The Commissioner's Hearing Section of the Texas Department 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 Jimmie Lee Stovall, of Arlington, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Group II Insurance Agent's license. Docket Number 11367.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: December 9, 1991, 4:36 p.m.

TRD-9115483

Thursday, December 19, 1991, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department 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 KHOA DUC VU, Houston, for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11349.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: December 9, 1991, 4:37 p.m.

TRD-9115484

Friday, December 20, 1991, 9 a.m. The Commissioner's Hearing Section of the Texas Department 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 for amendment to the Articles of Incorporation of National Health Insurance Company, Grand Prairie, increasing the authorized capital stock. Docket Number 11376.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: December 9, 1991, 4:37 p.m.

TRD-9115485

Monday, December 23, 1991, 9 a.m. The Commissioner's Hearing Section of the Texas Department 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 John Sullivan Bishop doing business as Security American Insurance, doing business as IMA Insurance Agency, doing business as Stratford Insurance Agency, Dallas, who holds a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11337.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: December 9, 1991, 4:34 p.m.

TRD-9115476

Monday, December 23, 1991, 9 a.m. The Commissioner's Hearing Section of the Texas Department 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 proposed plan of merger of Southern Medical Life Insurance Company, Waco, into Family Life Insurance Company of Texas, Waco, with Family Life Insurance Company of Texas being the survivor. Docket Number 11378.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: December 9, 1991, 4:35 p.m.

TRD-9115477

Texas Commission on Jail Standards

Friday, December 13, 1991, 10 a.m. The Texas Commission on Jail Standards will meet at the Employees Retirement Building, 18th and Brazos Streets, Room 100, Austin. According to the emergency revised agenda summary, the commission will call the meeting to order; take roll call of members; read and approve the minutes of the last regular meeting; meet in executive session to discuss litigation affecting jail commission; discuss old business: Harris County; hear public comments; and adjourn. The emergency status is necessary as an unexpected development requiring the immediate attention of the commission.

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

Filed: December 9, 1991, 4:38 p.m.

TRD-9115486

Texas Juvenile Probation Commission

Sunday, December 15, 1991, 5 p.m. The Evaluation Committee of the Texas Juvenile Probation Commission will meet at 2015 South IH-35, Austin. According to the complete agenda, the committee will call

the meeting to order; evaluate the executive director and prepare recommendations for the full membership of the commission. The evaluation committee will discuss this item in executive session under authority of Texas Revised Civil Statutes Annotated Article 6252-17, Section 2(g) (Vernon 1990).

Contact: Bernard Licarione, P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: December 6, 1991, 10:01 a.m.

TRD-9115299

Monday, December 16, 1991, 9 a.m. The Board of the Texas Juvenile Probation Commission will meet at 2015 South IH-35, Austin. According to the complete agenda, the board will approve the minutes of November 19, 1991; discuss excused absences; hear evaluation committee report; internal audit committee recommendations; review intensive supervision grant requests; update on TJPC's strategic planning; report on Health and Human Services Commission; consider Hardin County request for adjustment in juvenile-age population figures; hear public comments; and adjourn.

Contact: Bernard Licarione, P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: December 6, 1991, 10:01 a.m.

TRD-9115298

Monday, December 16, 1991, 12:45 p.m. The Internal Audit Committee of the Texas Juvenile Probation Commission will meet at 2015 South IH-35, Austin. According to the complete agenda, the committee will call the meeting to order; discuss recommendations to be made to the commission concerning an internal audit; and adjourn.

Contact: Bernard Licarione, P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: December 6, 1991, 10:01 a.m.

TRD-9115300

Lamar University System

Thursday, December 12, 1991, 9 a.m. The Board of Regents of Lamar University System met at the John Gray Institute, Map Room, 855 Florida Avenue, Beaumont. According to the agenda summary, the board called the meeting to order; gave invocation; administered oath of office; recessed, reconvened at 1:30 p.m.; heard chairman's comments-chancellor's comments; organization of board; considered recommendations of: building and grounds committee; finance and audit committee; student relations/services committee; athletic committee; and personnel committee.

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: December 6, 1991, 3:55 p.m.

TRD-9115368

Thursday, December 12, 1991, 9:30 a.m. The Committees of the Board of Regents of Lamar University System met at the John Gray Institute, Map Room, 855 Florida Avenue, Beaumont. According to the agenda summary, the following committees considered recommendations: building and grounds committee; finance and audit committee; student relations/services committee; athletic committee; academic affairs committee; personnel committee; met in executive session held under provisions of Vernon's Civil Statutes, Article 6252-17, Section 2, Paragraph 3, e, legal; f, real estate; and g, personnel.

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: December 6, 1991, 3:15 p.m.

TRD-9115361

Texas Department of Mental Health and Mental Retardation

Thursday, December 19, 1991, 8:15 a.m. The Interagency Council on ICF-MR Facilities of the Texas Department of Mental Health and Mental Retardation will meet at the Texas Department of Mental Health and Mental Retardation, Auditorium, 909 West 45th Street, Austin. According to the complete agenda, the council, in accordance with Senate Bill 1426, Section 3, the council will convene to reassess bed allocations and to receive ICF-MR Task Force recommendations for improvements in the current system. If interpreters for the deaf are required, notify TDMHMR (512) 323-3261, Carole Smith 72 hours prior to the meeting.

Contact: Carole Smith, P.O. Box 12668, Austin, Texas 78711, (512) 323-3261.

Filed: December 6, 1991, 3:33 p.m.

TRD-9115271

Texas Optometry Board

Tuesday, December 17, 1991, 10 a.m. The Texas Optometry Board will meet at the University of Houston, College of Optometry, 4901 Calhoun, Houston. According to the agenda summary, the board will conduct a public hearing to hear comments regarding proposed board rule 280.5(g) and (h) relating to therapeutic optometry and the drug formulary, implementing Senate Bill 774. This rule was published for comment in the October 18, 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 prior to 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 Texas Optometry Board prior to the hearing.

Contact: Lois Ewald, 9101 Bumet Road, Suite 214, Austin, Texas 78758, (512) 835-1938.

Filed: December 6, 1991, 4 p.m.

TRD-9115369

Tuesday, December 17, 1991, 10 a.m. Texas Optometry Board will meet at the University of Houston, College of Optometry, 4901 Calhoun, Houston. According to the agenda summary, the board, following the public hearing on drug formulary, will hold a special meeting of committees, and general business session to consider report of Secretary-Treasurer, legal counsel, executive director, and committee chairpersons; consider unfinished business of adoption of proposed Rule 280.5(g) and (h), budget and renewal matters; meet in executive session in compliance with Article 6252-17, Vernon's Annotated Civil Statutes, §2(e), to discuss pending litigation with attorney.

Contact: Lois Ewald, 9101 Bumet Road, Suite 214, Austin, Texas 78758, (512) 835-1938.

Filed: December 6, 1991, 4:01 p.m.

TRD-9115370

Texas State Board of Pharmacy

Wednesday and Thursday, December 11 and 12, 1991, 9 a.m. The Texas State Board of Pharmacy met at 1624 East Anderson Lane, Austin. According to the emergency revised agenda summary, the board will discuss and consider potential recommendations relating to the Senate Interim Committee on Health and Human Services inquiry into private hospitals and facilities providing psychiatric and substance abuse services. The emergency status was necessary to preserve and protect the health, safety, and welfare in the public interest.

Contact: Suzi Peri, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754, (512) 832-0661.

Filed: December 9, 1991, 2:29 p.m.

TRD-9115437

Texas State Board of Examiners of Psychologists

Thursday, December 19, 1991, 10 a.m. The Texas State Board of Examiners of

Psychologists will meet at 9101 Burnet Road, Suite 212, Austin. According to the complete agenda, the board will draft rules to help prevent abuses in psychiatric hospitals; discuss exam issues; plan for future meetings; and review opinion letters.

Contact: Patricia S. Tweedy, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

Filed: December 10, 1991, 9:40 a.m.

TRD-9115495

Public Utility Commission of Texas

Tuesday, December 17, 1991, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the commission will consider the following dockets: 10382, 10389, 9630, 10476, 10646, 10714, 10122, 10123, 10381, 10535, 9945, 10473, 9655, P-10725, 01439, 9707, 9832, 9949, 10411, 10497, 10505, 10589, 10299, 10345, 10401, 10368, P-10347, P-10580, P10634, and P-10741.

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

Filed: December 9, 1991, 2:50 p.m.

TRD-9115451

Tuesday, December 17, 1991, 9:05 a.m. The Administrative Committee of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the committee will discuss: reports, discussion and action on budget and fiscal matters; presentation of monthly financial statements; approval of PUC/CES interagency contract renewal and accompanying budget amendment; approval of a proposed joint LCRA/PUC grant request for an integrated resource planning project; approval of comments to the FCC on CC Docket 91-281 concerning rules and policies regarding calling number identification service; selection of an auditor to conduct a financial audit of Relay Texas; presentation on 9-1-1 emergency service in Texas; adjournment for executive session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and final adjournment.

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

Filed: December 9, 1991, 2:51 p.m.

TRD-9115452

Tuesday, December 17, 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 hearings division will conduct a hearing on the merits in Docket Number 9728: application of Texas-New Mexico Power Company for a certificate of convenience and necessity for a transmission line within Galveston County.

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

Filed: December 5, 1991, 2:28 p.m.

TRD-9115256

Wednesday, December 18, 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 hearings division will conduct a prehearing conference in Docket Number 10602: petition of Southwestern Public Service Company for permanent authorization of periodic opportunity sales margins credits.

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

Filed: December 5, 1991, 2:29 p.m.

TRD-9115258

Thursday, December 19, 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 hearings division will conduct a prehearing conference scheduled in Docket Number 10735: application of LCRA to amend CNN and to transfer facilities.

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

Filed: December 5, 1991, 2:29 p.m.

TRD-9115257

Wednesday, January 8, 1992, 1 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 9305-application of Central Power and Light Company for a certificate of convenience and necessity for a proposed 345 KV transmission line in Nueces, San Patricio, Bee and Goliad Counties.

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

Filed: December 9, 1991, 2:52 p.m.

TRD-9115457

Thursday, January 23, 1992, 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 hearings division will conduct a hearing on the merits in Docket Number 10302: complaint

of Donald Wilcox against Greentree Village North-Garrett Brothers.

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

Filed: December 5, 1991, 2:28 p.m.

TRD-9115255

Monday, February 3, 1992, 1 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 9305-application of Central Power and Light Company for a certificate of convenience and necessity for a proposed 345 KV transmission line in Nueces, San Patricio, Bee and Goliad.

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

Filed: December 9, 1991, 2:51 p.m.

TRD-9115456

Monday, March 9, 1992, 1 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 9305-application of Central Power and Light Company for a certificate of convenience and necessity for a proposed 345 KV transmission line in Nueces, San Patricio, Bee and Goliad.

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

Filed: December 9, 1991, 2:51 p.m.

TRD-9115455

Monday, April 6, 1992, 1 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 9305-application of Central Power and Light Company for a certificate of convenience and necessity for a proposed 345 KV transmission line in Nueces, San Patricio, Bee and Goliad.

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

Filed: December 9, 1991, 2:51 p.m.

TRD-9115454

Monday, May 4, 1992, 1 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 9305-application of Central Power and Light Company for a certificate of convenience and necessity for a proposed 345

KV transmission line in Nueces, San Patricio, Bee and Goliad.

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

Filed: December 9, 1991, 2:51 p.m.

TRD-9115453

Tuesday, May 5, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 9305-application of Central Power and Light Company for a certificate of convenience and necessity for a proposed 345 KV transmission line in Nueces, San Patricio, Bee and Goliad Counties.

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

Filed: December 9, 1991, 2:52 p.m.

TRD-9115458

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Railroad Commission of Texas

Monday, December 16, 1991, 9:30 a.m. The Railroad Commission of Texas will meet at 1701 North Congress Avenue, Room 12-126, Austin. Agendas follow.

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: December 6, 1991, 11:07 a.m.

TRD-9115323

The commission will consider and act on the Personnel Division Director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-7187.

Filed: December 6, 1991, 11:08 a.m.

TRD-9115324

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, (512) 463-6710.

Filed: December 6, 1991, 11:08 a.m.

TRD-9115325

The commission will consider and act on the Office of the Executive Director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. The commission will discuss the implementation of individual operating budgets for each individual commissioner's office. Consideration of 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, re-assignment, 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: December 6, 1991, 11:08 a.m.

TRD-9115326

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, (512) 463-7251.

Filed: December 6, 1991, 11:08 a.m.

TRD-9115327

The commission will consider and act on the Investigation Division Director's report on division administration, investigations, budget, and personnel matters.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-2967.

Filed: December 6, 1991, 11:09 a.m.

TRD-9115328

Monday, December 16, 1991, 9:30 a.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room, Austin. Agenda follows.

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: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711, (512) 463-7274.

Filed: December 6, 1991, 11:09 a.m.

TRD-9115329

The commission will consider category determination 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. Box 12967, Austin, Texas 78711, (512) 463-6755.

Filed: December 6, 1991, 11:10 a.m.

TRD-9115330

Monday, December 16, 1991, 1:30 p.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room, Austin. According to the agenda summary, the commission will hold a statewide hearing on oil and gas.

Contact: Paula Middleton, P.O. Box 12967, Austin, Texas 78711, (512) 463-6729.

Filed: December 6, 1991, 11:07 a.m.

TRD-9115322

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School Land Board

Tuesday, December 17, 1991, 10 a.m. The School Land Board will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 831, Austin. According to the agenda summary, the board will approve the minutes of previous board meeting minutes; adoption of resolution for former School Land Board member; pooling applications, Allen Dome Field, Brazoria County; West Seven Sisters Field, Duval County; R. P. Walker, Wildcat Field, Erath County; consideration of nominations, terms, conditions and procedures for a February 4, 1992, special oil and gas lease sale; consideration of patent application under Article VII, Section 4A, Texas Constitution, amendment #9, Hays County; coastal public lands, commercial easement renewals, Clear Lake, Harris County; Sabine Pass, Jefferson County; consideration of cabin management policy statement; structure permit terminations, Laguna Madre, Kleberg County; structure permit requests, Laguna Madre, Kleberg County; structure permit amendments, Laguna Madre, Kenedy County; and meet in executive session to discuss pending and proposed litigation.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, (512) 463-5016.

Filed: December 9, 1991, 4:28 p.m.

TRD-9115474

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Teacher Retirement System of Texas

Friday, December 13, 1991, 9 a.m. The Board of Trustees of the Teacher Retirement System of Texas will meet at 1000 Red River Street, Fifth Floor Board Room, Austin. According to the agenda summary, the board will have a presentation of special resolutions; presentation of plaque from Government Finance Officers Association; approval of minutes; consideration of award of contract for Texas Public School Retired Employees Group Insurance Program; consideration of appointments to Insurance Advisory Committee; consideration of resolution relating to tax sheltering TRS-care contributions; report of Texas Public School Retired Employees Group Insurance Program; review of investments for quarter ending November 30, 1991; review of discussion and recommendation of Investment Advisory Committee; consideration of trust agreement with Texas Growth Fund; report on activity within investment related bank accounts; report of Audit Committee; report of ethics and by-laws committee and consideration of proposed by-laws; consideration of proposed rule changes; report of member benefits division; discussion of litigation; and consideration of salary of executive secretary.

Contact: Mary Godzik, 1000 Red River Street, Austin, Texas 78701-2698, (512) 397-6400.

Filed: December 5, 1991, 2:57 p.m.

TRD-9115260

Texas Appraiser Licensing and Certification Board

Friday, December 13, 1991, 9 a.m. The Texas Appraiser Licensing and Certification Board will meet at the TREC Headquarters, 1101 Camino La Costa, Conference 235, Austin. According to the agenda summary, the board will call the meeting to order; consider the minutes of the November 22, 1991 meeting; hear staff reports; discuss the operating budget and other fiscal matters; discussion and possible action: concerning amendments to Title XI, FIRREA; discussion and possible action concerning the competency examinations; discussion and possible action concerning the application and certification/licensing process; discussion and possible action concerning acceptability of courses from the National Association of Master Appraisers/Lincoln Graduate Center; discussion and possible action concerning the formation of and association with, the Association of Appraiser Regulatory Officials; comments and presentations from visitors; selection of date of subsequent meetings; and adjourn.

Contact: Renil C. Liner, 1101 Camino La Costa, Texas 78752, (512) 465-3950.

Filed: December 5, 1991, 4:09 p.m.

TRD-9115286

The University of Texas at Austin

Monday, December 9, 1991, 1 p.m. The Council for Intercollegiate Athletics for Women of the University of Texas at Austin met at the Ex-Students' Association, Nowotny Room, 21st and San Jacinto Streets, University of Texas, Austin. According to the agenda summary, the council called the meeting to order; introduced new council member; may have approved minutes of the previous meeting November 7, 1991; discussed old and new business; heard announcements/information reports; and adjourned.

Contact: Dr. Donna A. Lopiano, BEL 718, University of Texas at Austin, Austin, Texas 78712, (512) 471-7693.

Filed: December 5, 1991, 10:10 a.m.

TRD-9115209

University of Texas Health Science Center at San Antonio

Wednesday, December 18, 1991, 3 p.m. The Institutional Animal Care and Use Committee of the University of Texas Health Science Center at San Antonio will meet at the History of Medicine Conference Room 5.070LIB, 7703 Floyd Curl Drive, San Antonio. According to the agenda summary, the committee will approve minutes; protocols for review; hear subcommittee reports; and discuss other business.

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7822, (512) 567-3717.

Filed: December 9, 1991, 1:21 p.m.

TRD-9115433

Texas Water Commission

Wednesday, December 18, 1991, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions; including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087,

Austin, Texas 78711, (512) 463-7898.

Filed: December 6, 1991, 4:48 p.m.

TRD-9115391

Wednesday, December 18, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 6, 1991, 4:48 p.m.

TRD-9115392

Friday, January 10, 1992, 11 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will hold a hearing on Lake Whitney Water Company, Inc.'s application for a water rate increase effective October 1, 1991 for its service areas located in Hill and Bosque Counties. Docket Number 9256-R.

Contact: Leslie A. Limes, P.O. Box 13087, Austin, Texas 78711; (512) 463-7875.

Tuesday, January 14, 1992, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the San Patricio County Courthouse, 400 West Sinton Street, Room B16, Sinton. According to the agenda summary, the office will consider an application by Occidental Chemical Corporation for an amendment of Permit Number 03083 authorizing an increase in the discharge of treated process wastewater, process area runoff, cooling tower blowdown and partially treated utility wastewater into the plant site via a submerged pipeline equipped with a diffuser into La Quinta Channel, a component of Corpus Christi Bay in Segment Number 2481 of the Bays and Estuaries.

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

Filed: December 9, 1991, 11 a.m.

TRD-9115425

Thursday, January 23, 1992, 9 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Hill County Courthouse, County Courtroom, On the Square, Hillsboro. According to the agenda summary, the office will consider an application by Paul Ray Schuman for Proposed Permit Number 03294 authorizing disposal of waste and wastewater from a dairy. The dairy is approximately 3 miles

west of the Community of Covington, approximately 2.5 miles north of the intersection of FM 67 and FM Road 2488 in Hill County.

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

Filed: December 6, 1991, 2:01 p.m.

TRD-9115346

Wednesday, February 5, 1992, 11 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 512, Austin. According to the agenda summary, the commission will hold a hearing on the Glenwood Home Corporation's application to increase water and sewer rates effective August 8, 1991 to its customers in Montgomery County. Docket Number 9188-G.

Contact: Joseph W. O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 5, 1991, 2:22 p.m.

TRD-9115245

Texas Water Development Board

Thursday, December 12, 1991, 9 a.m. The Texas Water Development Board met at the Four Seasons Hotel, Ballroom B-C, 98 San Jacinto Boulevard, Austin. According to the emergency revised agenda summary, the board considered: minutes; development fund manager's report; extension of commitments for Five Way WSC, Bland Lake WSC, NW Grayson County WCID #1, Cities of Fort Worth and Lubbock; financial assistance for Roman Forest PUD #3, Dayton and Mission; amendments to 31 TAC 355; sale of \$40,000,000 Texas Water Development Bonds; authorizing development fund manager to execute documents related to transfer of political subdivision bonds; research and planning fund grants to Alamo Area COG, Bexar Metropolitan Water District, Canadian River MWA, Starr WCID #2, City of Plainview, South Texas Water Authority, UT at San Antonio, Canyon Lake WSC, El Paso Water Utilities-public service board, North Central Texas COG, McAllen and Orange and transfer of funds. The emergency status was necessary as location of meeting was misstated on agenda originally submitted.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: December 6, 1991, 2:38 p.m.

TRD-9115355

Texas Workers' Compensation Commission

Wednesday, December 11, 1991, 9 a.m.

The Texas Workers' Compensation Commission will meet at the Southfield Building, 4000 South IH-35, Rooms 910-911, Austin. According to the agenda summary, the commission will call the meeting to order; approve the minutes of the public meeting of November 21, 1991; discuss and consider: rules for adoption; proposed amendments to existing rules; rules for proposal; expansion of back injury prevention pilot program; reorganization of agency structure; meet in executive session; action, if any, on matters considered in executive session; general report of issues relating to commission activities; discussion of future public meeting; and final adjournment.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 448-7962.

Filed: December 6, 1991, 3 p.m.

TRD-9115356

Friday, December 13, 1991, 9 a.m. The Medical Advisory Committee of the Texas Workers' Compensation Commission will meet at the Southfield Building, 4000 South IH-35, Rooms 910, Austin. According to the agenda summary, the committee will call the meeting to order; review and approve the November 22, 1991 minutes; hear report on hospital and ambulatory surgical center fee guideline; status report on utilization review guidelines; discussion of proposed by-laws; recommendations and discussion for resolving problems associated with commission forms; discussion of rules for adoption at December 11, 1991 commission meeting; report on dental fee guideline; establish next meeting date; establish draft agenda; and adjourn.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 448-7962.

Filed: December 6, 1991, 3:01 p.m.

TRD-9115357

Texas Workers' Compensation Insurance Facility

Tuesday, December 17, 1991, 9 a.m. The Governing Committee of the Texas Workers' Compensation Insurance Facility will meet at the Radisson Plaza Hotel, 700 San Jacinto Boulevard, Austin. According to the complete agenda, the committee will approve the minutes; approve by-laws, rules and regulations; hear report from underwriting/fraud committee; request for reimbursement of servicing companies; consider 1992 budget and operational plan; and meet in executive session to discuss pending legal matters and personnel matters.

Contact: Miles L. Mathews, 8303 MoPac North, #310, Austin, Texas 78759, (512) 345-1222.

Filed: December 10, 1991, 8:35 a.m.

TRD-9115492

Regional Meetings

Meetings Filed December 5, 1991

The Archer County Appraisal District Board of Directors met at the Appraisal District Office, 211 South Center Street, Archer City, December 11, 1991, at 5 p.m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9115272.

The Austin-Travis County Mental Health and Mental Retardation Center Board of Trustees met at 1430 Collier Street, Board Room, Austin, December 9, 1991, at 7 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9115261.

The Austin-Travis County Mental Health and Mental Retardation Center Finance and Control Committee met at 1430 Collier Street, Board Room, Austin, December 9, 1991, at 5 p.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9115273.

The Bosque County Appraisal District Appraisal Review Board met at the Bosque County Appraisal District Office, 104 West Morgan Street, Meridian, December 9, 1991, at 9 a.m. Information may be obtained from Billye McGehee, P.O. Box 393, Meridian, Texas 76665, (817) 435-2305. TRD-9115277.

The Brown County Appraisal District Board of Directors met at 403 Fisk Avenue, Brownwood, December 9, 1991, at 7 p.m. Information may be obtained from Doran Lemke, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676. TRD-9115222.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, December 18, 1991, at 9 a.m. Information may be obtained from John D. Brown, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904. TRD-9115254.

The Denton Central Appraisal District Board of Directors will meet at 3911 Morse Street, Denton, December 19, 1991, at 4 p.m. Information may be obtained from John D. Brown, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904. TRD-9115253.

The Education Service Center, Region 20 Board of Directors will meet at 1314 Hines Avenue, San Antonio, December 18, 1991, at 2 p.m. Information may be obtained from Dr. Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208, (512) 299-2400. TRD-9115251.

The Hansford County Appraisal District Board met at 709 West Seventh Street, Spearman, December 11, 1991, at 9 a.m.

Information may be obtained from Alice Peddy, P.O. Box 567, Spearman, Texas 79081, (806) 659-5575. TRD-9115249.

The Heart of Texas Council of Governments Executive Committee met at 300 Franklin Avenue, HOTCOG Board Room, Waco, December 12, 1991, at 1:30 p.m. Information may be obtained from Mary McDow, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9115216.

The Heart of Texas Council of Governments Private Industry Council will meet at the Ridgewood County Club, Waco, December 17, 1991, at 5:30 p.m. Information may be obtained from Mary McDow, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9115217.

The Hickory Underground Water Conservation District Number One Board and Advisors met at 2023 South Bridge Street, Brady, December 12, 1991, at 7 p.m. Information may be obtained from Loma Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9115276.

The Hunt County Tax Appraisal District Appraisal Review Board will meet at the Hunt County Tax Appraisal District, Board Room, 4801 King Street, Greenville, December 19, 1991, at 2 p.m. Information may be obtained from Melda Hart or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (903) 454-3510. TRD-9115213.

The Lee County Appraisal District Appraisal Review Board met at 218 East Richmond Street, Giddings, December 9, 1991, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9115246.

The Liberty County Central Appraisal District Board of Directors met at 315 Main Street, Liberty, December 5, 1991, at 9:30 a.m. (revised agenda). Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9115264.

The Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, December 18, 1991, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9115224.

The Liberty County Central Appraisal District Ag Advisory Board will meet at 315 Main Street, Liberty, December 19, 1991, at 10 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9115262.

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, December 19, 1991, at 10:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409)

336-5722. TRD-9115223.

The Middle Rio Grande Development Council Board of Directors met at the Uvalde Civic Center, The Reading Room, East Main Street, Uvalde, December 9, 1991, at 6:30 p.m. Information may be obtained from Michael Patterson, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9115278.

The North Texas Municipal Water District Board of Directors will meet at 505 East Brown Street, Administrative Offices, Wylie, December 17, 1991, at 4 p.m. Information may be obtained from Carl W. Riehn, P.O. Box 2408, Wylie, Texas 75098, (214) 442-5405. TRD-9115250.

The Region One Education Service Center Board of Directors met at 1900 West Schunior Street, Edinburg, December 10, 1991, at 6 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior Street, Edinburg, Texas 78539, (512) 383-5611. TRD-9115291.

The Region IV Education Service Center Board of Directors met at the Region IV Education Service Center, 7145 West Tidwell Road, Houston, December 10, 1991, at 6 p.m. Information may be obtained from W. L. McKinney, 7145 West Tidwell Road, Houston, Texas 77001, (713) 462-7708. TRD-9115228.

The Riceland Regional Mental Health Authority Board of Trustees met at 3007 North Richmond Road, Wharton, December 12, 1991, at noon. Information may be obtained from Marjorie Dornak, 3007 North Richmond Road, Wharton, Texas 77488, (409) 532-3096. TRD-9115265.

The San Patricio County Appraisal District Board of Directors met at 1146 East Market, Sinton, December 12, 1991, at 9:30 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402. TRD-9115252.

The South Plains Association of Governments Executive Committee met at 1323 58th Street, Lubbock, December 10, 1991, at 9 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9115219.

The South Plains Association of Governments Board of Directors met at 1323 58th Street, Lubbock, December 10, 1991, at 10 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-91152118.

The Texas Municipal League Group Benefits Risk Pool Board of Trustees, Group Benefits Risk Pool met at the Driskill Hotel, Austin, December 12, 1991, at 10 a.m. Information may be obtained from Rhonda Ruckel, 211 East Seventh Street, Suite 1100, Austin, Texas 78701, (512) 320-7861. TRD-9115285.

The Tyler County Appraisal District Appraisal Review Board met at 806 West Bluff, Woodville, December 12, 1991, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9115263.

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Meetings Filed December 6,
1991

The Austin-Travis County Mental Health and Mental Retardation Center Board of Trustees met at 1430 Collier Street, Board Room, Austin, December 12, 1991, at 7 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9115384.

The Barton Springs-Edwards Aquifer Conservation District Board of Directors met at 1124A Regal Row, Austin, December 12, 1991, at 5 p.m. Information may be obtained from Bill E. Couch, 1124A Regal Row, Austin, Texas 78748, (512) 282-8441. TRD-9115365.

The Bexar Appraisal District Appraisal Review Board met at 535 South Main Street, San Antonio, December 11, 1991, at 9 a.m. Information may be obtained from Beverly Houston, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9115319.

Bexar Appraisal District Agricultural Appraisal Advisory Board met at 535 South Main Street, San Antonio, December 11, 1991, at 6 p.m. Information may be obtained from Beverly Houston, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9115320.

The Carson County Appraisal District Board of Directors met at 102 Main Street, Panhandle, December 11, 1991, at 9 a.m. Information may be obtained from Dianne Lavake, P.O. Box 970, Panhandle, Texas 79068-0970, (806) 537-3569. TRD-9115360.

The Central Appraisal District of Taylor County Board of Directors met at 1534 South Treadaway, Abilene, December 11, 1991, at 2:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9115383.

The Coastal Bend Council of Governments will meet at 901 Leopard Street, Commissioners Courtroom, Nueces County Courthouse, Third Floor, Corpus Christi, December 13, 1991, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9115297.

The Dallas Area Rapid Transit Corporate Location Ad Hoc Committee met at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, December 10, 1991, at 10:30 a.m. Information may be

obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9115379.

The Dallas Area Rapid Transit Mobility Impaired Committee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, December 10, 1991, at 11:30 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9115381.

The Dallas Area Rapid Transit Audit Committee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, December 10, 1991, at 11:30 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9115382.

The Dallas Area Rapid Transit Committee-of-the-Whole met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, December 10, 1991, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9115385.

The Dallas Area Rapid Transit Bus Planning, Development and Operations Committee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, December 10, 1991, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9115393.

The Dallas Area Rapid Transit Board of Directors met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, December 10, 1991, at 6:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9115380.

The East Texas Council of Governments Executive Committee met at the ETCOG Offices, Kilgore, December 12, 1991, at 2 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9115333.

The Ellis County Appraisal District Appraisal Review Board met at 406 Sycamore Street, Waxahachie, December 11, 1991, at 9 a.m. Information may be obtained from Dorothy Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9115394.

The El Oso Water Supply Corporation Board of Directors met at its Office, FM 99, Karnes City, December 10, 1991, at 7 p.m. Information may be obtained from Hilmer Wagener, P.O. Box 309, Karnes City, Texas 78118, (512) 780-3539. TRD-9115316.

The Grand Parkway Association met at 5757 Woodway, 140 East Wing, Houston, December 12, 1991, at 10:30 a.m. Information may be obtained from Jerry L.

Coffman, 5757 Woodway, 140 East Wing, Houston, Texas 77057, (713) 782-9330. TRD-9115317.

The Gulf Bend Mental Health and Mental Retardation Center Board of Trustees met at 1404 Village Drive, Gulf Bend MHRM Center, Victoria, December 12, 1991, at 11 a.m. Information may be obtained from Sharon Prtka, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9115352.

The Hays County Appraisal District Board of Directors met at 632 A East Hopkins, Municipal Building, San Marcos, December 12, 1991, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 632 A East Hopkins, San Marcos, Texas 78666, (512) 754-7400. TRD-9115318.

The Jack County Appraisal District Board of Directors will meet at 210 North Church Street, JCAD Conference Room, Jacksboro, December 17, 1991, at 7 p.m. Information may be obtained from J. D. Garcia or Donna Hartzell, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301. TRD-9115334.

The Lower Colorado River Authority Finance and Administration Committee met at 3700 Lake Austin Boulevard, December 10, 1991, at noon. Information may be obtained from Glenn E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9115307.

The Lower Colorado River Authority Committees on Planning and Public Policy and Natural Resources met at 3700 Lake Austin Boulevard, December 10, 1991, at 1:30 p.m. Information may be obtained from Glenn E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9115308.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3700 Lake Austin Boulevard, December 11, 1991, at 9 a.m. Information may be obtained from Glenn E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9115309.

The Lower Colorado River Authority Audit and Budget Committee met at 3700 Lake Austin Boulevard, December 11, 1991, at 9 a.m. Information may be obtained from Glenn E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9115310.

The Lower Colorado River Authority Natural Resources Committee met at 3700 Lake Austin Boulevard, December 11, 1991, at 9 a.m. Information may be obtained from Glenn E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9115311.

The Lower Colorado River Authority Finance and Administration Committee met at 3700 Lake Austin Boulevard, December 11, 1991, at 9 a.m. Information may be obtained from Glenn E. Taylor, P.O. Box 220,

Austin, Texas 78767, (512) 473-3283. TRD-9115312.

The Lower Colorado River Authority Energy Operations Committee met at 3700 Lake Austin Boulevard, December 11, 1991, at 9 a.m. Information may be obtained from Glenn E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9115313.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, December 11, 1991, at 9 a.m. Information may be obtained from Glenn E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9115315.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, December 12, 1991, at 9 a.m. Information may be obtained from Glenn E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9115314.

The Lower Neches Valley Authority Insurance Committee met at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, December 9, 1991, at 10 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9115353.

The Lower Neches Valley Authority Finance and Water Rates Committee will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, December 16, 1991, at 10 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9115354.

The Middle Rio Grande Development Council Board of Directors met at the Reading Room, Uvalde Civic Center, Uvalde, December 9, 1991, at 6:30 p.m. Information may be obtained from Michael Patterson, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9115367.

The Mills County Appraisal District met at the Mills County Courthouse, Jury Room, Goldthwaite, December 9, 1991, at 6:30 p.m. Information may be obtained from Cynthia Partin, P.O. Box 565, Goldthwaite, Texas 76844-0565, (915) 648-2253. TRD-9115363.

The Sabine Valley Center Board of Trustees met at the Administration Building, Ben F. Bane Room, 107 Woodbine Place, Bramlette Lane, Longview, December 9, 1991, at 7 p.m. Information may be obtained from Mack O. Blackwell, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9115359.

The San Patricio County Appraisal District Appraisal Review Board will meet at the San Patricio County Appraisal District Office, 1146 East Market Street, Sinton, December 13, 1991, at 10 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512)

The South Plains Association of Governments Regional Review Committee met at 1323 58th Street, Lubbock, December 11, 1991, at 9 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730. (806) 762-8721. TRD-9115350.

The Sulphur-Cypress Soil and Water Conservation District #419 met at 1809 West Ferguson Road, Suite B, Mt. Pleasant, December 11, 1991, at 10 a.m. Information may be obtained from Beverly Amerson, 1809 West Ferguson, Suite B, Mt. Pleasant, Texas 75455. (903) 572-5411. TRD-9115349.

The Tarrant Appraisal District Board of Directors met at 2301 Gravel Road, Fort Worth, December 12, 1991, at 9 a.m. Information may be obtained from Mary McCoy, 2315 Gravel Road, Fort Worth, Texas 76118. (817) 595-6005. TRD-9115348.

The Texas Water Conservation Associated Risk Management Fund Board of Trustees met at 221 East Ninth Street, Suite 200, Austin, December 11, 1991, at 4 p.m. Information may be obtained from LeRoy Goodson, 221 East Ninth Street, Suite 206, Austin, Texas 78701. (512) 472-7216. TRD-9115362.



Meetings Filed December 9, 1991

The Bexar Appraisal District Board of Directors will meet at 535 South Main Street, San Antonio, December 16, 1991, at 5 p.m. Information may be obtained from Bev Houston, 535 South Main Street, San Antonio, Texas 78204. (512) 224-8511. TRD-9115429.

The Bosque Central Appraisal District Board of Directors met at the Bosque Central Appraisal District Office, 104 West Morgan Street, Meridian, December 12, 1991, at 2 p.m. Information may be obtained from Don Whitney, P.O. Box 393, Meridian, Texas 76665. (817) 435-2304. TRD-9115475.

The Central Counties Center for Mental Health and Mental Retardation Services Board of Trustees will meet at 304 South 22nd Street, Temple, December 17, 1991, at 7:45 p.m. Information may be obtained from Robert E. Luckey, Ph.D., 304 South 22nd Street, Temple, Texas 76501. (817) 778-4841. TRD-9115490.

The Central Counties Center for Mental Health and Mental Retardation Services Board of Trustees will meet at 304 South 22nd Street, Temple, December 21, 1991, at 9 a.m. Information may be obtained from Robert E. Luckey, Ph.D., 304 South 22nd Street, Temple, Texas 76501. (817) 778-4841. TRD-9115489.

The Dallas Area Rapid Transit Board of Directors met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, December 10, 1991, at 6:30 p.m. The emergency status was necessary as it was of the utmost importance that the DART Board of Directors take immediate action in implementing the DART Service Plan. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202. (214) 658-6237. TRD-9115436.

The Dewitt County Appraisal District Board of Directors will meet at the Dewitt County Appraisal Office, 103 Bailey Street, Cuero, December 17, 1991, at 7:30 p.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954. (512) 275-5753. TRD-9115440.

The Dewitt County Appraisal District Appraisal Review Board will meet at the Dewitt County Appraisal Office, 103 Bailey Street, Cuero, December 18, 1991, at 9 a.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954. (512) 275-5753. TRD-9115441.

The Education Service Center, Region XVI Board of Directors will meet at 1601 South Cleveland Street, Board Room, Amarillo, December 20, 1991, at 10:15 a.m. Information may be obtained from Jim Holmes, P.O. Box 30600, Amarillo, Texas 79120. (806) 376-5521. TRD-9115444.

The Erath County Appraisal District Appraisal Review Board met at 1390 Harbin Drive, Board Room, Stephenville, December 12, 1991, at 9:30 a.m. Information may be obtained from Trecia Perales, 1390 Harbin Drive, Stephenville, Texas 76401. (817) 965-5434. TRD-9115426.

The Grayson Appraisal District Board of Directors will meet at 205 North Travis Street, Sherman, December 18, 1991, at 7:15 a.m. Information may be obtained from Angie Keeton, 205 North Travis Street, Sherman, Texas 75090. (903) 893-9673. TRD-9115428.

The Hamilton County Appraisal District will meet at the Hamilton County Appraisal District Boardroom, 119 East Henry Street, Hamilton, December 17, 1991, at noon. Information may be obtained from Doyle Roberts, 119 East Henry Street, Hamilton, Texas 76531. (817) 386-8945, FAX (817) 386-8947. TRD-9115427.

The Henderson County Appraisal District Board of Directors will meet at 1751 Enterprise Street, Athens, December 16, 1991, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise Street, Athens, Texas 75751. (903) 675-9296. TRD-9115432.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul Street, Gonzales, December 12, 1991, at 5 p.m. Information may be obtained from Glenda Strackhein, P.O. Box 867, Gonzales, Texas 78629. (512) 672-2879.

The Jones County Appraisal District Board of Directors will meet at the District's Office, 1137 East Court Plaza, Anson, December 19, 1991, at 8:30 a.m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas 79501. (915) 823-2422. TRD-9115400.

The Lower Neches Valley Authority Board of Directors will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, December 17, 1991, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704. (409) 892-4011. TRD-9115443.

The Nolan County Central Appraisal District Board of Directors will meet at the Nolan County Courthouse, Third Floor, Sweetwater, December 17, 1991, at 7 a.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556. (915) 235-8421. TRD-9115449.

The Nueces-Jim Wells-Kenedy-Kleberg Soil and Water Conservation District Board of Directors will meet at 710 East Main Street, Robstown, December 17, 1991, at 2 p.m. Information may be obtained from Denise Lawhon, 710 East Main Street, Robstown, Texas 78380. (512) 668-8363. TRD-9115399.

The Palo Pinto Appraisal District Agricultural Advisory Board will meet at the Palo Pinto County Courthouse, Palo Pinto, December 17, 1991, at 7 p.m. Information may be obtained from Jackie F. Samford, P.O. Box 250, Palo Pinto, Texas 76484-0250. (817) 659-1234. TRD-9115448.

The Palo Pinto Appraisal District Appraisal Review Board will meet at the Palo Pinto County Courthouse, Palo Pinto, December 18, 1991, at 1:30 p.m. Information may be obtained from Jackie F. Samford, P.O. Box 250, Palo Pinto, Texas 76484-0250. (817) 659-1234. TRD-9115446.

The Palo Pinto Appraisal District Board of Directors will meet at the Palo Pinto County Courthouse, Palo Pinto, December 18, 1991, at 3 p.m. Information may be obtained from Jackie F. Samford, P.O. Box 250, Palo Pinto, Texas 76484-0250. (817) 659-1234. TRD-9115445.

The San Antonio River Industrial Development Authority Board of Directors will meet at the SARA General Offices, 100 East Guenther Street, San Antonio, December 13, 1991, at 1 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78282-0027. (512) 227-1373. TRD-9115439.

The San Antonio River Industrial Development Authority Board of Directors will meet at the SARA General Offices, 100 East Guenther Street, Second Floor Confer-

ence Room, San Antonio, December 18, 1991, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78282-0027, (512) 227-1373. TRD-9115438.

The Tarrant Appraisal District Appraisal Review Board will meet at 2309 Gravel Road, Fort Worth, December 19, 1991, at 8:30 a.m. Information may be obtained from Suzanne Williams, 2309 Gravel Road, Fort Worth, Texas 76118, (817) 284-8884. TRD-9115401.

The Upshur County Appraisal District Board of Directors will meet at the Upshur County Appraisal District Office, Warren and Trinity Streets, Gilmer, December 16, 1991, at 1 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644, (903) 843-3041. TRD-9115450.

The Wood County Appraisal District Appraisal Review Board will meet at the Wood County Appraisal District, 216 North Main Street, Conference Room, Quitman, December 13, 1991, at 9 a.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 951, Quitman, Texas 75783-0951, (903) 763-4891. TRD-9115447.

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Meetings Filed December 10,
1991

The Gillespie Central Appraisal District Board of Directors will meet at the City Hall Assembly Room, Fredericksburg, December 19, 1991, at 9 a.m. Information may be obtained from Mary Lou Smith, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-9807. TRD-9115493.

The Kendall County Appraisal District Board of Directors will meet at 440 West Bandera Road, Cowboy Steak House, Boerne, December 19, 1991, at 5 p. m. Information may be obtained from Alton Pfeiffer, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9115494.



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 290

An examiner for the Texas Air Control Board (TACB) will conduct a contested case hearing to consider whether or not Executive Emergency Order Number 91-18 issued by the executive director of the TACB on November 6, 1991, pursuant to TACB Rule 116.13 should be affirmed, modified, or set aside. Executive Emergency Order Number 91-18 authorized Atochem North America, Inc. (the Applicant) to reconstruct the Phase I methyl mercaptan reactor at the mercaptan production facility located at 2052 Gulf States Road, Beaumont, Jefferson County, Texas 77704.

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 construction who wants to be made a party must send a specific written request for party status to hearings examiner Cindy Hurt 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 December 20, 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.

Prehearing Conference. The examiner has scheduled a prehearing conference at 1:30 p.m. on January 9, 1992, at the TACB Central Office, Room 143-E, 12124 Park 35 Circle, Austin, Texas 78753. 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. (Note. The original Executive Emergency Order scheduled a prehearing conference for December 10, 1991, at the Central Office of the TACB. That date is superseded and corrected by this notice.)

Time and Place of Hearing. The examiner has set the hearing to begin at 1:30 p.m. on January 21, 1992, at the TACB Central Office, Room 143-E, 12124 Park 35 Circle, Austin, Texas 78753. (Note. The original Executive Emergency Order scheduled a hearing to begin January 7, 1992, at the Central Office of the TACB. That date is superseded and corrected by this notice.)

What the Applicant Must Prove. This hearing is a contested case hearing under §13 of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. It is generally conducted like a trial in district court. Atochem North America, Inc. must demonstrate, by a preponderance of the evidence, that the proposed construction with associated emissions will meet the

requirements of §382.063 of the Texas Clean Air Act, Chapter 382, Health and Safety Code (the Act) and TACB Rule 116.13.

Public Attendance and Testimony. Members of the general public may attend 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 hearing date in order to confirm the setting, 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 Hearings Section at the TACB Legal Division at (512) 908-1770 to find out the names and addresses of all admitted parties who may be contacted about the possibility of presenting testimony.

Information About the Order and TACB Rules. Information about the order and copies of the TACB's Rules and Regulations are available at the TACB Regional Office located at 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703, the TACB Central Office located at 12124 Park 35 Circle, Austin, Texas 78753, and at the Beaumont City Hall Office located at 801 Main Street, Beaumont, Texas 77701.

Legal Authority. This hearing is called and will be conducted under the authority of §§382.029, 382.030, 382.031, and 382.063 of the Act and TACB Procedural Rules 103.11(5), 103.31, 103.41 and TACB Rule 116.13(c).

Issued in Austin, Texas, on December 2, 1991.

TRD-9115148 Steve Spaw, P.E.
Executive Director
Texas Air Control Board

Filed: December 4, 1991

For further information, please call: (512) 908-1451

Office of the Attorney General Notice of Application for Federal Grant- Social Security Act of 1935

Description of Activity to be Funded by Grant. The Attorney General of Texas invites comments on an application for a grant of federal funds from the United States Department of Health and Human Services (HHS). The grant will permit the Attorney General to conduct a demonstration project in Bexar county, for the automated monitoring of certain court orders establishing child support obligation in the County. The grant is made pursuant to the direction given by the United States Congress, in section 5013 of the Omnibus Budget Reconciliation Act of 1990, that the Secretary of HHS enter into an agreement with the Attorney General to permit Texas to conduct a demonstration project in Bexar County to establish methods for enhanced collection of child support obligations. Among other things, the demonstration project will permit the Attorney General to monitor and enforce child support obligations pursuant to the federal Social Security Act of

1935 (the Act) without regard to the provisions of the Act requiring signed applications from custodial parents and others seeking to have lawful, established child support obligations enforced. (No monitoring or enforcement activities will be carried out by the Office of the Attorney General on behalf of custodial parents who decline such services. The demonstration project will be subject to a study conducted by an independent evaluator to evaluate the usefulness and cost-effectiveness of the project.

Solicitation of Comments and Deadline For Submissions. The Attorney General invites comments on the application or federal grant funds. Copies of the grant application may be requested by writing to David Wilson, Child Support Enforcement Division, Office of the Attorney General of Texas, P.O. Box 12017, Austin, Texas 78701-2017. Comments in writing may be addressed to Ms. Cecelia Burke, Director, Child Support Enforcement Division, Office of the Attorney General of Texas, Attention: Bexar County Grant Suite 212, P.O. Box 12017, Austin, Texas 78701-2017. Comments must be received within thirty calendar days after the date of this publication.

Issued in Austin, Texas, on December 2, 1991.

TRD-9115378 Will Pryor
First Assistant Attorney General
Office of the Attorney General

Filed: December 6, 1991

For further information, please call: (512) 463-2040

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Texas Clean Air Act Enforcement Settlement Notice

Notice is given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Texas Clean Air Act. The Texas Health and Safety Code, §382.096, provides that before the state may settle a judicial enforcement action under the Clean Air Act, the state shall permit the public to comment in writing on the proposed judgment. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreed judgment if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Texas Clean Air Act.

Case Title and Court. City of Houston, Texas and State of Texas v. Jerry J. Moore et al., Cause Number 88-029542 in the 157th District Court of Harris County.

Nature of Defendant's Operations. Jerry J. Moore et al., own a shopping center from which asbestos was removed.

Proposed Agreed Judgment. The proposed Agreed Final Judgment contains provision for civil penalties and attorneys' fees.

Civil Penalties. The judgment requires the Defendant to pay \$14,000 in civil penalties and attorney's fees to be divided between the state and City of Houston.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment should be reviewed. Requests for copies of the judgment, and written comments on the judgment, should be directed to Susan Theisen, Assistant Attorney General, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012. Written comments must be received by January 10, 1992, at 5 p.m. Written comments may be sent by facsimile machine to Susan Theisen at (512) 440-8002.

Issued in Austin, Texas, on December 4, 1991.

TRD-9115242 Will Pryor
First Assistant Attorney General
Office of the Attorney General

Filed: December 5, 1991

For further information, please call: (512) 463-2040

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Texas Department of Banking Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On December 5, 1991, the banking commissioner received an application to acquire control of Azle Bancorp and indirectly Azle State Bank, Azle, Texas, by Jerry C. Smith, Azle, Texas.

Additional information may be obtained from: William F. Aldridge, 2601 North Lamar, Austin, Texas 78705, (512) 475-1317.

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

TRD-9115321 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: December 6, 1991

For further information, please call: (512) 475-1317

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Notice of Hearing

The hearing officer of the State Banking Board will conduct a hearing on January 14, 1992, at 9 a.m., at 2601 North Lamar, Austin, on the charter application for ProBank, The Woodlands. The application is a conversion from ProBank N.A., located in The Woodlands, to a state-chartered bank.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Texas Department of Banking, 2601 North Lamar, Austin, Texas 78705, (512) 475-1317.

Issued in Austin, Texas, on December 2, 1991.

TRD-9115151 William F. Aldridge
Director of Corporate Activities
State Banking Board

Filed: December 4, 1991

For further information, please call: (512) 475-1317

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

| <u>Types of Rate Ceilings</u> | <u>Effective Period (Dates are Inclusive)</u> | <u>Consumer ⁽¹⁾/Agricultural/ Commercial ⁽²⁾ thru \$250,000</u> | <u>Commercial⁽²⁾ over \$250,000</u> |
|---|---|---|--|
| Indicated (Weekly) Rate - Art. 1.04(a)(1) | 12/09/91-12/15/91 | 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 December 2, 1991.

TRD-9115149 Al Endsley
Consumer Credit Commissioner

Filed: December 4, 1991

For further information, please call: (512) 479-1280



Employees Retirement System of Texas Employees Retirement System of Texas Fiscal Report

Texas Civil Statutes, Government Code, Title 8, Subtitle B, §815.108, requires that the Employees Retirement System of Texas publish a report in the *Texas Register* containing the following information: the retirement system's fiscal transactions of the preceding fiscal year; the amount of the system's accumulated cash and securities; and the rate of return on the investment of the system's cash and securities during the preceding fiscal year.

The schedules in this report are presented by fund within fund type. They present more detailed information than would be required by Generally Accepted Accounting Principals (GAAP) and they do not include the note disclosures required GAAP. They are presented in the following order, preceded by an explanation of the Fund Structure:

Pension Trust Funds

Schedule 1: Combining Balance Sheet

Schedule 2: Combining Statement of Revenues, Expenses and Changes in Fund Balances

Expendable Trust Funds

Schedule 3: Combining Balance Sheet

Schedule 4: Combining Statement of Revenues, Expenditures and Changes in Fund Balances

Special Revenue Funds

Schedule 5: Combining Balance Sheet

Schedule 6: Combining Statement of Revenues, Expenditures and Changes in Fund Balances

Agency Funds

Schedule 7: Combining Balance Retirement Sheet

Investment Summaries

Schedule 8: Employees Retirement Fund

Schedule 9: Law Enforcement and Custodial Officer Supplemental Retirement Fund

Schedule 10: Judicial Retirement System Plan Two Fund

Schedule 11: All Pension Funds

Schedule 12: Employees Life, Accident and Health Insurance and Benefits Fund

Schedule 13: State Employees Criteria Plan Trust Fund

Questions about the reports should be directed to Darrell J. Leslie, Director of Accounting, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711, (512) 867-3224, WATS number 1-800-252-3645.

FUND STRUCTURE

The financial statements are organized on the basis of funds, each of which is considered to be a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts. These accounts are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with applicable statutory guidelines or restrictions. The System's accounts fall under two basic fund types: Governmental Funds and Fiduciary Funds. The following is a brief description of the primary activity of each fund.

1. Governmental Funds

Special Revenue Funds

Special Revenue Funds are used to account for the System's proceeds from specific revenue sources that are legally restricted to expenditures for specified purposes.

(i) Social Security Administration Fund

The Social Security Administration Fund is the operating fund from which the expenditures of administration and maintenance of the Social Security Program are paid.

(ii) Death Benefits Program for Commissioned Peace Officers, Firemen, etc. Fund (General Revenue Fund)

The Death Benefits Program for Commissioned Peace Officers, Firemen, etc., Fund is used to account for payments of death benefits and administrative fees funded by appropriations from the State's General Revenue Fund.

(iii) Judicial Return to Work Fund (General Revenue Fund)

The Judicial Return to Work Fund is used to account for salaries and salary related costs for retired judges and justices called to service which are funded by an appropriation from the State's General Revenue Fund.

(iv) Uniform Statewide Accounting System Implementation Account (General Revenue Fund)

The Uniform Statewide Accounting System Implementation Account, which is funded by an appropriation from the State's General Revenue Fund, is used to account for the allocation from the State Comptroller's Office to the System for expenditures of implementing the Uniform Statewide Accounting System.

2. Fiduciary Funds

(a) Pension Trust Funds

The fund type, Pension Trust Fund, is used to account for public employee retirement system funds.

(i) Employees Retirement Fund and Judicial Retirement System Plan Two Fund

The following accounts of the Employees Retirement Fund and the Judicial Retirement System Plan Two Fund hold the reserves for future and current benefit payments. These reserves are included in the fund balance reserved for retirement trust funds.

Employees Retirement System of Texas

o Employees Savings Account

The Employees Savings Account is the account in which members' contributions and interest credited to those contributions are accumulated.

o State Accumulation Account

The State Accumulation Account is the account in which retirement and death benefits contributions made by the State are accumulated.

o Retirement Annuity Reserve Account

The Retirement Annuity Reserve Account is the account in which reserves for annuities granted and in force are held, and from which annuities are paid.

o Interest Account

The Interest Account is the account in which interest, dividends, and gains and losses derived from investments of the Retirement System's funds are accumulated. At the close of each fiscal year, the annual investment revenues are transferred from the Interest Account to the other accounts as provided by statute.

o Investment Account

The Investment Account is the account through which available assets and monies of the Retirement Systems are invested.

o Benefit Increase Reserve Account

The Benefit Increase Reserve Account is the account in which appropriated reserves are held for post-retirement increases in annuities for elected and employee class members and their survivors for benefit increases authorized in 1977, 1979, February 1981 and September 1981.

o Expense Account

The Expense Account is the account from which the expenses of administration and maintenance of the Retirement System Programs are paid.

(ii) Law Enforcement and Custodial Officer Supplemental Retirement Fund

The Law Enforcement and Custodial Officer Supplemental Retirement Fund was created for the purpose of receiving funds collected as part of the motor vehicle inspection fee and facilitating the payment of benefits as provided by the Commissioned Law Enforcement and Custodial Officer Supplemental Retirement Benefit Act. Available assets and monies of the fund are invested, and revenues accruing from the investments are deposited to the fund.

An annuity reserve fund balance account has been established to reserve the benefits payable for annuities granted and currently in force as determined by the System's actuarial consultants.

(iii) Judicial Retirement System Plan One Fund

The Judicial Retirement System Plan One Fund receives appropriations from the State's General Revenue Fund for annuity and refund payments to judges who are members of this program.

Employees Retirement System of Texas

(iv) **Deferred Compensation Administrative Trust Fund**

The Deferred Compensation Administrative Trust Fund includes an operating expense account from which administrative expenses are paid. The tax-deferred contributions are accounted for as an Agency Fund.

(v) **TexaSaver Administrative Trust Fund**

The TexaSaver Administrative Trust Fund includes an operating expense account from which administrative expenses are paid. The tax-deferred contributions are accounted for as an Agency Fund.

(b) **Expendable Trust Funds**

An Expendable Trust Fund is used to account for assets held by the System in a trustee capacity related to the State's Uniform Group Insurance Program and Cafeteria Benefit Plan Program.

(i) **Employees Life, Accident and Health Insurance and Benefits Fund (Group Insurance Fund)**

This fund is used to account for contributions received by participating employees, annuitants, and the State of Texas; for claim payments to the indemnity plan insurance carrier; and for premium payments to Health Maintenance Organizations. This fund also accounts for the operational expenditures incurred to maintain the program and for investment income realized from the cash received from premiums pending disbursement to the carriers.

This fund is composed of two sub-accounts:

o Group Insurance Benefits Account

This account receives contributions of participating employees, participating annuitants and the State of Texas; and makes payments to insurance carriers under the Group Insurance Program.

o Group Insurance Administration Account

This account functions as an operating account from which the expenditures for administration and maintenance of the Group Insurance Program and Supplemental payments for employee insurance premiums are paid.

An Expendable Trust Fund rather than an Internal Service Fund is used to account for the Employees Life, Accident, and Health Insurance and Benefits Fund because it is not a self-insurance fund. The Employees Retirement System does not retain the risk of loss. The risk is transferred to the insurance carriers.

(ii) **State Employees Cafeteria Plan Trust Fund (Flexible Benefits Fund)**

This fund is used to account for the before-tax salary reduction contributions from state employees and reimbursements for health care and dependent care. This fund also accounts for the operational expenditures incurred to maintain the program.

This fund is composed of two sub-accounts:

o Cafeteria Plan Benefits Account

This account receives before-tax salary reduction payments for benefits included in the Cafeteria Plan. This account also makes benefit reimbursement payments.

o Cafeteria Plan Administration Account

This account functions as an operating account from which the expenditures for administration of the Program are paid.

(c) Agency Funds

Agency Funds are used to account for assets held by a governmental unit in an agency capacity for individuals, other governmental entities, other funds, etc. Agency Funds are custodial in nature (assets equal liabilities) and do not measure results of operations.

(i) Unappropriated Receipts (General Revenue Fund)

Member contributions from members of the Judicial Retirement System Plan One are deposited directly into the General Revenue Fund as unappropriated receipts.

(ii) Social Security Trust Fund

The Social Security Trust Fund received employee and employer contributions from participating local governmental entities for wages paid before January 1, 1987, and transmitted those funds to the Federal Social Security Administration. This fund also received employee and employer contributions from participating state agencies and universities for wages paid before April 1, 1987, and transmitted those funds to the Federal Social Security Administration.

(iii) Employees Savings Bond Fund

The Employees Savings Bond Fund is used to accumulate payroll deductions for U. S. Savings Bonds. Bonds are purchased for each participating employee when the employee's account balance equals the purchase price of the specified bond.

(iv) Deferred Compensation Trust Fund

The Deferred Compensation Trust Fund accounts for tax-deferred portions of salaries of State employees in accordance with the provisions of Internal Revenue Code Section 457. The assets in the plan are the property of the State of Texas, and are recorded at market value.

(v) TexaSaver Trust Fund

The TexaSaver Trust Fund accounts for tax-deferred portions of salaries of State employees in accordance with the provisions of Internal Revenue Code Section 401(k). The assets in the plan are solely the property of the employee.

EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited

SCHEDULE 1

COMBINING BALANCE SHEET - PENSION TRUST FUNDS
August 31, 1991
(With Comparative Totals at August 31, 1990)

| | Law Enforcement and Custodial Officer Supplemental Retirement Fund (977) | | | | | | Judicial Retirement System Plan One (001) | | Judicial Retirement System Plan Two (993) | | Deferred Compensation Administrative Trust Fund (945) | | Texas State Administrative Trust Fund (946) | | Totals | |
|--|--|------|------|------|------|------|---|------|---|------|---|------|---|------|-------------------------|-------------------------|
| | 1991 | 1990 | 1991 | 1990 | 1991 | 1990 | 1991 | 1990 | 1991 | 1990 | 1991 | 1990 | 1991 | 1990 | 1991 | 1990 |
| ASSETS | | | | | | | | | | | | | | | | |
| Current Assets | | | | | | | | | | | | | | | | |
| Cash and Temporary Investments: | | | | | | | | | | | | | | | | |
| Cash on Hand | 351,478 | | | | | | | | | | | | | | 351,478 | 412,199 |
| Cash in Bank | 10,500 | | | | | | | | | | | | | | 10,500 | 10,500 |
| Cash in State Treasury | 53,427,969 | | | | | | | | | | | | | | 53,427,969 | 30,822,410 |
| Accounts Receivable | 16,617,874 | | | | | | | | | | | | | | 16,617,874 | 18,037,368 |
| Interest and Dividends Receivable | 94,517,144 | | | | | | | | | | | | | | 94,517,144 | 88,223,124 |
| Due From Other Funds | 277,030 | | | | | | | | | | | | | | 277,030 | 448,495 |
| Prepaid Expenses | 54,528 | | | | | | | | | | | | | | 54,528 | 76,706 |
| Total Current Assets | <u>165,256,523</u> | | | | | | | | | | | | | | <u>165,256,523</u> | <u>138,629,002</u> |
| Long-Term Investments | | | | | | | | | | | | | | | | |
| At Cost (Total Market, 1991 \$7,826,591,284; 1990 \$6,472,697,097) | 6,736,314,656 | | | | | | | | | | | | | | 6,736,314,656 | 6,272,900,702 |
| Fixed Assets | | | | | | | | | | | | | | | | |
| Motor Vehicle | 20,123 | | | | | | | | | | | | | | 20,123 | 20,123 |
| Land and Land Improvements | 874,889 | | | | | | | | | | | | | | 874,889 | 874,889 |
| Building | 6,556,300 | | | | | | | | | | | | | | 6,556,300 | 6,459,409 |
| Office Furniture and Equipment | 2,382,043 | | | | | | | | | | | | | | 2,382,043 | 2,096,913 |
| Subtotal Fixed Assets | <u>9,833,435</u> | | | | | | | | | | | | | | <u>9,833,435</u> | <u>9,451,334</u> |
| Less Accumulated Depreciation | (3,012,548) | | | | | | | | | | | | | | (3,012,548) | (2,620,607) |
| Net Fixed Assets | <u>6,820,887</u> | | | | | | | | | | | | | | <u>6,820,887</u> | <u>6,830,727</u> |
| Total Assets | <u>\$ 6,908,392,066</u> | | | | | | | | | | | | | | <u>\$ 6,908,392,066</u> | <u>\$ 6,367,840,231</u> |

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EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited
SCHEDULE 2

**COMBINING STATEMENT OF REVENUES, EXPENSES AND CHANGES IN
 FUND BALANCES - PENSION TRUST FUNDS**
 Year Ended August 31, 1991
 (With Comparative Totals for the Year Ended August 31, 1990)

| | Law Enforcement and Custodial | | | | | | Total | |
|---|--------------------------------|--|---|---|---|---|----------------------|--------------------|
| | Employee Retirement Fund (955) | Officer Supplemental Retirement Fund (977) | Judicial Retirement System Plan One (001) | Judicial Retirement System Plan Two (993) | Deferred Compensation Administrative Trust Fund (945) | Treasurer Administrative Trust Fund (946) | 1991 | 1990 (Audited) |
| Operating Revenues | | | | | | | | |
| Contributions to Retirement System: | | | | | | | | |
| Member Contributions | 175,804,747 | | | 794,097 | | | 176,598,844 | 167,543,739 |
| State Retirement Contributions | 216,095,776 | | | 1,175,339 | | | 217,271,115 | 206,217,599 |
| Membership Fees | 1,481,106 | | | 1,910 | | | 1,483,016 | 1,435,238 |
| Penalty Interest | 1,306,513 | | | | | | 1,306,513 | 1,045,517 |
| Death Benefits | 4,414,333 | | | | | | 4,414,333 | 3,664,167 |
| Motor Vehicle Inspection Fees | | 27,134,996 | | | | | 27,134,996 | 26,099,329 |
| Legislative Appropriations: | | | | | | | | |
| For Judges' Retirement Annuity Payments | | | 10,372,787 | | | | 10,372,787 | 9,768,690 |
| For Refund of Judges' Contributions | | | 30,425 | | | | 30,425 | 42,813 |
| For Administrative Expenses | | | 68,064 | | | | 68,064 | 61,612 |
| For Deferred Compensation Plans | | | | | 440,000 | 65,000 | 505,000 | - |
| Investment Income: | | | | | | | | |
| Interest | 475,684,011 | 22,581,921 | | 394,451 | 25,471 | 2,578 | 498,688,382 | 447,494,353 |
| Dividends | 69,838,769 | | | | | | 69,838,769 | 63,914,036 |
| Gain on Sale of Securities (Net) | 99,736,775 | 72,008 | | | | | 99,808,783 | 39,460,675 |
| Rent - Office Space | 302,643 | | | | | | 302,643 | 359,909 |
| Miscellaneous | 35,683 | | | | | | 35,683 | 62,786 |
| Total Operating Revenues | 1,044,780,358 | 49,784,925 | 10,471,276 | 2,365,817 | 465,471 | 67,578 | 1,107,939,375 | 967,174,473 |
| Operating Expenses | | | | | | | | |
| Retirement System Benefits Paid: | | | | | | | | |
| Retirement Benefits | 217,364,877 | 3,390,678 | 10,372,787 | | | | 231,128,342 | 216,371,995 |
| Death Benefits: | | | | | | | | |
| Active Members | 1,116,048 | | | | | | 1,116,048 | 741,782 |
| Retirees | 5,270,423 | | | | | | 5,270,423 | 4,056,554 |
| Member Contributions Withdrawn | 54,361,031 | | 30,425 | | | | 54,423,333 | 50,021,095 |
| Administrative Expenses | 8,587,593 | 149,319 | | 71,770 | 252,184 | 14,590 | 9,075,456 | 7,636,699 |
| Miscellaneous | 1,157 | | | | | 1,157 | 1,157 | 138,566 |
| Total Operating Expenses | 286,701,149 | 3,539,997 | 10,403,212 | 105,627 | 252,184 | 14,590 | 301,016,759 | 278,966,691 |

EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited
SCHEDULE 2

COMBINING STATEMENT OF REVENUES, EXPENSES AND CHANGES IN
FUND BALANCES - PENSION TRUST FUNDS
Year Ended August 31, 1991
(With Comparative Totals for the Year Ended August 31, 1990)
(concluded)

| | Employees Retirement Fund (935) | Law Enforcement and Custodial Officer Supplemental Retirement Fund (977) | Judicial Retirement System Plan One (001) | Judicial Retirement System Plan Two (993) | Deferred Compensation Administrative Trust Fund (945) | TexasSaver Administrative Trust Fund (946) | Totals | |
|--|---------------------------------|--|---|---|---|--|---------------|----------------|
| | | | | | | | 1991 | 1990 (Audited) |
| Income Before Non-Operating Expenses and Operating Transfers | 758,079,209 | 46,248,928 | 68,064 | 2,260,190 | 213,287 | 52,938 | 806,922,616 | 688,207,782 |
| Non-Operating Expenses | 10,232 | | | 46 | | | 10,298 | 31,713 |
| Loss on Disposal of Fixed Assets | 758,068,957 | 46,248,928 | 68,064 | 2,260,144 | 213,287 | 52,938 | 806,912,316 | 688,176,069 |
| Income Before Operating Transfers | | | | | | | | |
| Operating Transfers In (Out) Fee for Administering Programs | 174,334 | (90,000) | (68,064) | | | | 16,270 | 19,716 |
| Net Operating Transfers | 174,334 | (90,000) | (68,064) | | | | 16,270 | 19,716 |
| Net Income | 758,243,291 | 46,158,928 | - | 2,260,144 | 213,287 | 52,938 | 806,928,586 | 688,195,705 |
| Fund Balances - Beginning | 6,132,327,127 | 222,279,759 | - | 4,199,727 | - | - | 6,359,806,613 | 5,670,610,828 |
| Fund Balances - Ending | 6,890,570,418 | 268,438,687 | - | 6,459,871 | 213,287 | 52,938 | 7,165,735,201 | 6,358,806,613 |

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 3

COMBINING BALANCE SHEET – EXPENDABLE TRUST FUNDS

August 31, 1991

(With Comparative Totals at August 31, 1990)

| | <i>Employees Life, Accident and Health Insurance and Benefits Fund (973)</i> | <i>State Employees Cafeteria Plan Trust Fund (943)</i> | <i>Totals August 31,</i> | |
|--|--|--|------------------------------|-----------------------|
| | <u>\$</u> | <u>\$</u> | <u>1991</u> | <u>1990 (Audited)</u> |
| | \$ | \$ | \$ | \$ |
| ASSETS | | | | |
| Current Assets | | | | |
| Cash and Temporary Investments: | | | | |
| Cash on Hand | 80,936 | | 80,936 | 50,026 |
| Cash in State Treasury | 160,170,553 | 2,121,781 | 162,292,334 | 128,215,744 |
| Receivables: | | | | |
| Accounts Receivable | 8,721,589 | 613,388 | 9,334,977 | 10,724,715 |
| Interest Receivable | 1,123,574 | 15,003 | 1,138,577 | 1,001,000 |
| Due From Other Funds | 41,570 | | 41,570 | 29,380 |
| Consumable Inventories | 7,747 | 1,722 | 9,469 | 13,370 |
| Total Assets | <u>170,145,969</u> | <u>2,751,894</u> | <u>172,897,863</u> | <u>140,034,235</u> |
| LIABILITIES AND FUND BALANCES | | | | |
| Current Liabilities | | | | |
| Payables: | | | | |
| Accounts Payable | 97,397,751 | 1,149,508 | 98,547,259 | 79,880,928 |
| Deferred Revenue | 359,886 | 1,145 | 361,031 | 372,469 |
| Due To Other Funds | 151,719 | 22,603 | 174,322 | 128,407 |
| Total Liabilities | <u>97,909,356</u> | <u>1,173,256</u> | <u>99,082,612</u> | <u>80,381,804</u> |

— to next page

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 3

COMBINING BALANCE SHEET – EXPENDABLE TRUST FUNDS

August 31, 1991

(With Comparative Totals at August 31, 1990)

(concluded)

| | <i>Employees Life, Accident and Health Insurance and Benefits Fund (973)</i> | <i>State Employees Cafeteria Plan Trust Fund (943)</i> | <i>Totals August 31,</i> | |
|--|--|--|------------------------------|-----------------------|
| | <u>\$</u> | <u>\$</u> | <u>1991</u> | <u>1990 (Audited)</u> |
| | \$ | \$ | \$ | \$ |
| Fund Balances | | | | |
| Reserved: | | | | |
| For Encumbrances | 298,096 | 20,414 | 318,510 | - |
| For Consumable Inventories | 7,747 | 1,722 | 9,469 | 13,370 |
| Unreserved, Designated: | | | | |
| For Group Insurance Benefits | 69,092,283 | | 69,092,283 | 53,665,502 |
| For Group Insurance Administration | 2,838,487 | | 2,838,487 | 4,467,615 |
| For Cafeteria Plan Administration | | 1,556,502 | 1,556,502 | 1,505,944 |
| Total Fund Balances | <u>72,236,613</u> | <u>1,578,638</u> | <u>73,815,251</u> | <u>59,652,431</u> |
| Total Liabilities and Fund Balances | <u>170,145,969</u> | <u>2,751,894</u> | <u>172,897,863</u> | <u>140,034,235</u> |

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 4

**COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN
FUND BALANCES – EXPENDABLE TRUST FUNDS**

Year Ended August 31, 1991

(With Comparative Totals for the Year Ended August 31, 1990)

| | <i>Employees Life, Accident and Health Insurance and Benefits Fund (973)</i> | <i>State Employees Cafeteria Plan Trust Fund (943)</i> | <i>Totals August 31,</i> | |
|---|--|--|------------------------------|-----------------------|
| | <u>\$</u> | <u>\$</u> | <u>1991</u> | <u>1990 (Audited)</u> |
| | \$ | \$ | \$ | \$ |
| Revenues | | | | |
| Investment Income: | | | | |
| Interest | 12,297,738 | 178,671 | 12,476,409 | 11,484,774 |
| Gain on Sale of Securities (Net) | | | - | 5,994 |
| Insurance Premium Contributions from: | | | | |
| State of Texas | 298,291,160 | | 298,291,160 | 244,464,148 |
| State Employees and Retirees | 116,588,935 | | 116,588,935 | 107,711,449 |
| Cobra Participants | 2,590,961 | | 2,590,961 | 2,115,865 |
| Cafeteria Plan: | | | | |
| Contributions | | 7,256,064 | 7,256,064 | 8,322,668 |
| Fees | | 202,701 | 202,701 | 259,209 |
| Miscellaneous | 54,337 | | 54,337 | 44,442 |
| Total Revenues | <u>429,823,131</u> | <u>7,637,436</u> | <u>437,460,567</u> | <u>374,408,549</u> |
| Expenditures | | | | |
| Current: | | | | |
| Claims and Premium Payments to Insurance Carriers | 362,739,988 | | 362,739,988 | 312,058,728 |
| Claims Reimbursements – Cafeteria Plan | | 6,709,473 | 6,709,473 | 7,501,216 |
| Estimated Claims Incurred by State Employees and/or Retirees | 49,846,409 | 357,314 | 50,203,723 | 44,577,099 |
| Catastrophic Medicare Refunds | | | - | 821,675 |
| Bad Debt Expenditure | 5 | 547 | 552 | 540 |
| Administrative Expenditures | 3,105,210 | 496,433 | 3,601,643 | 3,472,630 |
| Capital Outlay | 35,770 | 2,697 | 38,467 | 12,582 |
| Total Expenditures | <u>415,727,382</u> | <u>7,566,464</u> | <u>423,293,846</u> | <u>368,444,470</u> |
| Excess (Deficit) of Revenues over Expenditures | 14,095,749 | 70,972 | 14,166,721 | 5,964,079 |

– to next page

EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited

SCHEDULE 4

**COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN
FUND BALANCES – EXPENDABLE TRUST FUNDS**
Year Ended August 31, 1991
(With Comparative Totals for the Year Ended August 31, 1990)
(concluded)

| | <i>Employees Life, Accident and Health Insurance and Benefits Fund (973)</i> | <i>State Employees Cafeteria Plan Trust Fund (943)</i> | <i>Totals August 31,</i> | |
|--|--|--|------------------------------|--------------------------|
| | | | <i>1991</i> | <i>1990 (Audited)</i> |
| Fund Balances – Beginning | \$ 58,144,904 | \$ 1,499,809 | \$ 59,644,713 | \$ 53,682,523 |
| Restatements | – | 7,718 | 7,718 | – |
| Fund Balances – Beginning – As Restated | <u>58,144,904</u> | <u>1,507,527</u> | <u>59,652,431</u> | <u>53,682,523</u> |
| Increase (Decrease) in Consumable Inventories | <u>(4,040)</u> | <u>139</u> | <u>(3,901)</u> | <u>5,829</u> |
| Fund Balances – Ending | <u><u>72,236,613</u></u> | <u><u>1,578,638</u></u> | <u><u>73,815,251</u></u> | <u><u>59,652,431</u></u> |

EMPLOYERS RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 5

COMBINING BALANCE SHEET - SPECIAL REVENUE FUNDS
 August 31, 1991
 (With Comparative Totals at August 31, 1990)

| | | | | | | 1991 | 1990 (Audited) |
|--|----------------|---------------|----------------|--|--|----------------|----------------|
| | | | | | | August 31, | 1990 (Audited) |
| ASSETS | | | | | | | |
| Current Assets | | | | | | | |
| Cash and Temporary Investments: | | | | | | 229,957 | 270,660 |
| Cash in State Treasury | | | | | | 174,947 | 11,674 |
| Legislative Appropriations | | | | | | 123,805 | 164,676 |
| Accounts Receivable | | | | | | 125 | 5,946 |
| Due From Other Funds | | | | | | | |
| Total Assets | | | | | | 528,834 | 452,956 |
| LIABILITIES AND FUND BALANCES | | | | | | | |
| Current Liabilities | | | | | | | |
| Payable: | | | | | | | |
| Accounts Payable | 4,537 | 68,263 | 214,615 | | | 287,415 | 184,999 |
| Due To Other Funds | 2,151 | 543 | | | | 2,694 | 6,224 |
| Total Liabilities | 6,688 | 68,806 | 214,615 | | | 290,109 | 191,223 |
| Fund Balances | | | | | | | |
| Unreserved: | | | | | | | |
| Designated: | | | | | | | |
| For Uniform Statewide Accounting System | | | | | | 15,456 | - |
| Undesignated: | | | | | | | |
| Available for Subsequent Years' Expenditures | 223,269 | | | | | 223,269 | 261,733 |
| Total Fund Balances | 223,269 | - | - | | | 238,725 | 261,733 |
| Total Liabilities and Fund Balances | 229,957 | 68,806 | 214,615 | | | 528,834 | 452,956 |

EMPLOYERS RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 6

COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES
IN FUND BALANCES - SPECIAL REVENUE FUNDS
Year Ended August 31, 1991
(With Comparative Totals for the Year Ended August 31, 1990)

| | 1991 | 1990 (Audited) |
|---|------------------|------------------|
| Revenues | | |
| Legislative Appropriations Out of the State's General Revenue Fund: | | |
| For Administrative Expenditures | 16,270 | 19,715 |
| For Death Benefits | 698,768 | 570,961 |
| For Salaries of Retired Judges Called to Service | 1,692,994 | 1,529,892 |
| For Salaries of Retired Justices Called to Service | 137,601 | 180,549 |
| For Social Security Matching Contributions | 251,047 | 211,190 |
| For Social Security Payments Made by the State | 81,706 | 71,087 |
| For Uniform Statewide Accounting System Implementation | 15,456 | 166 |
| Miscellaneous | - | - |
| Total Revenues | 2,893,842 | 2,583,560 |
| Expenditures | | |
| Current: | | 4,573 |
| Penalty Interest | - | - |
| Death Benefits: | | |
| Lump Sum Payments for Surviving Spouses | 280,000 | 280,000 |
| Monthly Payments on Behalf of Minor Children | 418,768 | 370,961 |
| Salaries of Retired Judges Called to Service | 1,692,994 | 1,529,892 |
| Salaries of Retired Justices Called to Service | 137,601 | 180,549 |
| Payroll Related Costs of Judges/Justices Called to Service: | | |
| Social Security Matching Contribution | 251,047 | 211,190 |
| Social Security Payments by the State | 81,706 | 71,087 |
| Administrative Expenditures | 38,464 | 111,650 |
| Total Expenditures | 2,900,580 | 2,679,852 |
| Excess (Deficit) of Revenues Over Expenditures | (6,738) | (96,292) |

EMPLOYERS RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 7

COMBINING BALANCE SHEET - AGENCY FUNDS
 August 31, 1991
 (With Comparative Totals at August 31, 1990)

| | Unappropriated Receipts | | | | Total | |
|---|----------------------------|----------------------------------|----------------------------------|--|--------------------|----------------|
| | General Revenue Fund (001) | Social Security Trust Fund (913) | Employee Savings Bond Fund (901) | Deferred Compensation Trust Fund (945) | 1991 | 1990 (Audited) |
| ASSETS | | | | | | |
| Current Assets | | | | | | |
| Cash on Hand | | | 18,156 | | 18,156 | - |
| Cash in Bank | | | | | 19,247 | - |
| Cash in State Treasury Investment--Deferred Compensation Plan 457 At Market Value | | 550,108 | 100 | | 550,208 | 550,082 |
| Accounts Receivable Due From Other Funds | 120,922 | | 1,350 | 185,953,408 | 185,953,408 | - |
| | 763 | | | | 122,272 | 2,816 |
| Total Assets | 139,841 | 550,108 | 1,450 | 185,953,408 | 186,664,054 | 569,350 |
| LIABILITIES | | | | | | |
| Current Liabilities | | | | | | |
| Accounts Payable | 139,841 | 550,108 | 1,450 | | 710,646 | 566,557 |
| Deferred Compensation Benefits Payable | | | | 185,953,408 | 185,953,408 | - |
| Due To Other Funds | | | | | | 2,793 |
| Total Liabilities | 139,841 | 550,108 | 1,450 | 185,953,408 | 186,664,054 | 569,350 |

EMPLOYERS RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 8

INVESTMENT SUMMARY - EMPLOYERS RETIREMENT FUND
Year Ended August 31, 1991

| Type of Investment | September 1, 1990 | | | | | August 31, 1991 | | | | | % Total Market | Yield at Market % | |
|---------------------------------|----------------------|------------------------|------------------------|----------------------------------|------------------------------------|----------------------|----------------------|---------------|-------------|--|----------------|-------------------|--|
| | Book Value \$ | Market Value \$ | Purchases | Sales, Maturities and Redemption | Other Transactions & Amortizations | Book Value \$ | Market Value \$ | | | | | | |
| Fixed Income: | | | | | | | | | | | | | |
| U. S. Government Securities | 3,709,029,827 | 3,825,500,668 | 938,740,266 | 709,155,279 | 4,120,110 | 3,942,734,924 | 4,244,592,024 | 55.85 | 8.16 | | | | |
| Corporate Bonds | 790,259,481 | 769,229,049 | 226,837,755 | 26,471,547 | 2,286,166 | 992,911,855 | 1,044,181,670 | 13.74 | 8.80 | | | | |
| Total Fixed Income | 4,499,289,308 | 4,594,729,717 | 1,165,578,021 | 735,626,826 | 6,406,276 | 4,935,646,779 | 5,288,773,694 | 69.59 | 8.29 | | | | |
| Equities: | | | | | | | | | | | | | |
| Passive | 473,157,466 | 504,420,632 | 165,118,314 | 3,562,055 | (803,767) | 633,909,958 | 788,464,430 | 10.37 | 3.70 | | | | |
| Active | 1,033,949,109 | 1,151,415,433 | 294,361,592 | 161,544,611 | (8,171) | 1,166,757,919 | 1,469,624,813 | 19.34 | 3.70 | | | | |
| Total Equities | 1,507,106,575 | 1,655,836,065 | 459,479,906 | 165,106,666 | (811,938) | 1,800,667,877 | 2,258,089,243 | 29.71 | 3.70 | | | | |
| Cash Equivalents | | | | | | | | | | | | | |
| Cash in State Treasury | 25,812,520 | 25,812,520 | 75,000,000 | 75,000,000 | 27,615,449 | 53,427,969 | 53,427,969 | 0.70 | 7.66 | | | | |
| Commercial Paper | - | - | - | - | - | - | - | - | - | | | | |
| Total Cash Equivalents | 25,812,520 | 25,812,520 | 75,000,000 | 75,000,000 | 27,615,449 | 53,427,969 | 53,427,969 | 0.70 | 7.66 | | | | |
| Total Investments | 6,032,208,403 | 6,276,378,302 | 1,700,057,927 | 975,733,492 | 33,209,787 | 6,788,742,625 | 7,600,290,906 | 109.00 | 6.92 | | | | |
| | Note A | Note A | | | | Note A | Note A | | | | | | |
| Portfolio Rate of Return | | August 31, 1991 | August 31, 1990 | | | | | | | | | | |
| (Note B) | | % | % | | | | | | | | | | |
| Cash Equivalents | | 7.76 | 9.15 | | | | | | | | | | |
| Corporate Bonds | | 9.61 | 9.66 | | | | | | | | | | |
| U. S. Government Securities | | 10.13 | 9.99 | | | | | | | | | | |
| Equities | | 10.43 | 7.42 | | | | | | | | | | |
| Composite Rate of Return | | 10.08 | 9.31 | | | | | | | | | | |

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends + Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYERS RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 9

INVESTMENT SUMMARY - LAW ENFORCEMENT AND CUSTODIAL OFFICER SUPPLEMENTAL RETIREMENT FUND
Year Ended August 31, 1991

| Type of Investment | September 1, 1990 | | | | | August 31, 1991 | | | | | % Total Market | Yield at Market | |
|---|-------------------|--------------|------------|-----------------------------------|---------------------------------|-----------------|--------------|----------------|-----------------|--|----------------|-----------------|--|
| | Book Value | Market Value | Purchases | Sales, Maturities and Redemptions | Other Transfers & Amortizations | Book Value | Market Value | % Total Market | Yield at Market | | | | |
| Fixed Income: | | | | | | | | | | | | | |
| U. S. Government Securities | 216,584,819 | 222,131,315 | 65,928,584 | 21,077,398 | 819,589 | 282,255,594 | 279,728,347 | 99.67 | 8.24 | | | | |
| Total Fixed Income | 216,584,819 | 222,131,315 | 65,928,584 | 21,077,398 | 819,589 | 282,255,594 | 279,728,347 | 99.67 | 8.24 | | | | |
| Cash Equivalents: | | | | | | | | | | | | | |
| Cash in State Treasury Commercial Paper | 864,481 | 864,481 | - | - | 63,198 | 927,679 | 927,679 | 0.33 | 7.66 | | | | |
| Total Cash Equivalents | 864,481 | 864,481 | 3,000,000 | 3,000,000 | 63,198 | 927,679 | 927,679 | 0.33 | 7.66 | | | | |
| Total Investments | 217,449,300 | 222,995,796 | 68,928,584 | 24,077,398 | 882,787 | 283,183,273 | 280,656,026 | 100.00 | 8.24 | | | | |
| | Note A | Note A | | | | Note A | Note A | | | | | | |

| Portfolio Rate of Return (Note B) | August 31, 1991 | August 31, 1990 |
|-----------------------------------|-----------------|-----------------|
| Cash Equivalents | 7.30 | 8.28 |
| U. S. Government Securities | 9.56 | 9.56 |
| Composite Rate of Return | 9.46 | 9.53 |

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 10

INVESTMENT SUMMARY - JUDICIAL RETIREMENT SYSTEM PLAN TWO FUND
Year Ended August 31, 1991

| Type of Investment | September 1, 1990 | | | | | August 31, 1991 | | | | |
|-------------------------------|-------------------|--------------|-----------|-----------------------|--|-----------------|--------------|-------------------|--------------------|--|
| | Book Value | Market Value | Purchases | Sales, Redemptions | Other Transactions & Amortizations | Book Value | Market Value | % Total Market | Yield at Market | |
| Cash Equivalents | | | | | | | | | | |
| Cash in State Treasury | 4,124,718 | 4,124,718 | - | - | 2,211,200 | 6,335,918 | 6,335,918 | 100.00 | 7.66 | |
| Total Cash Equivalents | 4,124,718 | 4,124,718 | - | - | 2,211,200 | 6,335,918 | 6,335,918 | 100.00 | 7.66 | |
| Total Investments | 4,124,718 | 4,124,718 | - | - | 2,211,200 | 6,335,918 | 6,335,918 | 100.00 | 7.66 | |
| | Note A | Note A | | | | Note A | Note A | | | |

| Portfolio Rate of Return (Note B) | August 31, 1991 | August 31, 1990 |
|--------------------------------------|-----------------|-----------------|
| Cash Equivalents | 7.54 | 8.40 |
| Composite Rate of Return | 7.54 | 8.40 |

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 11

INVESTMENT SUMMARY - ALL PENSION FUNDS
Year Ended August 31, 1991

| Type of Investment | September 1, 1990 | | | | | | | August 31, 1991 | | | | | | |
|--|-------------------|-----------------|-----------------|-----------------------------------|------------------------------------|---------------|---------------|-----------------|-----------------|-------------|---------------|----------------|-----------------|--|
| | Book Value | Market Value | Purchases | Sales, Maturities and Redemptions | Other Transactions & Amortizations | Book Value | Market Value | % Total Market | Yield at Market | Book Value | Market Value | % Total Market | Yield at Market | |
| Fixed Income: | | | | | | | | | | | | | | |
| U. S. Government Securities | 3,925,614,646 | 4,047,631,983 | 1,004,668,850 | 730,232,677 | 4,939,699 | 4,204,990,518 | 4,524,320,371 | 57.36 | 8.16 | 992,911,855 | 1,044,181,670 | 13.24 | 8.80 | |
| Corporate Bonds | 780,259,481 | 769,229,049 | 226,837,755 | 26,471,547 | 2,286,166 | 992,911,855 | 1,044,181,670 | 13.24 | 8.80 | | | | | |
| Total Fixed Income | 4,715,874,127 | 4,816,861,032 | 1,231,506,605 | 756,704,224 | 7,225,865 | 5,197,902,373 | 5,568,502,041 | 70.60 | 8.29 | | | | | |
| Equities: | | | | | | | | | | | | | | |
| Passive | 473,157,466 | 504,420,632 | 165,118,314 | 3,562,055 | (803,767) | 633,909,958 | 788,464,430 | 10.00 | 3.70 | | | | | |
| Active | 1,033,949,109 | 1,151,415,433 | 294,361,592 | 161,544,611 | (8,171) | 1,166,757,919 | 1,469,624,813 | 18.63 | 3.70 | | | | | |
| Total Equities | 1,507,106,575 | 1,655,836,065 | 459,479,906 | 165,106,666 | (811,938) | 1,800,667,877 | 2,258,089,243 | 28.63 | 3.70 | | | | | |
| Cash Equivalents | | | | | | | | | | | | | | |
| Cash in State Treasury | 30,801,719 | 30,801,719 | - | - | - | 60,988,803 | 60,988,803 | 0.77 | 7.66 | | | | | |
| Commercial Paper | - | - | 78,000,000 | 78,000,000 | - | - | - | - | - | | | | | |
| Total Cash Equivalents | 30,801,719 | 30,801,719 | 78,000,000 | 78,000,000 | 30,187,064 | 60,988,803 | 60,988,803 | 0.77 | 7.66 | | | | | |
| Total Investments | 6,253,782,421 | 6,503,498,816 | 1,768,986,511 | 999,810,890 | 36,601,011 | 7,059,559,053 | 7,887,590,087 | 100.00 | 6.97 | | | | | |
| | Note A | Note A | | | | Note A | Note A | | | | | | | |
| Portfolio Rate of Return (Note B) | | | | | | | | | | | | | | |
| Cash Equivalents | | August 31, 1991 | August 31, 1990 | | | | | | | | | | | |
| U. S. Government Securities | | % | % | | | | | | | | | | | |
| Corporate Bonds | | 7.72 | 9.11 | | | | | | | | | | | |
| Equities | | 10.09 | 9.97 | | | | | | | | | | | |
| | | 9.61 | 9.66 | | | | | | | | | | | |
| | | 10.43 | 7.42 | | | | | | | | | | | |
| Composite Rate of Return (Note C) | | 10.06 | 9.31 | | | | | | | | | | | |

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends + Gain (Loss) on Sales}}{\text{Average Book Value}}$

Note C: Beginning in fiscal year 1991, the Investment Summary and Rate of Return includes the administrative portion of the Deferred Compensation Trust Fund and the TexasSaver Trust Fund.

Unaudited

SCHEDULE B 12

INVESTMENT SUMMARY - EMPLOYEES LIFE, ACCIDENT AND HEALTH INSURANCE AND BENEFITS FUND
Year Ended August 31, 1991

| Type of Investment | September 1, 1990 | | | Sales, Maturities and Redemptions | | August 31, 1991 | | % Total Market | Yield at Market |
|-------------------------------|--------------------|--------------------|--------------------|------------------------------------|-------------------|--------------------|--------------------|----------------|-----------------|
| | Book Value | Market Value | Purchases | Other Transactions & Amortizations | Book Value | Market Value | | | |
| Cash Equivalents | | | | | | | | | |
| Cash in State Treasury | 125,696,634 | 125,696,634 | - | - | 34,473,919 | 160,170,553 | 160,170,553 | 100.00 | 100.00 |
| Commercial Paper | - | - | 127,000,000 | 127,000,000 | - | - | - | - | - |
| Total Cash Equivalents | 125,696,634 | 125,696,634 | 127,000,000 | 127,000,000 | 34,473,919 | 160,170,553 | 160,170,553 | 100.00 | 100.00 |
| Total Investments | 125,696,634 | 125,696,634 | 127,000,000 | 127,000,000 | 34,473,919 | 160,170,553 | 160,170,553 | 100.00 | 100.00 |
| | Note A | Note A | | | | Note A | Note A | | |

| Portfolio Rate of Return (Note B) | August 31, 1991 | August 31, 1990 |
|-----------------------------------|-----------------|-----------------|
| Cash Equivalents | 7.71 | 8.58 |
| U. S. Government Securities | - | 8.44 |
| Composite Rate of Return | 7.71 | 8.58 |

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 13

INVESTMENT SUMMARY - STATE EMPLOYEES CAFETERIA PLAN TRUST FUND
Year Ended August 31, 1991

| Type of Investment | September 1, 1990 | | Sales, Maturities and Redemptions | | August 31, 1991 | | % Total Market | Yield at Market |
|-------------------------------|-------------------|------------------|-----------------------------------|------------------------------------|------------------|------------------|------------------|-----------------|
| | Book Value | Market Value | Purchases | Other Transactions & Amortizations | Book Value | Market Value | | |
| Cash Equivalents | | | | | | | | |
| Cash in State Treasury | 2,519,110 | 2,519,110 | - | - | (397,329) | 2,121,781 | 2,121,781 | 100.00 |
| Total Cash Equivalents | 2,519,110 | 2,519,110 | - | - | (397,329) | 2,121,781 | 2,121,781 | 100.00 |
| Total Investments | 2,519,110 | 2,519,110 | - | - | (397,329) | 2,121,781 | 2,121,781 | 100.00 |
| | Note A | Note A | | | | Note A | Note A | |

| Portfolio Rate of Return (Note B) | August 31, 1991 | August 31, 1990 |
|-----------------------------------|-----------------|-----------------|
| Cash Equivalents | 7.63 | 8.36 |
| Composite Rate of Return | 7.63 | 8.36 |

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

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

TRD-9115412 Charles D. Travis
Executive Director
Employees Retirement System of Texas

Filed: December 9, 1991

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

◆ ◆ ◆
Office of the Governor
Correction of Error

The Office of the Governor submitted a notice of the appointment of Mr. Armando Caceres to the Texas Commission on Fire Protection. Due to a proofreading error by the *Texas Register*, the date of expiration of Mr. Caceres' term was incorrect. His term will expire February 1, 1995.

◆ ◆ ◆
Texas Department of Health
Examination of Code Enforcement
Officers Request for Proposal

The Texas Department of Health invites proposals in response to the request for proposal entitled "Code Enforcement Officer Written Examination Development and Administration" from entities experienced in examination administration to develop, validate, schedule, and provide a written examination for use as a requirement to become a code enforcement officer.

The written examination to be developed and administered by the contractor will consist of 50 multiple-choice questions to be answered on electronic scannable answer sheets provided by the department. Approximately 500-800 candidates are expected to take the examination which will be offered 10 to 12 times a year, each scheduled for one day during 1992 in various cities throughout Texas. The contractor will be developing and administering examinations for 1992 with the option of being considered for administering examinations each calendar year thereafter.

Selection of the contractor will be based on the applicant's demonstration of technical competence in examination development and administration; ability to secure examination administration personnel, materials, and supplies; and indication of sufficient resources to complete the examination administration during 1992 in a cost effective manner. Proposals shall indicate total examination costs as well as a breakdown to reflect actual costs per examinee. Each proposal shall not exceed \$40,000 for the year with the examination cost not exceeding \$50 per candidate.

Entities interested in submitting a proposal shall contact Dr. James J. Zukowski, Assistant Director, Professional Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 459-2928 or (512) 459-2909 (Fax) for information regarding the full proposal. Proposals will not be considered from bidders failing to obtain this information.

Proposals may be delivered by mail or in person to Room T-502 at the previously stated address. Proposals are due in this office no later than 5 p.m. on Tuesday, December 31, 1991.

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

TRD-9115274

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

Filed: December 5, 1991

For further information, please call: (512) 458-2928

◆ ◆ ◆
Notice of Revocation of Certificates of
Registration

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 TAC §289.112), has revoked the following certificates of registration: Inwood Family Health Center, Inc., Houston, R13442, November 25, 1991; Hershall A. Allen, D.D.S., Inc., Houston, R05699, November 25, 1991; Peter J. Faust, D.D.S., Tyler, R03800, November 25, 1991; VTI Academy for Veterinary Assistants, Dallas, R07577, November 25, 1991; Dental Technologies, Houston, R15639, November 25, 1991; The Sullivan Company, Austin, R15486, November 25, 1991; Honobie Dental Partnership, Wylie, R16411, November 25, 1991; Lufkin Immediate Care Center, Lufkin, R14795, November 25, 1991; Russell R. Hillard, D.D.S., Houston, R17715, November 25, 1991; Cigna Healthplan of Texas, Inc., Irving, R15381, November 25, 1991.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, 8 a. m. to 5 p.m. (except holidays).

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

TRD-9115275 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: December 5, 1991

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

◆ ◆ ◆
Texas Department of Human Services
Notice of Funding Assistance Available
for Judicial and Attorney Training on
Child Abuse Issues.

Funds are available through the Children's Justice Act Grant to Texas to assist both judges and attorneys in obtaining desired training to improve the legal handling of civil and criminal child abuse cases. Financial assistance will be provided: to enable the judiciary in local communities to bring in judicial/medical/mental health experts to speak to the judiciary on child abuse topics that the judiciary deem useful to them in their handling of child abuse cases; to enable local communities to sponsor training for attorneys who represent children in child abuse cases so that these attorneys can advocate more effectively for their child clients; and to enable judges and all attorneys who are involved in child abuse legal cases to attend training conferences that will enhance their skills in handling child abuse legal cases. Funds will be available through September, 1993.

Requests for funding and requests for additional information should be addressed to Ana Pozo; CJA Grant Project Director; Texas Department of Human Services; P.O. Box 149030, E-605; Austin, Texas 78714-9030; (512) 450-3104; FAX (512) 450-4749.

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

Filed: December 5, 1991

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

◆ ◆ ◆

Texas State Board of Examiners of Psychologists

Correction of Error

The Texas State Board of Examiners of Psychologists submitted proposed amendments to 22 TAC §465.21, concerning inactive status. The rule appeared in the November 29, 1991, issue of the *Texas Register* (16 TexReg 6899).

In the fourth sentence the term "Examiners of Professional Practices and Psychology" was printed in error by the *Texas Register*. The term should be "Examination for the Professional Practice of Psychology". The term "Oral Examinations" should be capitalized in §465.2 and in §463.25.

◆ ◆ ◆

Public Utility Commission of Texas

Notice Of Application To Change Depreciation Rates

Notice is given to the public of the filing of an application by the Fort Bend Telephone Company with the Public Utility Commission of Texas for approval of a change in depreciation rates.

Docket Number and Style. Docket Number 10751. Application of Fort Bend Telephone Company for Revision of its Depreciation Rates and Change in Amortization.

The Application. The Fort Bend Telephone Company filed an application to change the amortization and depreciation rates for various kinds of equipment.

Persons who wish to intervene, must do so by filing a motion to intervene by 4 p.m., Friday, January 3, 1992, at the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information section at (512) 458-0256 or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9115259

Mary Ross McDonald
Secretary of the Commission
Public Utility Commission

Filed: December 5, 1991

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

◆ ◆ ◆

Notice of Intent

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to PUC Substantive Rule 23.27 for approval of customer-specific CentraNet Service for Texas Stadium, Inc., Irving.

Tariff Title and Number. Application of GTE Southwest, Inc. for Approval of CentraNet Service for Texas Stadium, Inc. Pursuant to PUC Substantive Rule 23.27(k). Tariff Control Number T10774.

The Application. GTE Southwest, Inc. is requesting approval of CentraNet Service for Texas Stadium, Inc. The geographic service market for this specific service is the Irving area.

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

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

TRD-9115182

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

Filed: December 4, 1991

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

◆ ◆ ◆

Teacher Retirement System of Texas

Report of Fiscal Transactions, Accumulated Cash and Securities, and Rate of Return on Assets

Section 4, Chapter 929 (Senate Bill 1105), Acts on the 71st Texas Legislature, 1989, requires the Teacher Retirement System of Texas (TRS) to publish a report in the *Texas Register* no later than December 15 of each year containing the following information: the retirement system's accumulated cash and securities; and the rate of return on the investment of the system's cash and securities during the preceding fiscal year.

TRS is publishing the following report as required by statute.

TEACHER RETIREMENT SYSTEM

OF TEXAS

Report of Fiscal Transactions,
Accumulated Cash and Securities, and
Rate of Return on Assets

1990 - 91

1000 Red River Street/Austin, Texas 78701

TEACHER RETIREMENT SYSTEM OF TEXAS

TABLE OF CONTENTS

| | <u>Page</u> |
|---|-------------|
| Exhibit A - Combining Balance Sheet - Fiduciary Fund Types | 2 |
| Exhibit B - Statement of Revenues, Expenditures and Changes in Fund Balance - Expendable Trust Fund (989) | 4 |
| Exhibit C - Statement of Revenues, Expenses and Changes in Fund Balance - Pension Trust Fund (960) | 5 |
| Exhibit D - Statement of Changes in Financial Position - Pension Trust Fund (960) | 6 |
| Exhibit E - Statement of Changes in Assets and Liabilities - Agency Funds | 7 |
| Exhibit F - Rate of Return on Assets | 8 |

-UNAUDITED-

TEACHER RETIREMENT SYSTEM OF TEXAS (323)

EXHIBIT A

COMBINING BALANCE SHEET - FIDUCIARY FUND TYPES
AUGUST 31, 1991

| ASSETS | PENSION TRUST FUND (960) | EXPENDABLE TRUST FUND (989) | AGENCY FUND (001) | TOTALS - MEMORANDUM ONLY |
|---|--------------------------|-----------------------------------|---|--------------------------|
| | RETIREMENT | RETIRED EMPLOYEES GROUP INSURANCE | COLLECTIONS ON BEHALF OF THE STATE'S GENERAL REVENUE FUND | AUGUST 31, 1991 |
| CURRENT ASSETS: | | | | |
| CASH IN BANK | \$ 8,405,407 | | | 8,405,407 |
| CASH ON HAND | 389,659 | 54,480 | | 444,139 |
| CASH IN STATE TREASURY | 460,557,932 | 18,302,177 | | 478,860,109 |
| SHORT TERM INVESTMENTS | | 27,936,452 | | 27,936,452 |
| ACCOUNTS RECEIVABLE | | | | |
| SALE OF INVESTMENTS | 933,677 | | | 933,677 |
| MEMBER CONTRIBUTIONS | 25,498,350 | 1,471,937 | | 26,970,287 |
| STATE CONTRIBUTIONS - SCHOOL DISTRICTS | 1,113,174 | | | 1,113,174 |
| OTHER | 4,058,402 | 418,016 | | 4,476,418 |
| DUE FROM GENERAL REVENUE FUND - STATE CONTRIBUTIONS | 95,232,906 | 6,188,875 | | 101,421,781 |
| DUE FROM SCHOOL DISTRICTS | | | 6,938,637 | 6,938,637 |
| DIVIDENDS RECEIVABLE | 65,866,194 | | | 65,866,194 |
| INTEREST RECEIVABLE | 258,340,625 | 5,338,758 | | 263,679,383 |
| PREPAID ASSETS | 483,923 | | | 483,923 |
| TOTAL CURRENT ASSETS | \$ 920,880,249 | 59,710,695 | 6,938,637 | 987,529,581 |
| LONG-TERM INVESTMENTS: | | | | |
| FIXED INCOME (AMORTIZED COST) | | | | |
| U S TREASURY | \$ 3,627,030,344 | | | 3,627,030,344 |
| U S GOVERNMENT AGENCY-MORTGAGES | 3,806,296,684 | | | 3,806,296,684 |
| U S GOVERNMENT AGENCY-OTHER | 309,713,659 | | | 309,713,659 |
| MUNICIPAL | 10,000,000 | | | 10,000,000 |
| MORTGAGES OTHER | 113,190,489 | | | 113,190,489 |
| CORPORATE | 3,677,148,976 | 145,342,592 | | 3,822,491,568 |
| FOREIGN | 587,108,345 | | | 587,108,345 |
| REAL ESTATE (AMORTIZED COST LESS ALLOWANCE FOR LOAN LOSSES OF \$71,782,717) | | | | |
| DIRECT PARTICIPATING MORTGAGES | 1,436,800,727 | | | 1,436,800,727 |
| FIXED RATE MORTGAGES | 419,396,679 | | | 419,396,679 |
| EQUITIES (COST) | 8,740,965,847 | | | 8,740,965,847 |
| TOTAL LONG-TERM INVESTMENTS | \$ 22,727,651,750 | 145,342,592 | 0 | 22,872,994,342 |
| FIXED ASSETS: | | | | |
| LAND - HOME OFFICE | \$ 1,658,310 | | | 1,658,310 |
| LAND - SUBSIDIARIES | 75,123,000 | | | 75,123,000 |
| BUILDING - HOME OFFICE | 26,604,768 | | | 26,604,768 |
| BUILDING - SUBSIDIARIES | 306,224,022 | | | 306,224,022 |
| FURNITURE AND EQUIPMENT - HOME OFFICE | 5,951,498 | | | 5,951,498 |
| FURNITURE AND EQUIPMENT - SUBSIDIARIES | 902,082 | | | 902,082 |
| SUBTOTAL | \$ 416,463,680 | 0 | 0 | 416,463,680 |
| LESS ACCUMULATED DEPRECIATION | (14,733,442) | | | (14,733,442) |
| NET FIXED ASSETS | \$ 401,730,238 | 0 | 0 | 401,730,238 |
| DEFERRED ASSETS | \$ 15,731,804 | 0 | 0 | 15,731,804 |
| TOTAL ASSETS AND OTHER DEBITS | \$ 24,065,994,041 | 205,053,287 | 6,938,637 | 24,277,985,965 |

(to next page)

-UNAUDITED-

TEACHER RETIREMENT SYSTEM OF TEXAS (323)

EXHIBIT A

COMBINING BALANCE SHEET - FIDUCIARY FUND TYPES
AUGUST 31, 1991

(concluded)

| | PENSION TRUST FUND (960) | EXPENDABLE TRUST FUND (989) | AGENCY FUND (001) | TOTALS - MEMORANDUM ONLY |
|---|--------------------------------|---|---|--------------------------------|
| | RETIREMENT | RETIRED EMPLOYEES GROUP INSURANCE | COLLECTIONS ON BEHALF OF THE STATE'S GENERAL REVENUE FUND | AUGUST 31, 1991 |
| LIABILITIES, DEFERRED CREDITS, AND FUND EQUITY | | | | |
| CURRENT LIABILITIES: | | | | |
| ACCOUNTS PAYABLE | \$ 12,168,719 | 1,213,431 | | 13,382,150 |
| BENEFITS PAYABLE | 7,739,260 | | | 7,739,260 |
| DUE TO STATE'S GENERAL REVENUE FUND | | | 6,938,637 | 6,938,637 |
| TOTAL CURRENT LIABILITIES | \$ 19,907,979 | 1,213,431 | 6,938,637 | 28,060,047 |
| DEFERRED CREDITS: | | | | |
| COMMITMENT FEES | \$ 523,500 | 0 | 0 | 523,500 |
| FUND EQUITY: | | | | |
| FUND BALANCE RESERVED FOR: | | | | |
| MEMBER SAVINGS ACCOUNT | \$ 6,818,865,806 | | | 6,818,865,806 |
| STATE CONTRIBUTION ACCOUNT | 6,606,132,926 | | | 6,606,132,926 |
| RETIRED RESERVE ACCOUNT | 10,299,667,375 | | | 10,299,667,375 |
| BENEFIT INCREASE RESERVE ACCOUNT | 290,616,599 | | | 290,616,599 |
| EXPENSE ACCOUNT | 30,279,856 | | | 30,279,856 |
| CLAIMS INCURRED BUT UNREPORTED | | 38,192,000 | | 38,192,000 |
| FUTURE RETENTION, CLAIMS, AND ADMINISTRATIVE EXPENDITURES | | 165,647,856 | | 165,647,856 |
| TOTAL FUND EQUITY | \$ 24,045,562,562 | 203,839,856 | 0 | 24,249,402,418 |
| TOTAL LIABILITIES, DEFERRED CREDITS, AND FUND EQUITY | \$ 24,065,994,041 | 205,053,287 | 6,938,637 | 24,277,985,965 |

-UNAUDITED-

TEACHER RETIREMENT SYSTEM OF TEXAS (323)

EXHIBIT C

STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN FUND BALANCE
PENSION TRUST FUND (960)

| | YEAR ENDED AUGUST 31, 1991 |
|---|----------------------------------|
| REVENUES: | |
| MEMBER CONTRIBUTIONS | \$ 716,402,290 |
| STATE CONTRIBUTIONS FROM STATE OF TEXAS | 833,973,866 |
| STATE CONTRIBUTIONS FROM LOCAL SCHOOL DISTRICTS | 20,350,664 |
| INTEREST | 1,329,673,324 |
| DIVIDENDS | 448,065,121 |
| NET GAIN ON DISPOSITION OF SECURITIES | 88,134,112 |
| REINSTATEMENT OF WITHDRAWALS | 12,051,681 |
| REINSTATEMENT FEES | 9,989,176 |
| MEMBERSHIP FEES | 5,324,972 |
| INCOME FROM RETIRED EMPLOYEES GROUP INSURANCE | 101,893 |
| INCOME FROM TRS SUBSIDIARIES | 32,939,731 |
| TOTAL REVENUES | \$ 3,519,006,830 |
| EXPENSES: | |
| BENEFITS PAID | \$ 1,185,833,198 |
| WITHDRAWAL OF MEMBER ACCOUNTS | 133,870,773 |
| ADMINISTRATIVE EXPENSES | 21,216,967 |
| OPERATING EXPENSES FROM SUBSIDIARIES | 20,773,251 |
| TOTAL EXPENSES | \$ 1,361,694,191 |
| NET INCOME | \$ 2,157,310,639 |
| FUND BALANCE - BEGINNING SEPTEMBER 1 | 21,888,251,923 |
| FUND BALANCE - ENDING AUGUST 31 | \$ 24,045,562,562 |

-UNAUDITED-

TEACHER RETIREMENT SYSTEM OF TEXAS (323)

EXHIBIT D

STATEMENT OF CHANGES
IN FINANCIAL POSITION
PENSION TRUST FUND (960)

| | YEAR ENDED AUGUST 31, 1991 |
|---|----------------------------------|
| SOURCES OF FUNDS: | |
| OPERATIONS: | |
| NET INCOME | \$ 2,157,310,639 |
| EXPENSES NOT REQUIRING WORKING CAPITAL | |
| DEPRECIATION AND AMORTIZATION | 2,048,509 |
| LOSS ON SALES/DISPOSITIONS OF FIXED ASSETS | 14,983 |
| DEPRECIATION AND AMORTIZATION FROM SUBSIDIARIES | 5,529,001 |
| TOTAL WORKING CAPITAL PROVIDED BY OPERATIONS | \$ 2,164,902,732 |
| PROCEEDS FROM SALES OF FIXED ASSETS | 2,809 |
| TOTAL SOURCES | \$ 2,164,905,541 |
| APPLICATIONS OF FUNDS: | |
| INCREASE IN LONG-TERM INVESTMENT HOLDINGS | \$ (1,707,037,667) |
| PURCHASES OF FIXED ASSETS | (2,456,912) |
| INCREASE IN FIXED ASSETS FROM SUBSIDIARIES | (285,313,823) |
| DEFERRED ASSETS | (3,153,730) |
| TOTAL APPLICATIONS | \$ (1,996,162,132) |
| NET INCREASE IN WORKING CAPITAL | \$ 166,743,409 |
| WORKING CAPITAL - BEGINNING SEPTEMBER 1 | 735,928,510 |
| WORKING CAPITAL - ENDING AUGUST 31 | \$ 902,671,919 |
| INCREASE (DECREASE) IN CURRENT ASSETS: | |
| CASH IN BANK | \$ 6,154,500 |
| CASH ON HAND | 389,459 |
| CASH IN STATE TREASURY | 384,446,573 |
| SHORT-TERM INVESTMENTS | (260,437,180) |
| ACCOUNTS RECEIVABLE: | |
| SALE OF INVESTMENTS | (3,987,616) |
| MEMBER CONTRIBUTIONS | 1,090,333 |
| STATE CONTRIBUTIONS-SCHOOL DISTRICTS | 63,171 |
| INVESTMENT INCOME | 12,219,839 |
| OTHER | 2,308,720 |
| DUE FROM GENERAL REVENUE-STATE CONTRIBUTIONS | 27,250,331 |
| PREPAID ASSETS | 298,334 |
| DECREASE (INCREASE) IN CURRENT LIABILITIES: | |
| ACCOUNTS PAYABLE | (4,908,810) |
| BENEFITS PAYABLE | 102,166 |
| COMMITMENT FEES | 1,979,347 |
| NET INCREASE IN WORKING CAPITAL | \$ 166,743,409 |

-UNAUDITED-

TEACHER RETIREMENT SYSTEM OF TEXAS (323)

EXHIBIT B

STATEMENT OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE
EXPENDABLE TRUST FUND (989)

| | YEAR ENDED AUGUST 31, 1991 |
|---|----------------------------------|
| REVENUES: | |
| MEMBER CONTRIBUTIONS | \$ 23,638,871 |
| STATE CONTRIBUTIONS FROM STATE OF TEXAS | 47,277,743 |
| RETIREE CONTRIBUTIONS | 46,563,787 |
| INTEREST | 15,737,750 |
| NET GAIN ON DISPOSITION OF SECURITIES | 63,297 |
| | ----- |
| TOTAL REVENUES | \$ 133,281,448 |
| | ----- |
| EXPENDITURES: | |
| INSURANCE RETENTION PAID | \$ 7,269,406 |
| INSURANCE CLAIMS PAID | 95,610,270 |
| OPERATING EXPENDITURES | 988,623 |
| | ----- |
| TOTAL EXPENDITURES | \$ 103,868,299 |
| | ----- |
| EXCESS OF REVENUES OVER EXPENDITURES | \$ 29,413,149 |
| FUND BALANCE - BEGINNING SEPTEMBER 1 | 174,426,707 |
| | ----- |
| FUND BALANCE - ENDING AUGUST 31 | \$ 203,839,856 |
| | ===== |

-UNAUDITED-

TEACHER RETIREMENT SYSTEM OF TEXAS (323)

EXHIBIT E

STATEMENT OF CHANGES IN ASSETS AND LIABILITIES
AGENCY FUNDS - YEAR ENDED AUGUST 31, 1991

| UNAPPROPRIATED RECEIPTS | | | | |
|--|----------------------------------|-------------------------|-------------------------|--------------------------------|
| ----- | | | | |
| | BALANCES SEPTEMBER 1, 1990 | ADDITIONS | DEDUCTIONS | BALANCES AUGUST 31, 1991 |
| | ----- | ----- | ----- | ----- |
| COLLECTIONS ON BEHALF OF THE STATE'S GENERAL REVENUE FUND (001) | | | | |
| ----- | | | | |
| ASSETS | | | | |
| CASH DUE FROM REPORTING DISTRICTS | \$ 6,552,429 | 81,950,414 6,938,637 | 81,950,414 6,552,429 | 6,938,637 |
| | ----- | ----- | ----- | ----- |
| TOTAL ASSETS | \$ 6,552,429 | 88,889,051 | 88,502,843 | 6,938,637 |
| | ----- | ----- | ----- | ----- |
| LIABILITIES | | | | |
| DUE TO STATE'S GENERAL REVENUE FUND | \$ 6,552,429 | 6,938,637 | 6,552,429 | 6,938,637 |
| | ----- | ----- | ----- | ----- |

TEACHER RETIREMENT SYSTEM OF TEXAS (323)

EXHIBIT F

RATE OF RETURN ON ASSETS
AUGUST 31, 1991
PENSION TRUST FUND (1960) AND EXPENDABLE TRUST FUND (1989)

| | TOTAL | PENSION TRUST FUND | EXPENDABLE TRUST FUND |
|--|-------------------|--------------------|-----------------------|
| BEGINNING BOOK VALUE | \$ 22,082,037,724 | 21,905,856,104 | 176,181,620 |
| Net Contributions Added | 287,336,000 | 274,265,380 | 13,070,620 |
| Interest and Dividend Income | 1,813,476,195 | 1,797,736,445 | 15,737,750 |
| Net Realized Capital Gains | 88,197,409 | 88,134,112 | 63,297 |
| ENDING BOOK VALUE | \$ 24,271,047,328 | 24,065,994,041 | 205,053,287 |
| RETURN FROM INTEREST AND DIVIDEND INCOME | 8.16% | 8.16% | 8.61% |
| RETURN FROM NET REALIZED CAPITAL GAINS | 0.40% | 0.40% | 0.03% |
| CASH RETURN ON BOOK VALUE | 8.56% | 8.56% | 8.64% |

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

TRD-9115398 Wayne Blevins
Executive Secretary
Teacher Retirement System of Texas

Filed: December 9, 1991

For further information, please call: (512) 370-0524

◆ ◆ ◆
**Texas Water Commission
Enforcement Orders**

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Precision Manufacturing Company, Permit Number 32107, on November 25, 1991, assessing \$80,520 in administrative penalties with \$38,520 deferred and foregone pending compliance.

Information concerning any aspect of this order may be obtained by contacting Erich Birch, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

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

TRD-9115344 Laurie J. Lancaster
Notices Coordinator
Texas Water Commission

Filed: December 6, 1991

For further information, please call: (512) 463-7898

◆ ◆ ◆
Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil

penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Itasca City of Permit Number 10423-01), on November 25, 1991, assessing \$8,600 in administrative penalties with \$3,600 deferred and foregone pending compliance. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Laura Ray, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

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

TRD-9115345 Laurie J. Lancaster
Notices Coordinator
Texas Water Commission

Filed: December 6, 1991

For further information, please call: (512) 463-7898

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Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Star Enterprise-Waskom Bulk Terminal (SWR 35841) on November 25, 1991, assessing \$62,569 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Robert Renbarger, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

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

Filed: December 6, 1991

For further information, please call: (512) 463-7898

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Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of November 18th-November 27, 1991.

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

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 463-7905.

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

City of Buffalo; the wastewater treatment facilities; are adjacent to and east of Marion Boulevard, approximately 3/4 mile north-northeast of the intersection of U.S. Highways 75 and 79 in Leon County; amendment; 10022-01.

City of Canadian; the wastewater treatment facilities; are northeast of Canadian, about one mile north of FM Road 2388 and 0.5 mile east of U.S. Highway 60, at the east end of the golf course and fairgrounds in Hemphill County; renewal; 10072-01.

City Public Service of San Antonio; the O.W. Sommers/J.T. Deely/J.K. Spruce Steam Electric Station; is adjacent to Calaveras Reservoir at 9599 Gardner Road and east-southeast of the City of San Antonio, Bexar County; amendment; 01514.

City of Daisetta; the wastewater treatment facilities; are approximately 1,500 feet north of the City of Daisetta, at a point approximately 1,000 feet east of FM Road 770 in Liberty County; renewal; 10736-01.

LS Feeders, Inc.; the cattle feedlot; is located approximately 3 and 3/4 miles west of the intersection of FM Roads 145 and 168, immediately south of FM Road 145 and immediately east of a county road, approximately 3 and 1/2 miles west-southwest of the Town of Hart, in Castro County; amendment; 01397.

Fort Bend County Municipal Utility District Number 41; the wastewater treatment facilities; are approximately 1,500 feet northwest of the intersection of Voss Road and Old Richmond Road and approximately 5,000 feet west-

northwest of the intersection of State Highway 6 and Voss Road in Fort Bend County; renewal; 12475-01.

Fruitvale Housing Authority; the wastewater treatment facilities; are approximately 1800 feet south of U.S. Highway 80, 2.3 miles southeast of the intersection of U.S. Highway 80 and State Highway 19, just south of the City of Fruitvale in Van Zandt County; renewal; 12198-01.

General Homes Corporation; Harris County Municipal Utility District Number 279 wastewater treatment facilities; are approximately 17.5 miles north-northwest of the Harris County Courthouse in downtown Houston; being also approximately 3.9 miles southwest of the intersection of FM Highway 1960 and Interstate Highway 45; and 2.0 miles southeast of the intersection of Stuebner-Airline Road and FM Highway 1960 in Harris County; new; 13564-01.

City of Grapeland; wastewater treatment facilities; are located immediately north of and adjacent to Wastewater Plant Number 2; being also east of U.S. Highway 287; and approximately 1,300 feet north of the intersection of U.S. Highway 287 and FM Highway 2423 in Houston County; renewal; 10181-01.

Gulf Coast Waste Disposal Authority; a regional waste treatment facility; is at 10800 Bay Area Boulevard in the City of Pasadena, Harris County; amendment; 01054.

Hardin-Jefferson Independent School District; the wastewater treatment facilities; are approximately 0.3 mile east of FM Road 326 and 0.3 mile north of the intersection of FM 326 and Pine Island Bayou, in the southeast corner of the Hardin-Jefferson High School campus in Hardin County; renewal; 11042-01.

Harris County Municipal Utility District Number 50; the Barrett Station Wastewater Treatment Facilities; are located approximately 1.0 mile south of U.S. Highway 90 and 0.5 mile west of the end of Magnolia Street in Barrett Station in Harris County; renewal; 11770-01.

City of Kyle; the wastewater treatment facilities; are approximately 1/4 mile southeast of the intersection of Interstate Highway 35 and FM 150, just south of FM Road 150 in Hays County; renewal; 11041-01.

C. K. Lee; wastewater treatment facilities; site is to be 600 feet north of Northville Road and 300 feet east of Interstate Highway I-45 in Harris County; new; 13560-01.

City of Lewisville Fire Department; a fire training facility; is at 701 Treatment Plant Road in the City of Lewisville, Denton County; new; 03425.

Liena Postma doing business as Liena Postma Dairy; a dairy; is located on the north side of FM Road 914, approximately two miles south of the intersection of FM Road 914 and FM Road 847 in Erath County; new; 03417.

City of Livingston; the wastewater treatment facilities; are approximately 3,200 feet north of the intersection of U.S. Highway 59 and State Highway Loop 90, approximately one mile southeast of the intersection of U.S. Highway 190 and U.S. Highway 59 in Polk County; amendment; 10208-01.

Lufkin Independent School District; The Redland Elementary School Wastewater Treatment Plant; is located about 2 1/2 miles north of the City of Lufkin and 1/4 mile west of U.S. Highway 59 on FM Road 2021 in Angelina County; renewal; 12276-01.

Frank Newton; the wastewater treatment facilities; are located about 1,000 feet northeast of West Port Arthur Road and immediately west of Viterbo Road in Jefferson County; renewal; 11249-01.

Nuri Corporation; the dairy; is located on the north side of FM Road 1870 approximately two and one half miles northwest of the intersection of FM Road 1870 and State Highway 11 in Hopkins County; new; 03348.

City of Pittsburg; The Dry Creek Wastewater Treatment Plant; is located approximately 1.3 miles southeast of the intersection of Arch Davis Road and Lafayette Street in the southeast section of the City of Pittsburg in Camp County; renewal; 10250-02.

City of Point; the wastewater treatment facilities; are located approximately 1,500 feet west of the intersection of FM 514 and U.S. Highway 69 in Rains County; renewal; 10964-01.

Richmond Steel, Inc.; wastewater treatment facilities; are located approximately 1,000 feet south of the intersection of Little York Road and North Houston-Rosslyn Road in the City of Houston, Harris County; renewal; 02527.

City of Robert Lee; the wastewater treatment facilities; are located on the east bank of the Colorado River, approximately 2,500 feet southwest of the Coke County Courthouse in Coke County; renewal; 10603-02.

City of San Angelo; the wastewater treatment facilities and the 52-acre irrigation site; are southeast of the north-south runway of Mathis Field, and the 170-acre irrigation site is at the Bentwood Golf Course in Tom Green County; amendment; 10641-02.

City of Snyder; the wastewater treatment facilities; are southeast of the City of Snyder, at a point approximately 5/8 mile south of FM 1605 and one mile east of State Highway 350 in Scurry County; amendment; 10056-01.

T. J. Hoekstra and David C. Morton; the dairy; is located on the south side of FM 2156 at the intersection of FM Road 2156 and FM Road 219 in Erath County; new; 03384.

City of Tenaha; the wastewater treatment facilities; are adjacent to Hilliard Creek; approximately 2,400 feet south of U.S. Highway 84 and 3,300 feet east of U.S. Highway 96 in Shelby County; renewal; 10818-01.

Texas Department of Mental Health and Mental Retardation; the Vernon Center Wastewater Treatment Facilities; the plant site is adjacent to FM Road 433 and approximately 2.3 miles east of FM Road 2074 in Wilbarger County.

Jack Tuls doing business as Jack Tuls Dairy; the dairy; is located on the north side of FM Road 1188, approximately three miles northwest of the intersection of FM Road 1188 and Highway 377 in Erath County; new; 03366.

United States Department of Energy; a scientific research facility; site, irrigation site and evaporation pond are located on Hoyt Road, approximately 1,000 feet north of the intersection of FM Road 1446 and Hoyt Road, approximately 4.5 miles west of the intersection of Interstate Highway 35E and FM 1446 in Ellis County; new; 03422.

Via Ranch Municipal Utility District Number 4; the Via Ranch Regional Wastewater Treatment Facilities; is approximately 1,100 feet west-northwest of the intersection of FM Road 1093 and Harlem Road in Fort Bend County; renewal; 13245-01.

West Texas Utilities Company; the Fort Phantom Steam Electric Station; is located approximately 12 miles north of the City of Abilene on FM Road 2833 and further located as 2.8 miles south of the intersection of FM 2833 and FM 1082, Jones County; renewal; 01422.

City of Yantis; the wastewater treatment facilities; are approximately one mile south of the intersection of FM Road 17 and State Highway 154 in Wood County; renewal; 12187-01.

Issued in Austin, Texas, on December 3, 1991

TRD-8115184 Laurie J. Lancaster
Deputy Chief Clerk
Texas Water Commission

Filed: December 4, 1991

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

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Notice of "1991 Update to the Groundwater Section of the Nonpoint Service Pollution Management Report for the State of Texas"

The Texas Water Commission hereby gives notice of the availability of the draft "1991 Update to the Ground-Water Section of the Nonpoint Source Pollution Assessment Report for the State of Texas." This document is available for public review and comment for the next 45 days.

The ground-water nonpoint source pollution assessment report compiles data and evaluations of the impact on the state's ground water resources of known and potential nonpoint sources of contamination. The update provides new information gathered since the compilation of the original report in August 1989. The ground-water section of the report was compiled by the commission from information provided by a number of state agencies through the Texas Groundwater Protection Committee.

The primary purpose of the ground-water section of the assessment report and the ground-water nonpoint source program is to identify and rank nonpoint sources of contamination in regard to their potential impacts on ground water. The assessment report serves as the basis for establishing a nonpoint source management program to aid in the prevention of ground-water contamination and the mitigation of nonpoint sources of pollution. The assessment report provides information for targeting the best use of the state's resources for ground-water protection related to nonpoint sources.

The public is encouraged to present relevant evidence or opinions concerning the draft Update of the Ground-Water Section of the Assessment Report. In order to meet federal statutory deadlines, the commission would appreciate receiving a copy of all written comments by January 27, 1992. Requests for a copy of the update of the assessment report and any comments should be addressed to Steve Musick, Ground Water Section, Watershed Management Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 371-6319. There is no charge for the draft copy.

The dates selected for availability of this document are intended to comply with deadlines set by statute and regulation. Any publication or receipt of this notice less than 45 days prior to January 27, 1991 is due to the necessity of scheduling the review period during this time.

Issued in Austin, Texas, on December 9, 1991.

TRD-8115418 John Vay
Director, Legal Services
Texas Water Commission

Filed: December 9, 1991

For further information, please call: (512) 463-8089

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The Texas Water Commission hereby gives notice of the availability of the draft "1991 Update to the Ground Water Section of the Nonpoint Source Pollution Management Report for the State of Texas." This updated management report is prepared under the Federal Clean Water Act, §319. This document is available for public review and comment for the next 45 days.

This update to ground water section of the management report describes existing and proposed nonpoint source management programs, milestones, best management practices, and funding sources for mitigation of nonpoint source impacts on ground water. The management report also describes the Texas Water Commission's methodology for prioritizing nonpoint sources which may impact ground water and for ranking affected aquifers.

The primary purpose of the nonpoint source management program is to provide an overview of Texas' ground water nonpoint source programs and put in place a framework for the efficient allocation of resources and efforts to address nonpoint source pollution.

The public is encouraged to present relevant evidence or opinions concerning the draft 1991 update of the ground water section of the management report. In order to meet federal statutory deadlines, the commission would appreciate receiving a copy of all written comments by January 27, 1991. Requests for a copy of the update of the management report and any comments should be addressed to Mr. Steve Musick, Ground Water Section, Watershed Management Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 371-6319. There is no charge for the draft copy.

The dates selected for availability of this document are intended to comply with deadlines set by statute and regulation. Any publication or receipt of this notice less than 45 days prior to January 27, 1991, is due to the necessity of scheduling the review period during this time.

Issued in Austin, Texas, on December 9, 1991.

TRD-9115415 John Vay
Director, Legal Services
Texas Water Commission

Filed: December 9, 1991

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

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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:

City of Dayton, 111 North Church Street, Dayton, Texas, 77535, received November 21, 1991, application for financial assistance in the amount of \$300,000 from the state water pollution control revolving fund.

City of Mission, 900 Doherty, Mission, Texas, 78572, received October 17, 1991, application for financial assistance in the amount of \$2,890,000 from the Economically Distressed Areas Program and the state water pollution control revolving fund.

Alamo Area Council of Governments, 118 Broadway, Suite 400, San Antonio, Texas, 78205, received October 25, 1991, regional planning grant application in the amount of \$50,000 from the research and planning fund.

Bexar Metropolitan Water District, 2706 West Southcross, San Antonio, Texas, 78211-0577, received October 25, 1991, regional planning grant application in the amount of \$75,000 from the research and planning fund.

Canadian River Municipal Water Authority, P.O. Box 99, Sanford, Texas, 79078, received October 25, 1991, regional planning application in the amount of \$68,650 from the research and planning fund.

Starr County WCID Number 2, 1730 West Main Street, Rio Grande City, Texas, 78582, received October 25, 1991, regional planning grant application in the amount of \$22,500 from the research and planning fund.

City of Plainview, 901 Broadway, Plainview, Texas, 79072, received October 25, 1991, regional planning grant application in the amount of \$74,280 from the research and planning fund.

South Texas Water Authority, P.O. Box 1701, Kingsville, Texas 78364-1701, received October 24, 1991, regional planning grant application in the amount of \$129,000 from the research and planning fund.

College of Sciences and Engineering, Center for Water Research, University of Texas at San Antonio, San Antonio, Texas, 78285-4201, received October 25, 1991, regional planning grant application in the amount of \$100,000 from the research and planning fund.

Canyon Lake Water Supply Corporation, P.O. Box 1381, Canyon Lake, Texas, 78130, received October 25, 1991, regional planning grant application in the amount of \$125,000 from the research and planning fund.

El Paso Water Utilities-Public Service Board, 320 South Campbell Street, El Paso, Texas, 79901, received October 25, 1991, regional planning grant application in the amount of \$41,466 from the research and planning fund.

North Central Texas Council of Governments, P.O. Drawer COG, Arlington, Texas, 76005-5888, received October 25, 1991, regional planning grant application in the amount of \$575,000 from the research and planning fund.

City of McAllen, P.O. Box 220, McAllen, Texas 78502-0220, received October 25, 1991, regional planning grant application in the amount of \$59,000 from the research and planning fund.

City of Orange, P.O. Box 520, Orange, Texas, 77630, received October 24, 1991, regional planning grant application in the amount of \$60,000 from the research and planning 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 December 4, 1991.

TRD-9115180 Craig D. Pedersen
Executive Administrator
Texas Water Development Board

Filed: December 4, 1991

For further information, please call: (512) 463-7981



Notice to Texas Register subscribers:

Effective January 1, 1992, the cost for a one-year printed subscription to the Texas Register will increase in cost from \$90 to \$95. The cost for a six-month printed subscription will increase to \$75. The price increase is due to the rise in postage. This price will apply to any printed subscription started or renewed after January 1. The price of an electronic subscription will remain \$90 for one year and \$70 for six months. If you are a current subscriber to the Texas Register, the price increase will be reflected on your next renewal invoice. If you have any questions about this price increase or about any of the services offered by the Texas Register, please feel free to call (512) 463-5561. You may also write to the Texas Register at P.O. Box 13824, Austin, Texas 78711-3824.

1992 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1992 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on February 28, November 6, December 1, and December 29. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

| FOR ISSUE PUBLISHED ON | ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M. | ALL NOTICES OF OPEN MEETINGS BY 10 A.M. |
|-------------------------|---|---|
| 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 |
| 6 Tuesday, January 21 | Wednesday, January 15 | Thursday, January 16 |
| Friday, January 24 | 1991 ANNUAL INDEX | |
| 7 Tuesday, January 28 | Wednesday, January 22 | Thursday, January 23 |
| 8 Friday, January 31 | Monday, January 27 | Tuesday, January 28 |
| 9 Tuesday, February 4 | Wednesday, January 29 | Thursday, January 30 |
| 10 Friday, February 7 | Monday, February 3 | Tuesday, February 4 |
| 11 Tuesday, February 11 | Wednesday, February 5 | Thursday, February 6 |
| 12 Friday, February 14 | Monday, February 10 | Tuesday, February 11 |
| 13 Tuesday, February 18 | Wednesday, February 12 | Thursday, February 13 |
| 14 *Friday, February 21 | Friday, February 14 | Tuesday, February 18 |
| 15 Tuesday, February 25 | Wednesday, February 19 | Thursday, February 20 |
| Friday, February 28 | NO ISSUE PUBLISHED | |
| 16 Tuesday, March 3 | Wednesday, February 26 | Thursday, February 27 |
| 17 Friday, March 6 | Monday, March 2 | Tuesday, March 3 |
| 18 Tuesday, March 10 | Wednesday, March 4 | Thursday, March 5 |
| 19 Friday, March 13 | Monday, March 9 | Tuesday, March 10 |
| 20 Tuesday, March 17 | Wednesday, March 11 | Thursday, March 12 |
| 21 Friday, March 20 | Monday, March 16 | Tuesday, March 17 |
| 22 Tuesday, March 24 | Wednesday, March 18 | Thursday, March 19 |
| 23 Friday, March 27 | Monday, March 23 | Tuesday, March 24 |
| 24 Tuesday, March 31 | Wednesday, March 25 | Thursday, March 26 |
| 25 Friday, April 3 | Monday, March 30 | Tuesday, March 31 |
| 26 Tuesday, April 7 | Wednesday, April 1 | Thursday, April 2 |
| 27 Friday, April 10 | Monday, April 6 | Tuesday, April 7 |
| Tuesday, April 14 | FIRST QUARTERLY INDEX | |
| 28 Friday, April 17 | Monday, April 13 | Tuesday, April 14 |
| 29 Tuesday, April 21 | Wednesday, April 15 | Thursday, April 16 |

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| 30 Friday, April 24 | Monday, April 20 | Tuesday, April 21 |
| 31 Tuesday, April 28 | Wednesday, April 22 | Thursday, April 23 |
| 32 Friday, May 1 | Monday, April 27 | Tuesday, April 28 |
| 33 Tuesday, May 5 | Wednesday, April 29 | Thursday, April 30 |
| 34 Friday, May 8 | Monday, May 4 | Tuesday, May 5 |
| 35 Tuesday, May 12 | Wednesday, May 6 | Thursday, May 7 |
| 36 Friday, May 15 | Monday, May 11 | Tuesday, May 12 |
| 37 Tuesday, May 19 | Wednesday, May 13 | Thursday, May 14 |
| 38 Friday, May 22 | Monday, May 18 | Tuesday, May 19 |
| 39 Tuesday, May 26 | Wednesday, May 20 | Thursday, May 21 |
| 40 *Friday, May 29 | Friday, May 22 | Tuesday, May 26 |
| 41 Tuesday, June 2 | Wednesday, May 27 | Thursday, May 28 |
| 42 Friday, June 5 | Monday, June 1 | Tuesday, June 2 |
| 43 Tuesday, June 9 | Wednesday, June 3 | Thursday, June 4 |
| 44 Friday, June 12 | Monday, June 8 | Tuesday, June 9 |
| 45 Tuesday, June 16 | Wednesday, June 10 | Thursday, June 11 |
| 46 Friday, June 19 | Monday, June 15 | Tuesday, June 16 |
| 47 Tuesday, June 23 | Wednesday, June 17 | Thursday, June 18 |
| 48 Friday, June 26 | Monday, June 22 | Tuesday, June 23 |
| 49 Tuesday, June 30 | Wednesday, June 24 | Thursday, June 25 |
| 50 Friday, July 3 | Monday, June 29 | Tuesday, June 30 |
| 51 Tuesday, July 7 | Wednesday, July 1 | Thursday, July 2 |
| 52 Friday, July 10 | Monday, July 6 | Tuesday, July 7 |
| Tuesday, July 14 | SECOND QUARTERLY INDEX | |
| 53 Friday, July 17 | Monday, July 13 | Tuesday, July 14 |
| 54 Tuesday, July 21 | Wednesday, July 15 | Thursday, July 16 |
| 55 Friday, July 24 | Monday, July 20 | Tuesday, July 21 |
| 56 Tuesday, July 28 | Wednesday, July 22 | Thursday, July 23 |
| 57 Friday, July 31 | Monday, July 27 | Tuesday, July 28 |
| 58 Tuesday, August 4 | Wednesday, July 29 | Thursday, July 30 |
| 59 Friday, August 7 | Monday, August 3 | Tuesday, August 4 |
| 60 Tuesday, August 11 | Wednesday, August 5 | Thursday, August 6 |
| 61 Friday, August 14 | Monday, August 10 | Tuesday, August 11 |
| 62 Tuesday, August 18 | Wednesday, August 12 | Thursday, August 13 |
| 63 Friday, August 21 | Monday, August 17 | Tuesday, August 18 |
| 64 Tuesday, August 25 | Wednesday, August 19 | Thursday, August 20 |
| 65 Friday, August 28 | Monday, August 24 | Tuesday, August 25 |
| 66 Tuesday, September 1 | Wednesday, August 26 | Thursday, August 27 |
| 67 Friday, September 4 | Monday, August 31 | Tuesday, September 1 |
| 68 Tuesday, September 8 | Wednesday, September 2 | Thursday, September 3 |
| 69 *Friday, September 11 | Friday, September 4 | Tuesday, September 8 |

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| 70 Tuesday, September 15 | Wednesday, September 9 | Thursday, September 10 |
| 71 Friday, September 18 | Monday, September 14 | Tuesday, September 15 |
| 72 Tuesday, September 22 | Wednesday, September 16 | Thursday, September 17 |
| 73 Friday, September 25 | Monday, September 21 | Tuesday, September 22 |
| 74 Tuesday, September 29 | Wednesday, September 23 | Thursday, September 24 |
| 75 Friday, October 2 | Monday, September 28 | Tuesday, September 29 |
| 76 Tuesday, October 6 | Wednesday, September 30 | Thursday, October 1 |
| 77 Friday, October 9 | Monday, October 5 | Tuesday, October 6 |
| Tuesday, October 13 | THIRD QUARTERLY INDEX | |
| 78 Friday, October 16 | Monday, October 12 | Tuesday, October 13 |
| 79 Tuesday, October 20 | Wednesday, October 14 | Thursday, October 15 |
| 80 Friday, October 23 | Monday, October 19 | Tuesday, October 20 |
| 81 Tuesday, October 27 | Wednesday, October 21 | Thursday, October 22 |
| 82 Friday, October 30 | Monday, October 26 | Tuesday, October 27 |
| 83 Tuesday, November 3 | Wednesday, October 28 | Thursday, October 29 |
| Friday, November 6 | NO ISSUE PUBLISHED | |
| 84 Tuesday, November 10 | Wednesday, November 4 | Thursday, November 5 |
| 85 Friday, November 13 | Monday, November 9 | Tuesday, November 10 |
| *86 Tuesday, November 17 | Tuesday, November 10 | Thursday, November 12 |
| 87 Friday, November 20 | Monday, November 16 | Tuesday, November 17 |
| 88 Tuesday, November 24 | Wednesday, November 18 | Thursday, November 19 |
| 89 Friday, November 27 | Monday, November 23 | Tuesday, November 24 |
| Tuesday, December 1 | NO ISSUE PUBLISHED | |
| 90 Friday, December 4 | Monday, November 30 | Tuesday, December 1 |
| 91 Tuesday, December 8 | Wednesday, December 2 | Thursday, December 3 |
| 92 Friday, December 11 | Monday, December 7 | Tuesday, December 8 |
| 93 Tuesday, December 15 | Wednesday, December 9 | Thursday, December 10 |
| 94 Friday, December 18 | Monday, December 14 | Tuesday, December 15 |
| 95 Tuesday, December 22 | Wednesday, December 16 | Thursday, December 17 |
| 96 Friday, December 25 | Monday, December 21 | Tuesday, December 22 |
| Tuesday, December 29 | NO ISSUE PUBLISHED | |
| 1 (1993) Friday, January 1 | Monday, December 28 | Tuesday, December 29 |
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