

Texas Register

Volume 15, Number 6, January 23, 1990

Pages 291-387

In This Issue...

Attorney General's Office

Letters of Opinion

303-LO-89-103 (RQ-1839)

303-LO-89-104 (RQ-1873)

303-LO-89-105 (ID#-8338)

303-LO-89-106 (ID#-8434)

303-LO-89-107 (ID#-8436)

Opinions

303-JM-RQ-1877 (JM-1132)

303-JM-RQ-1865 (JM-1133)

303-JM-RQ-1831 (JM-1134)

Request for Opinions

303-RQ-1902

303-RQ-1903

Emergency Sections

State Board of Insurance

305-Life, Accident, and Health Insurance and Annuities

Comptroller of Public Accounts

305-Tax Administration

State Property Tax Board

305-Tax Record Requirements

Proposed Sections

Texas Department of Commerce

307-Industrial Projects

Railroad Commission of Texas

308-Transportation Division

Texas State Board of Vocational Nurse Examiners

309-Administration

310-Education

311-Licensing

Texas State Board of Public Accountancy

312-Continuing Professional Education
State Board of Insurance

316-General Administration

317-Corporate and Financial Regulation

319-Surplus Lines Insurance

320-Agent's Licensing

Texas Board of Irrigators

321-Violation of Statute of Board Rule

Texas Department of Human Services

322-Child Nutrition Programs

325-Child Protective Services

Texas Commission for the Deaf

329-General Rules of Practice and Procedures

Texas Department of Aviation

334-Air Carrier Regulations

Withdrawn Sections

Texas Department of Licensing and Regulation

337-Texas Commission of Licensing and Regulation

337-Vehicle Storage Facilities

CONTENTS CONTINUED INSIDE

Texas Register

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the *Texas Register* director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director. The *Texas Register* is published under Texas Civil Statutes, Article 6252-13a. Second class postage is paid at Austin, Texas.

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

Annual Index

This index represents the annual compilation of 1989 and is inclusive of state agency activities for January-December, 1989.

Regular publication of state agency activities will resume with the next issue, January 23, 1990.

How to Use the Annual Index

The Annual Index to the *Texas Register* consists of three sections:

TAC Titles Affected

Agency Guide

Open Meetings

The section on TAC Titles Affected is a list of the chapters of each title of the *Texas Administrative Code* affected by documents published from January through December. The listings are arranged in the same order as the table of contents of the *Texas Administrative Code*.

The Agency Guide section is a compilation of the agency activity since January of last year. The arrangement of agency names is alphabetical. Under each agency entry, the section chapter titles are alphabetized followed by the types of action taken during the last year. Each subchapter title affected in that chapter is alphabetized under the applicable type of action (emergency, proposed, withdrawn adopted). Following the sections is a listing of nonregulatory notices. This list is a compilation of items found in the "In Addition" section of the *Texas Register* and other nonregulatory information, such as gubernatorial appointments.

Requests for opinions, opinions, and open records decisions of other Office of the Attorney General, and the administrative decisions of the Comptroller of Public Accounts are also included in the agency Guide section. They are arranged numerically by the numbers assigned by the issuing agency. Brief subject descriptions are provided for the contents of each ruling. Entries that refer to actions of the Office of the Attorney General are designated by abbreviations in both the Agency Guide section and the Subject Terms section: RQ-requests for opinion; JM-opinion of the Attorney General Jim Mattox; ORD-open records decision.

The Open Meetings Section is a compilation of all open meeting notifications by state agencies published in the *Texas Register* since January of this year. The arrangement of agency names is structured like the Agency Guide section in alphabetical order. This list identifies the page number in the *Texas Register* which contains the agenda of the open meeting and the date which the meeting took place.

The *Texas Register* invites comments and suggestions for improvement in future indexes. Comments may be directed to this office at P.O. Box 13824, Austin, Texas 78711-3824, (512) 463-5561.



Texas Register Publications

a section of the
Office of the Secretary of State
P.O. Box 13824
Austin, Texas 78711-3824
512-463-5561

Secretary of State
George S. Bayoud, Jr.

Director
Dan Procter

Assistant Director
Dee Wright

Documents Section Supervisor
Patty Parris

Documents Editors
Lisa Brull
Janiene Hagel

Open Meetings Clerk
Brenda J. Kizzee

Production Section Supervisor
Ann Franklin

Production Editor
Sharon Menger

Typographers
Myra Herber
Sherry Rester

Circulation/Marketing
Richard Kallus
Roberta Knight

TAC Editor
Dana Blanton

TAC Typographer
Madeline Chrisner

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

Texas Higher Education Coordinating Board

337-Program Development

Comptroller of Public Accounts

337-Tax Administration

Texas Department of Human Services

337-Community Care for Aged and Disabled

Adopted Sections

State Preservation Board

339-Rules and Regulations of the Board

Railroad Commission of Texas

339-Transportation Division

Public Utility Commission of Texas

340-Substantive Rules

Texas Department of Licensing and Regulation

343-Labor/Licensing and Enforcement Division

343-Child Labor

343-Health Spa Act/Labor, Licensing and Enforcement

343-Vehicle Storage Facilities

Texas Department of Health

347-Home Health Care Agencies

Texas Air Control Board

349-Procedural Rules

350-Control of Air Pollution From Volatile Organic Compounds

Texas Department of Human Services

356-Purchased Health Services

356-General Licensing Procedures

Texas Commission for the Deaf

357-General Rules of Practice and Procedure

State Board of Insurance

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

Open Meetings

359-Texas Department on Aging

359-Texas Department of Agriculture

359-Texas Air Control Board

359-Texas Antiquities Committee

359-Texas Board of Architectural Examiners

360-State Banking Board

360-State Bar of Texas

360-State Board of Barber Examiners

360-Texas Bond Review Board

360-Child Care Development Board

360-State Cogeneration Council

360-Board for Lease of State-Owned Lands

360-Texas Department of Commerce

361-Court Reporters Certification Board

361-Credit Union Department

361-The Texas Department of Criminal Justice Board of Pardons and Paroles

361-Texas Education Agency

362-Employees Retirement System of Texas

362-Texas Employment Commission

362-Texas State Board of Registration for Professional Engineers

362-Texas Funeral Service Commission

362-Interagency Council for Genetic Services

362-Texas Health and Human Services Coordinating Council

363-Texas High-Speed Rail Authority

363-Texas Historical Commission

364-Texas Department of Human Services

364-Industrial Accident Board

364-State Board of Insurance

365-Lamar University System-Board of Regents

365-Board of Law Examiners

365-Legislative Budget Board

365-Texas State Library and Archives Commission

365-Texas Department of Licensing and Regulation

365-State Medical Education Board

365-Texas State Board of Medical Examiners

366-Texas Optometry Board

366-Texas Parks and Wildlife Department

367-State Property Tax Board

367–Texas State Board of Public Accountancy

368–Texas Department of Public Safety

368–Public Utility Commission of Texas

368–State Purchasing and General Services Commission

368–Railroad Commission of Texas

369–Texas Rehabilitation Commission

369–Rural Economic Development Commission

369–State Securities Board

369–State Seed and Plant Board

370–Board for Lease of State-Owned Lands

370–University of Texas System, M.D. Anderson Cancer Center

370–Texas Water Commission

371–Regional Meetings

In Addition

Texas Air Control Board

375–Notice of Applications for Construction Permits

Texas Alcoholic Beverage Commission

376–Notice of Hearing

State Banking Board

377–Notice of Hearing

Texas Education Agency

377–Consultant Contract Award

377–Notice of Contract Award

377–Public Hearing Announcement

377–Request for Proposals

Employees Retirement Systems of Texas

378–Consultant Contract Renewal

Office of the Governor

378–Budget Execution Proposal

Governor’s Office of Budget and Planning

379–Consultant Proposal Request

Criminal Justice Division, Office of the Governor

379–Public Information–Applications for Statewide Criminal Justice Programs

Texas Department of Health

380–Correction of Errors

380–Request for Proposals

Texas Health and Human Services Coordinating Council

381–Consultant Contract Request for Proposals

Texas Higher Education Coordinating Board

381–Notices of Meeting

Texas Housing Agency

381–Low Income Tax Credit Program-1989 Quarterly Report

Texas Department of Human Services

382–Consultant Contract Request

State Board of Insurance

382–Company Licensing

Texas Department of Mental Health and Mental Retardation

383–Consultant Proposal Request

Texas State Board of Examiners of Psychologists

383–Correction of Error

Public Utility Commission of Texas

383–Notice of Applications to Amend Certificate of Convenience and Necessity

Texas Tech University Health Sciences Center

384–Consulting Contract Award

Veterans Land Board

384–Request for Proposal-Professional Accounting Services

Texas Water Commission

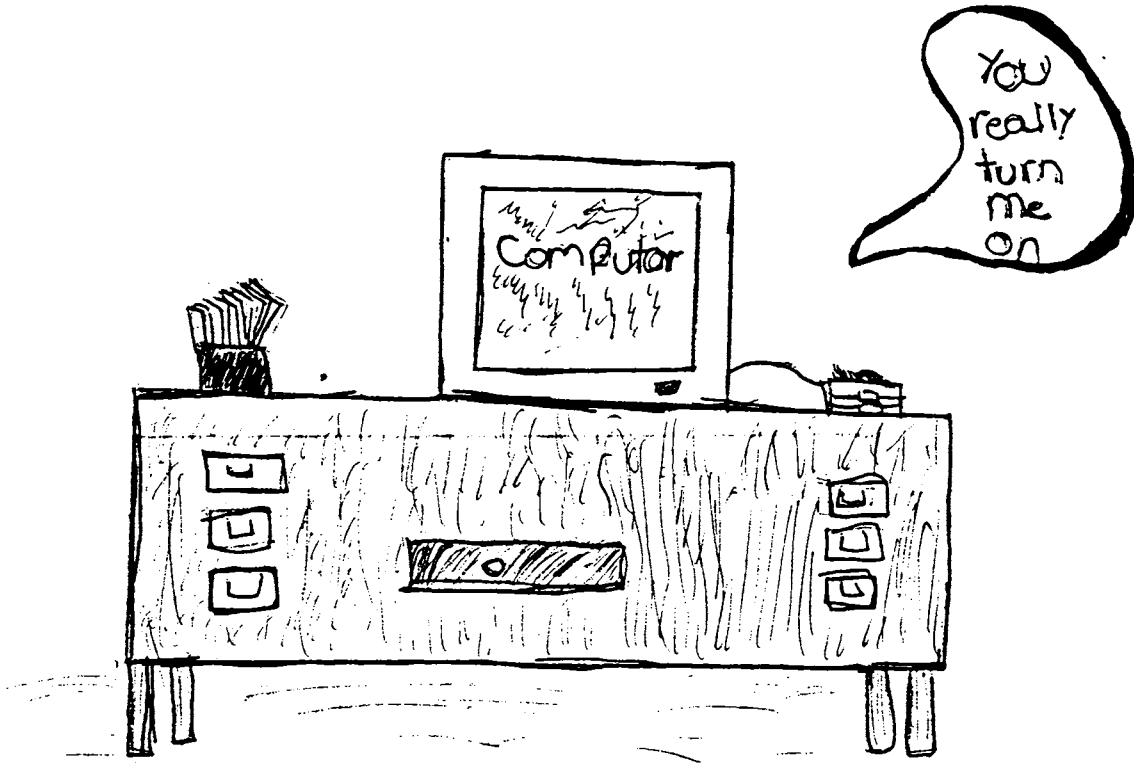
384–Enforcement Order

384–Meeting Notice

385–Notice of Application for Waste Disposal Permit

Texas Water Development Board

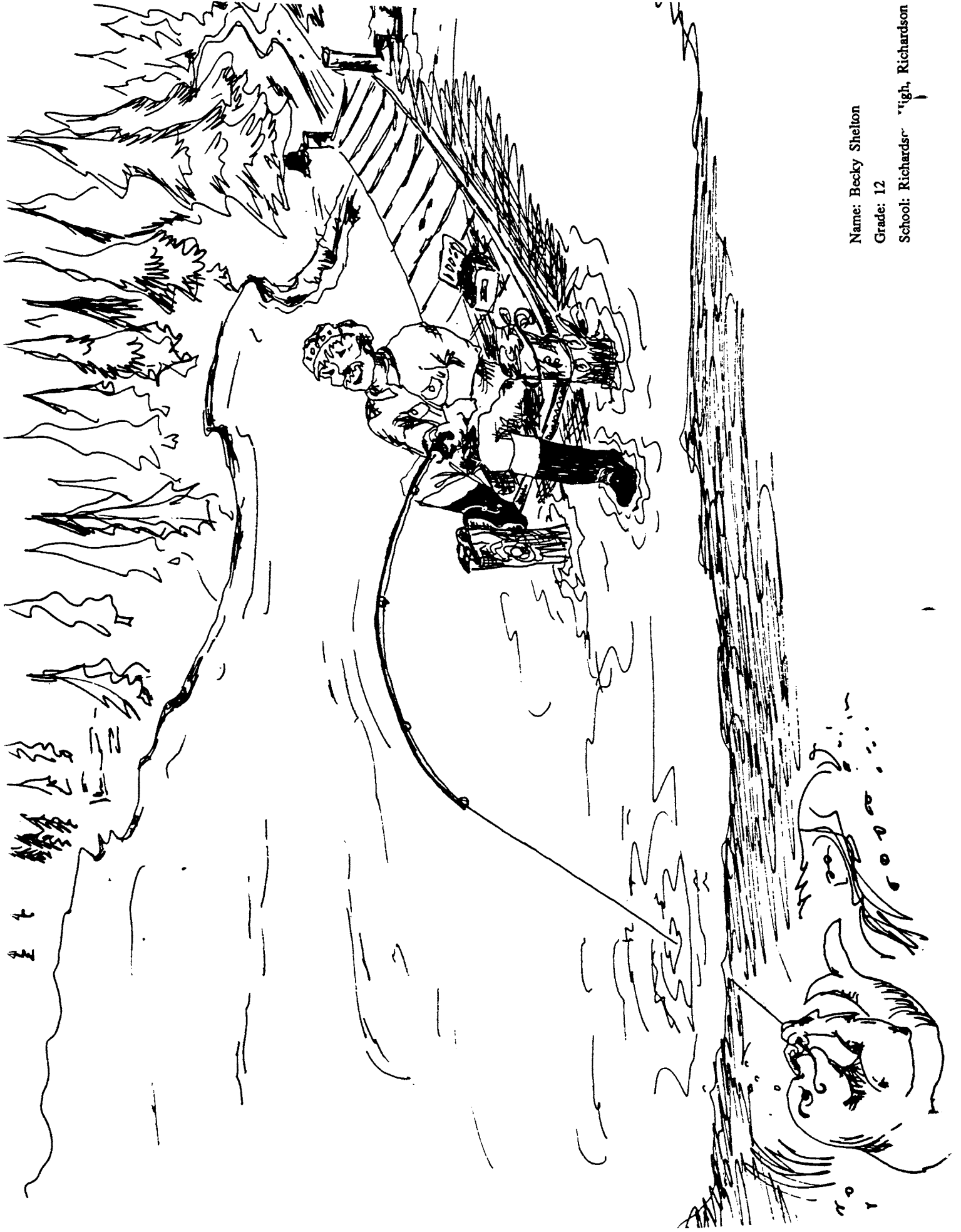
385–Applications Received



Name: Eugene Donilla

Grade: 5

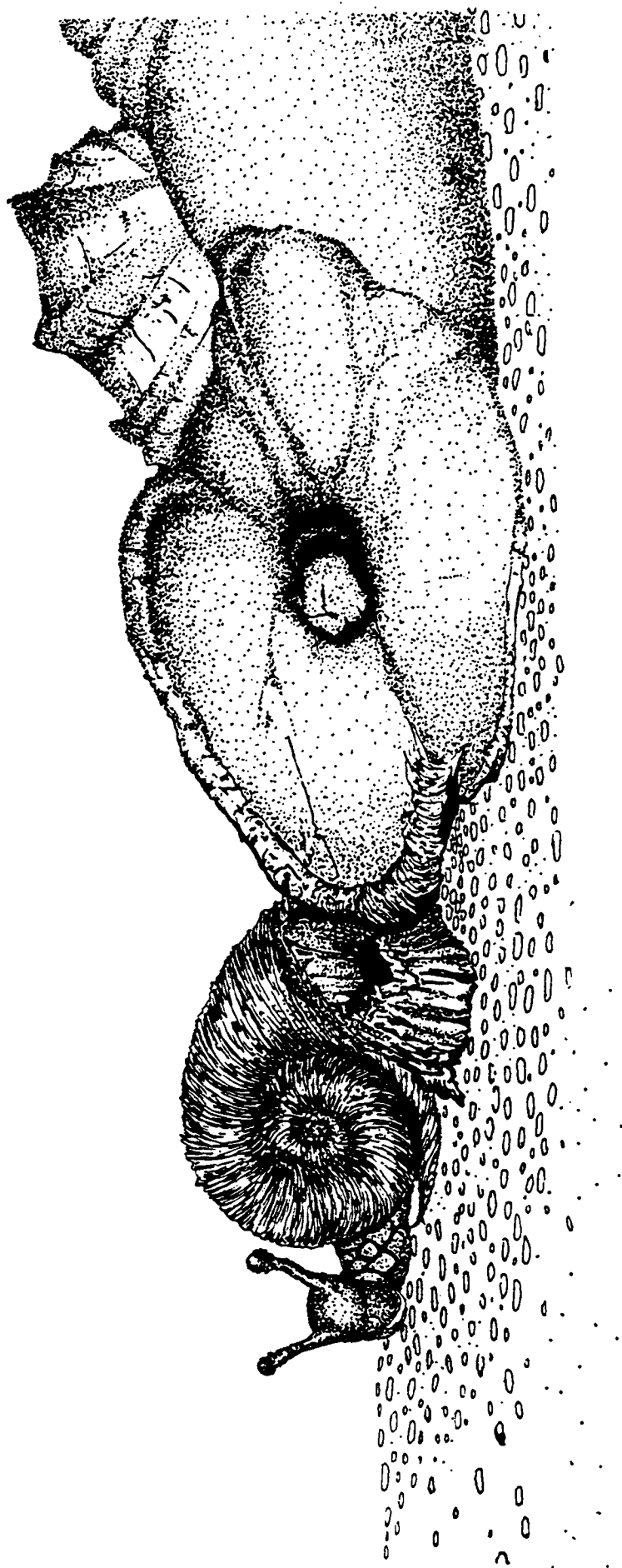
School: Forbes Elementary #124, San Antonio



Name: Becky Shelton

Grade: 12

School: Richards High, Richardson



Name: Aaron Toney

Grade: 11

School: Richardson High, Richardson



Name: Shea Brown

Grade: 4

School: Moss Haven Elemen.

Richardson

TAC Titles Affected

TAC Titles Affected—January

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

TITLE 1. ADMINISTRATION

Part IV. Office of the Secretary of State

1 TAC §§102.1, 102.10, 102.20, 102.30, 102.40, 102.41, 102.70, 102.71, 102.72, 102.73, 102.80, 102.90, 102.91—21

1 TAC §§103.1, 103.2, 103.10, 103.21—21

1 TAC §§104.1, 104.10—21

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §17.31—157

4 TAC §19.4—209

Part II. Animal Health Commission

4 TAC §55.5—81

TITLE 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

10 TAC §§165.1-165.3, 165.5-165.7—21

10 TAC §165.3—161

10 TAC §180.1, §180.2—307

TITLE 13. CULTURAL RESOURCES

Part VII. State Preservation Board

13 TAC §111.13—339

13 TAC §111.20—339

13 TAC §111.21—339

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

16 TAC §5.42—339

16 TAC §5.94—251

16 TAC §5.411—308

16 TAC §5.582—251, 255

Part II. Public Utility Commission of Texas

16 TAC §23.11—340

16 TAC §23.12—341

Part IV. Texas Department of Licensing and Regulation

16 TAC §60.1—161, 211

16 TAC §§60.21-60.26—161, 211

16 TAC §§60.61-60.63, 60.65-60.67, 60.69, 60.70, 60.75, and 60.78-60.80—161, 212

16 TAC §60.66—337

16 TAC §§60.100-60.109, 60.120-60.124, 60.150-60.159, 60.170-60.177, and 60.190-60.195—161, 213

16 TAC §§61.201-61.207—343

16 TAC §§62.1, 62.10, 62.20, 62.21, 62.30, 62.40, 62.60, 62.70, 62.80-62.82, 62.90, 62.91—209

16 TAC §§62.1, 62.10, 62.20, 62.21, 62.30, 62.40, 62.60, 62.70, 62.80-62.82, 62.90-62.92, 62.94—189

16 TAC §§63.1, 63.10, 63.20, 63.21, 63.30, 63.40, 63.60, 63.70, 63.71, 63.80-63.82, 63.90-63.94—192

16 TAC §§63.1, 63.10, 63.20, 63.21, 63.30, 63.40, 63.60, 63.70, 63.71, 63.80-63.82, 63.90, 63.91—209

16 TAC §70.1-70.4—196

16 TAC §70.10-70.13—175, 197

16 TAC §§70.1, 70.10, 70.20-70.23, 70.30, 70.50, 70.51, 70.60-70.67, 70.70-70.77, 70.80, 70.90-70.92, 70.100-70.103—161, 197

16 TAC §70.20-70.22, 70.25-70.27—176, 197

16 TAC §§70.30-70.45—176, 198

16 TAC §70.50-70.52—176, 198

16 TAC §70.101-70.105—177, 198

16 TAC §70.125, §70.126—177, 199

16 TAC §71.1-71.6—343

16 TAC §§77.1, 77.5, 77.9, 77.13, 77.17, 77.21—343

16 TAC §§78.1, 78.10, 78.20, 78.30, 78.40, 78.60, 78.70-78.74, 78.80-78.82, 78.90-78.94, 78.100—73, 81

16 TAC §§79.1, 79.3, 79.5, 79.9, 79.13, 79.21, 79.25, 79.29, 79.33, 79.37, 79.39, 79.41—343

16 TAC §§79.1, 79.10, 79.20, 79.30, 79.40, 79.70-79.73, 79.80, 79.81, 79.83, 79.90-79.94, 79.100, 79.101, 79.02—343

16 TAC §79.82—337

Part VIII. Texas Racing Commission

16 TAC §307.223—25
16 TAC §307.261—13, 15
16 TAC §309.25—25
16 TAC §309.56—25
16 TAC §309.58—25
16 TAC §309.61—26
16 TAC §309.68—26
16 TAC §309.69—26
16 TAC §309.114—26
16 TAC §311.11—26
16 TAC §311.12—27
16 TAC §311.101—27
16 TAC §311.106—27
16 TAC §311.156—27
16 TAC §311.201—27
16 TAC §313.103—28
16 TAC §313.406—28
16 TAC §319.4—28
16 TAC §319.306—13, 15
16 TAC §319.365—28
TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

19 TAC §§5.311-5.314, 5.316-5.318—337

TITLE 22. EXAMINING BOARDS

Part VII. Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

22 TAC §145.1—199

Part XI. Board of Nurse Examiners

22 TAC §211.6—252
22 TAC §213.19, §213.20—252
22 TAC §217.15—254

Part XII. Texas State Board of Vocational Nurse Examiners

22 TAC §231.90—309
22 TAC §231.92—310
22 TAC §§233.21, 233.22, 233.24—310

22 TAC §233.64—311
22 TAC §233.82—311
22 TAC §235.11, §235.18—311

Part XXI. Texas State Board of Examiners of Psychologists

22 TAC §465.10—28

Part XXII. Texas State Board of Public Accountancy

22 TAC §501.45—109
22 TAC §511.54—117
22 TAC §511.161—111
22 TAC §511.163—29
22 TAC §523.63—115, 312
22 TAC §523.64—111

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

25 TAC §37.86—15
25 TAC §37.90—16
25 TAC §§115.2, 115.5, 115.8, 115.9, 115.12—347
25 TAC §§115.5, 115.8, 115.17—17
25 TAC §125.6—29

TITLE 28. INSURANCE

Part I. State Board of Insurance

28 TAC §§1.901-1.911—316
28 TAC §1.1001—109
28 TAC §§3.3302, 3.3305, 3.3307, 3.3308, 3.3313, 3.3315-3.3318—305
28 TAC §3.3306, §3.3308—209
28 TAC §§3.3306, 3.3308, 3.3312—177
28 TAC §7.58—69, 317
28 TAC §7.1008—70
28 TAC §§7.1601-7.1613—13
28 TAC §§7.1601-7.1622—13
28 TAC §9.401—117
28 TAC §15.25, §15.29—319
28 TAC §19.901, §19.902—320
28 TAC §21.704—13

28 TAC §§25.714—71
28 TAC §§33.1-33.3—14
28 TAC §§33.107, §33.108—14
28 TAC §§33.401, 33.404, 33.405—14
28 TAC §§33.505, 33.506—14
**TITLE 31. NATURAL RESOURCES
AND CONSERVATION**
Part III. Texas Air Control Board
31 TAC §§101.1, 101.7, 101.24, 101.25, 101.26—17
31 TAC §103.42—349
31 TAC §103.66—349
31 TAC §§114.4, §114.5—257
31 TAC §115.1—350
31 TAC §§115.11-115.14—350
31 TAC §115.21, §115.22—350
31 TAC §§115.31, §115.32—350
31 TAC §§115.41-115.45—351
31 TAC §115.61, §115.62—351
31 TAC §115.81—351
31 TAC §115.91—351
31 TAC §§115.101-115.106—352
31 TAC §§115.111-115.113—352
31 TAC §§115.121-115.123—352
31 TAC §§115.131, 115.132, 115.134, 115.135—352

31 TAC §§115.141-115.144—352
31 TAC §§115.151-115.153—353
31 TAC §§115.161-115.164—353
31 TAC §§115.171-115.176—353
31 TAC §§115.191-115.194—353
31 TAC §§115.201-115.203—354
31 TAC §§115.221-115.223—354
31 TAC §§115.231-115.233—354
31 TAC §§115.251-115.255—354
31 TAC §§115.261-115.264—354
31 TAC §§115.271-115.275—355
31 TAC §§115.281-115.285—355

31 TAC §§115.291, 115.293, 115.294—355
31 TAC §115.401—355
31 TAC §115.412, §115.413—356
31 TAC §§115.421-115.424—356
Part XIV. Texas Board of Irrigators
31 TAC §429.7—321
Part IX. Water Rates
31 TAC §§291.131-291.136—14
TITLE 34. PUBLIC FINANCE
Part I. Comptroller of Public Accounts
34 TAC §3.8—19
34 TAC §3.151—305
34 TAC §3.198—337
34 TAC §3.199—305
34 TAC §3.399—117
34 TAC §3.405—115
34 TAC §3.416—
Part IV. Employees Retirement System of Texas
34 TAC §§67.97—83
34 TAC §81.3—71, 79
Part VI. Texas Municipal Retirement System
34 TAC §121.6—38
34 TAC §123.1-123.3, 123.5—38
34 TAC §125.7—38
34 TAC §127.2—39
34 TAC §129.2, §129.12—39
Part VII. State Property Tax Board
34 TAC §153.2—214
34 TAC §155.6—214
34 TAC §155.35—215
34 TAC §155.44—263
34 TAC §155.48—264
34 TAC §155.49—264
34 TAC §155.51—215
34 TAC §155.54—265
34 TAC §155.55—265

34 TAC §155.57—266
34 TAC §155.60—305
34 TAC §161.22—215
34 TAC §161.24—216
34 TAC §165.73—216
34 TAC §165.141—267
34 TAC §165.142—216
34 TAC §165.143—267

Part XII. State Auditor's Office

34 TAC §351.1—39

**TITLE 37. PUBLIC SAFETY AND
CORRECTIONS**

Part I. Texas Department of Public Safety

37 TAC §23.91, §23.92—199

Part V. Board of Pardons and Paroles

37 TAC §150.52—112

Part X. Texas Adult Probation Commission

37 TAC §§321.1-321.6—118

37 TAC §§321.11-321.16—123

**TITLE 40. SOCIAL SERVICES AND
ASSISTANCE**

Part I. Texas Department of Human Services

40 TAC §2.1012—268

40 TAC §3.2207—39

40 TAC §4.1012—268

40 TAC §§12.1, 12.3, 12.5-12.26—322

40 TAC §16.1513—40

40 TAC §27.102-27.104—203

40 TAC §27.109—204

40 TAC §27.1804, §27.1805—204

40 TAC §29.606—356

40 TAC §48.2501—337

40 TAC §48.2920—205

40 TAC §48.3902, §48.3903—205

40 TAC §49.311—325

40 TAC §49.1501, §49.1502—325

40 TAC §49.1765—326

40 TAC §71.3—216

40 TAC §71.12, §71.14—217

40 TAC §85.1407—356

40 TAC §§85.2011, 85.2017-85.2019, 85.2022, 85.2030,
85.2037—357

40 TAC §85.2047—357

Part II. Texas Rehabilitation Commission

40 TAC §101.09—217

40 TAC §115.6—217

Part VI. Texas Commission for the Deaf

40 TAC §§181.1, 181.3, 181.5, 181.7, 181.9, 181.11,
181.13, 181.15, 181.17, 181.19, 181.21, 181.23, 181.35,
181.37, 181.39, 181.43, 181.45, 181.47, 181.49, 181.51—
329

40 TAC §§181.11-181.17—331

40 TAC §181.491—332

40 TAC §§181.551, 181.553, 181.557, 181.559,
181.561—334

40 TAC §§181.690, 181.692, 181.694, 181.696, 181.698,
181.700, 181.702, 181.704—357

40 TAC §181.810—357

40 TAC §181.860—357

40 TAC §181.918—357

Part X. Texas Employment Commission

40 TAC §§303.1-303.8—206

TITLE 43. TRANSPORTATION

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

43 TAC §25.81—71

Part III. Texas Department of Aviation

43 TAC §§63.1, 63.2, 63.6, 63.7, 63.11, 63.12, 63.17,
63.21-63.30—334

43 TAC §63.2—335

◆ ◆ ◆

Attorney General

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

Letter Opinions

LO-89-103 (RQ-1839). December 12, 1989, To: Honorable James T. Shelton, Acting County Attorney, Donley County, P.O. Box 550, Clarendon. This LO considers whether hotel tax revenue may be used for reconstruction of city tennis courts.

LO-89-104 (RQ-1873). December 14, 1989, To: Mr. Ron Lindsay, Commissioner, Texas Department of Human Services, P.O. Box 149030, Austin. This LO considers the interpretation of a grandfather clause the Human Resources Code, §51.019 that applies to persons seeking certification as a social worker.

LO-89-105 (ID#-8338). December 15, 1989, To: Honorable Jim Chapman, Member of Congress, Congress of the United States, House of Representatives, 429 Cannon House Office Building, Washington. This LO considers whether a pardoned felon is eligible to be commissioned as a peace officer.

LO-89-106 (ID#-8434). December 21, 1989, To: Honorable John T. Monford, Chairman, State Affairs Committee, P.O. Box 12068, Austin. This LO considers the eligibility to run for the legislature of a city council member who has been elected to a new term.

LO-89-107 (ID#-8436). December 21, 1989, To: Honorable Billy Ray Stubblefield, Williamson County Attorney, P.O. Box 1139, Georgetown. This LO considers whether the office of judge of the Williamson County Court at Law should be filled by election or appointment.

TRD-9000448



Opinions

JM-1132 (RQ-1877). Request from Mark Edwards, Reagan County Attorney, Big Lake, concerning compensation of the tax assessor-collector for the Reagan County Hospital District.

Summary of Opinion. The county tax assessor-collector for Reagan County is to be compensated for assessing and collecting taxes for the Reagan Hospital District in accordance with the Tax Code, §6.27(b).

TRD-9000362

JM-1133 (RQ-1865). Request from Oscar William Loyd, II, Criminal District Attorney, Gilmer, concerning certification of a petition and financing of a local option election under the Alcoholic Beverage Code.

Summary of Opinion. All signatures or names in a series that appear to violate Alcoholic Beverage Code §251.10(b)(4) are to be disregarded in verifying a petition for a local option liquor election.

A county may not refuse to hold an election pursuant to the Alcoholic Beverage Code, §251.40 and §251.41, because the 25 cent per voter deposit is insufficient to offset the county's expenses in conducting the election.

TRD-9000360

JM-1134 (RQ-1831). Request from Hilary B. Doran, Jr., Chairman, Texas Racing Commission, Austin, concerning right of appeal to the Texas Racing Commission by a person fined at a nonparimutuel racetrack,

validity of regulation of nonpari-mutuel racing, and related questions.

Summary of Opinion. The Texas Racing Act, Article 179e-4, granting the Texas Racing Commission the authority to regulate racetracks that do not allow pari-mutuel wagering, delegates legislative authority without adequate standards and is therefore an unconstitutional delegation of legislative authority. Attorney General Opinion JM-971 (1988) is accordingly modified to the extent that it states that Texas Civil Statutes, Article 179e-4 permits the commission to regulate tracks that do not allow pari-mutuel wagering.

The provisions of Texas Civil Statutes, Articles 179e-179e-3 are severable from the provisions of Article 179e-4; therefore, Articles 179e-179e-3 are not affected by the invalidity of Article 179e-4.

TRD-9000359



Request for Opinions

(RQ-1902). Request from Jimmy F. Davis, Castro County-District Attorney, Castro County Courthouse, Dimmitt, concerning authority of an individual county commissioner to act with regard to road maintenance.

(RQ-1903). Request from James L. Pledger, Commissioner, Texas Savings and Loan Department, Austin, concerning applicability of the disclosure requirements of the Texas Banking Code, Article 342-705, §5 to a savings and loan association.

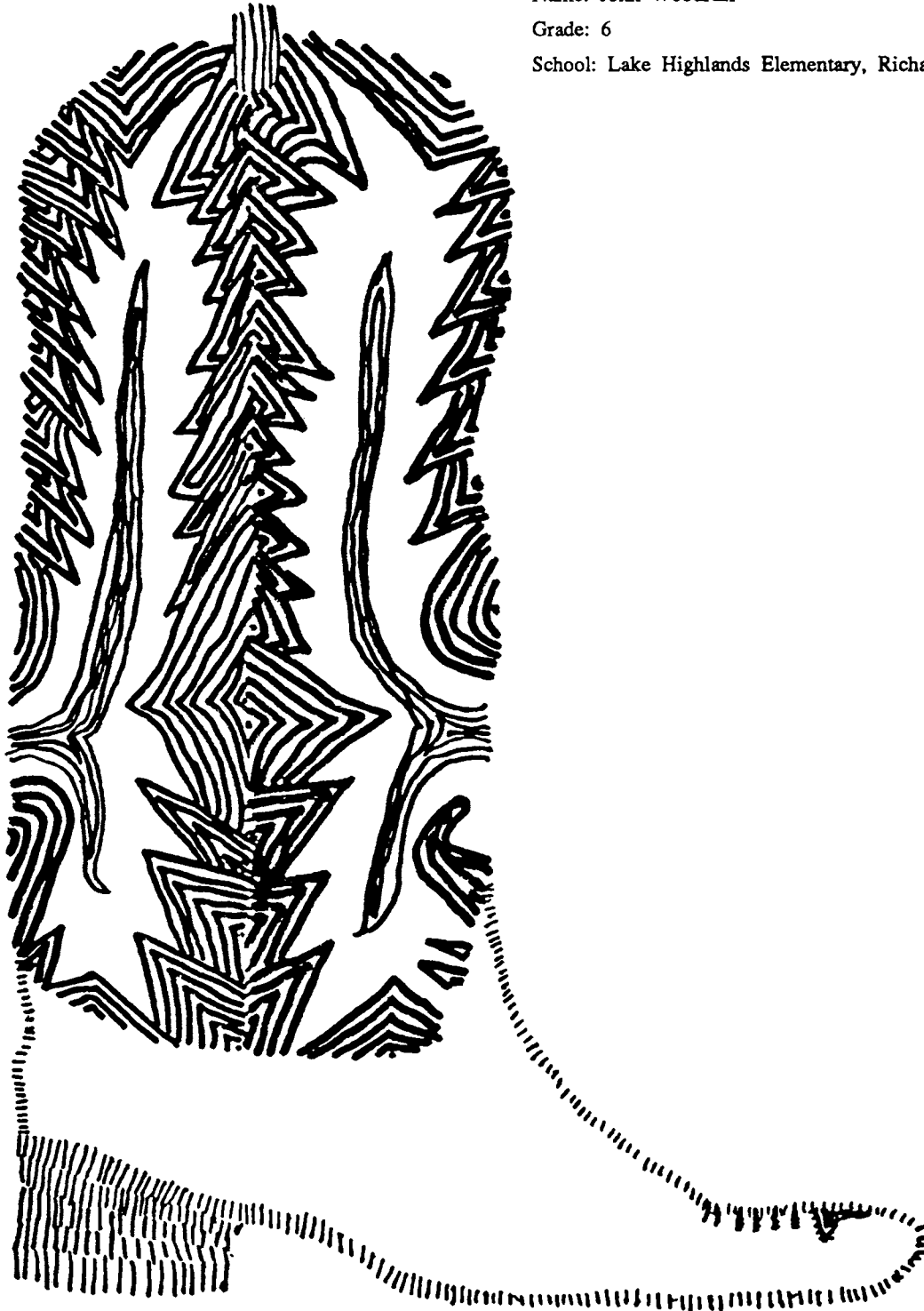
TRD-9000357



Name: John Woodruff

Grade: 6

School: Lake Highlands Elementary, Richardson



John Woodruff

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 28. INSURANCE

Part I. State Board of Insurance

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

Subchapter T. Minimum Standards for Medicare Supplement Policies

- **28 TAC §§3.3302-3.3305, 3.3307, 3.3308, 3.3313, 3.3315-3.3318**

The State Board of Insurance is renewing the effectiveness of the emergency adoption of new, and amended §§3.3302-3.3305, 3.3307, 3.3308, 3.3313, 3.3315-3.3318, for a 60-day period effective January 18, 1990. The text of new, and amended §§3.3302-3.3305, 3.3307, 3.3308, 3.3313, 3.3315-3.3318 was originally published in the September 1, 1989, issue of the *Texas Register* (14 TexReg 4446).

Issued in Austin, Texas, on January 12, 1990.

TRD-9000419 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: January 18, 1990

Expiration date: March 19, 1990

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter J. Petroleum Products Delivery Fee

- **34 TAC §3.151**

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of new §3.151, for a 60-day period effective January 13, 1990. The text of new §3.151 was originally published in the September 15, 1989, issue of the *Texas Register* (14 TexReg 4883).

Issued in Austin, Texas, on January 10, 1990.

TRD-9000363 Wade Anderson
Rules Coordinator
Comptroller of Public Accounts

Effective date: January 13, 1990

Expiration date: March 14, 1990

For further information, please call: (512) 463-4004

Subchapter L. Motor Fuels Tax

- **34 TAC §3.199**

The Comptroller of Public Accounts adopts on an emergency basis new §3.199, concerning unregulated mixtures. The new emergency section lists the types of fuel which the comptroller has determined are not sold in this state as mixtures with alcohol in sufficient quantities to warrant regulation.

House Bill 504, adopted in the recent legislative session, requires the comptroller to administer and enforce a program of labelling pumps through which fuel containing ethanol or methanol is sold. Fuel not sold as a mixture in sufficient quantities to warrant regulation may be exempted. This emergency section lists fuel types which fall in that category.

The new section is adopted on an emergency basis under House Bill 504, §9, Acts of the 71st Legislature, 1989, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of that Act.

§3.199. *Unregulated Mixtures.* In compliance with House Bill 504, §4(e), Acts of the 71st Legislature, 1989, the comptroller has determined on a preliminary basis that the following types of fuel are not sold in this state as mixtures with alcohol in sufficient quantities to warrant regulation:

- (1) diesel fuel;
- (2) liquefied petroleum gas; and
- (3) aviation gasoline sold to an aviation fuel dealer for delivery exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment.

Issued in Austin, Texas on January 10, 1990.

TRD-9000326 Bob Bullock
Comptroller of Public Accounts

Effective date: January 1, 1990

Expiration date: May 10, 1990

For further information, please call: (512) 463-4004

Part VII. State Property Tax Board

Chapter 155. Tax Record Requirements

- **34 TAC §155.60**

The State Property Tax Board adopts on an emergency basis new §155.60, concerning an application for the exemption of freeport property from ad valorem taxes.

The new section concerns an application for exemption of goods exported from Texas. The Tax Code, §5.07, requires the agency to prescribe all forms necessary for use in the property tax system. The new section sets out the contents of an application for the exemption of goods exported from Texas ("freeport" goods).

The new section as adopted differs from the proposed text, which was published in the December 12, 1989, issue of the *Texas Register* (14 TexReg 6471), in that the caption of the section was changed to read "Application for Exemption of Goods Exported from Texas." Subsections (b)(3) and (b)(4) were amended to require the application form to ask for cost of goods sold rather than total inventory cost. Model Form 11.251 was revised correspondingly. Paragraphs (5), (6), and (8) of subsection (b) were deleted as redundant and the remaining paragraphs were renumbered.

The section is adopted on an emergency basis because the agency finds that a requirement of state law requires the adoption of the rule on fewer than 30 days' notice. The implementation of Senate Joint Resolution 11, 71st Legislature, 1989, adopted by the voters November 7, 1989, requires appraisal districts to implement the new freeport exemption beginning January 1, 1990. The application form is a necessary part of implementation of the exemption.

The new section is adopted on an emergency basis under the Tax Code, §5.07, which provides the State Property Tax Board with the authority to prescribe the contents of all forms necessary for use in the administration of the property tax system.

§155.60. *Application for Exemption of Goods Exported from Texas.*

(a) Appraisal districts shall prepare and make available application forms for the exemption provided by the Tax Code, §11.251.

(b) A form shall require a property owner to provide the following information:

- (1) the property owner's name,

street address, mailing address if different, and telephone number;

(2) a description of the inventory affected by the exemption;

(3) the total cost of goods sold from inventory held by the property owner in the preceding year;

(4) the total cost of goods sold from inventory that in the preceding year met the criteria set forth in the Tax Code, §11.251(a)(1) and (2), excluding the cost of equipment, machinery, or materials that entered into and became part of the inventory described in paragraph (3) of this subsection himself/herself but did not meet the criteria set forth in the Tax Code, §11.251(a)(1) and (2);

(5) a statement that the property owner holds items in inventory that in the current year meet or will meet the requirements of the Tax Code, §11.251(a)(1) and (2); and

(6) a statement indicating how long the property owner has engaged in the business of transporting goods out of this state.

(c) The chief appraiser shall include the following information on the form:

(1) instructions stating that the property owner must apply for the exemption annually;

(2) a statement that under the Penal Code, §37.10, the penalties for making a false statement on the application could include a fine of up to \$5,000 and a jail or prison term of up to 10 years; and

(3) a statement that the chief appraiser may require the property owner to submit records verifying the information in the application and that if so required, the property owner must submit the records within 30 days of the request.

(d) The chief appraiser may duplicate Model Form 11.251 or employ a different form that sets out the information listed in subsections (b) and (c) of this section in

the same language and sequence as the model form.

(e) In special circumstances the chief appraiser may use a form that provides additional information, deletes information required by this section, or sets out the required information in different language or sequence than that required by this section if the form has been previously approved by the State Property Tax Board.

(f) Model Form 11.251 is adopted by reference. Copies of the form may be obtained from the State Property Tax Board, 4301 Westbank Drive, Building B., Suite 100, Austin, Texas 78746-6565.

Issued in Austin, Texas, on January 11, 1990.

TRD-9000371

Sands L. Steifer
Liaison
State Property Tax Board

Effective date: January 11, 1990

Expiration date: May 11, 1990

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



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 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

Chapter 180. Industrial Projects

• 10 TAC §180.1, §180.2

The Texas Department of Commerce proposes amendments to §180.1 and §180.2, concerning the industrial revenue bond program established pursuant to Texas Civil Statutes, Article 5190.6 (the Act). In accordance with a recent legislative amendment to the Act, the filing fee has been capped at \$25,000. In addition, unnecessary provisions have been deleted and language has been added to clarify that the rules do not apply to local development corporations created pursuant to the Act, §4A.

Dan McNeil, business finance manager, 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. McNeil 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 greater accessibility to the industrial revenue bond program. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Bruce W. Anderson, General Counsel, Texas Department of Commerce, P.O. Box 12728, Austin, within 30 days of the date of this publication.

The amendments are proposed under Texas Civil Statutes, Article 5190.6 which provide the Texas Department of Commerce with the authority to adopt rules governing the industrial revenue bond program.

§180.1. General Rules

(a) Introduction. Pursuant to the authority granted by the Administrative Procedure and Texas Register Act, as amended, the Texas Department of Commerce prescribes the following rules regarding practice and procedure before the department. **The rules promulgated under this chapter are not applicable to local development corporations created pursuant to Texas Civil Statutes, Article 5190.6, §4A.**

(b) **Delegation of authority to executive director.** Pursuant to the Act, §24(c), by adoption of this chapter, the department has delegated to its executive director the authority to give approval of a lease, sale, or loan agreement made under this Act or bonds issued by a corporation or any document submitted as provided in the Act and in accordance with this chapter; provided that the department also reserves the right to act upon any such agreement which has not otherwise been acted upon by the executive director. [Objective. The intent of the department is to supplant unwritten policies and guidelines with written sections, and to revise existing sections to better reflect the realities of current financial, economic, and statutory principles and practices.]

(c) **Waivers.** The executive director may waive any provision of this chapter upon a finding that the public interest would be furthered by granting the waiver. [Severability. If any provision of this chapter be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end, the provisions of this chapter are declared to be severable.]

(d) Sections as standards. The provisions of this chapter are regulatory standards adopted and promulgated as required in this chapter and shall be considered the highest level of policy applied by the department.

(e) Promulgation. Proceedings for the promulgation, adoption, repeal, or revision of rules shall be initiated by the executive director.

(f) Amendment of sections. These rules and regulations may be amended by the department at any time in accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, as amended.

(g) Notice. General notice of the adoption, amendment, or repeal of any rules shall be given as required by law and shall be mailed to all persons who have made timely written requests for advance notice of rulemaking proceedings. However, failure to mail such notice will not invalidate any actions taken or rules adopted.

(h) Interested persons. Reasonable opportunity will be afforded all interested

persons to submit data, views, arguments, whether oral or in writing. The executive director may use informal conferences and consultation as a means of obtaining the viewpoints and advice of interested persons. Any interested person may petition the executive director requesting the adoption of a rule, within 60 days the executive director will initiate rulemaking proceedings, or deny the petition in writing, stating his reasons therefor. The petition must set forth the following:

[(1) the text of the proposed rule and brief explanation thereof;

[(2) a statement of the statutory or other authority under which the rule is proposed;

[(3) a statement of the particular statute or statutes and sections thereof to which the proposed rule relates; and

[(4) a concise statement of the principal reasons for adoption of the rule, and the date submitted and by whom.

[(i) Validity. No rule hereafter adopted will be valid unless adopted in substantial compliance with these procedures, and no rule, order, or decision made or issued will be valid until it has been indexed and made available for public inspection as required by law.

[(j) Temporary written administrative guidelines. Temporary written administrative guidelines are of the same level of policy as sections. All such guidelines shall be submitted to the department at its next meeting for adoption, rejection or modification.

[(k) Preliminary administrative suggestions. The executive director may also adopt preliminary administrative suggestions which will represent those standards which are newly developed, only recently reduced to writing, in the process of being modified, or otherwise considered by the executive director to be not yet suitable for general application and promulgation and publication as sections or written administrative guidelines. Such preliminary administrative suggestions may be implemented at any time without publication or other notice and may be immediately applied by the executive director in the public interest or for the protection of the citizens of this state. All such preliminary administrative suggestions shall be submitted to the de-

partment at its next meeting for adoption, rejection, or modification.

[(l) Opinions. Statements made and opinions expressed orally or in writing by personnel of the department in response to inquiry or otherwise and not specifically identified and promulgated as sections, shall not be considered regulatory standards of the department and shall not be considered binding upon the executive director in consideration with specific determinations undertaken by the department or executive director thereafter.

[(m) Application of sections. All sections shall be applied collectively, to the extent relevant, in connection with specific determinations made by the executive director in the course of his administrative functions. The executive director will make his determination on the basis of specific characteristics and circumstances of the individual application under consideration, and in light of the basic statutory purposes in the particular area. The executive director may, in his discretion, temporarily waive any requirement of any section in situations where, in his opinion, such requirement is not necessary for the protection of the public interest. Such temporary waiver shall be submitted to the department at its next meeting. The captions of the various sections are for convenience only. Should there be a conflict between the caption of the section and the text of the section, the text will be controlling.

[(n) Precedents. Because sections cannot adequately anticipate all potential application requirements, the failure to satisfy all regulatory standards of the department will not necessarily foreclose the possibility of a favorable disposition of a matter pending before the executive director, and, similarly, the satisfaction of all such regulatory standards will not necessarily preclude an unfavorable disposition if the specific characteristics and circumstances so warrant. For this reason, the nature of the disposition of any particular matter pending before the executive director is not necessarily of meaningful precedential value, and the executive director shall not be bound by the precedent of any previous determination in the subsequent disposition of any matter pending before him.

[(o) Examination of records. Within a request for examination of records pursuant to the Open Records Act, Texas Civil Statutes, Article 6252-17a, the requesting party shall indicate, in writing, the specific nature of the documents requested for examination or photocopying and if photocopying is desired, the appropriate fee must accompany the request.

[(p) Written communication with the department. Written communications with and applications to the department should be addressed to the attention of the executive director of the department, P.O. Box 12728, Austin, Texas 78711.

[(q) Delegation of authority to executive director. Pursuant to the Act, §24(c), by adoption of this chapter, the department has delegated to its executive director the authority to give approval of a lease, sale, or loan agreement made under this Act or bonds issued by a corporation or any document submitted as provided in the Act and in accordance with this chapter; provided that the department also reserves the right to act upon any such agreement which has not otherwise been acted upon by the executive director.]

§180.2. Industrial Revenue Bond Program.

(a) General.

(1) (No change.)

(2) Filing fee. Each application for approval shall be accompanied by a nonrefundable filing fee in the amount equal to one tenth of 1.0% of the face amount of the bond issue or \$25,000, whichever is less, but in no event [not] less than \$500. This fee is payable to the department [commission] upon the initial filing of such application.

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

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

(H) Corporation—An[Any] industrial development corporation organized pursuant to the Act, §4(a).

(I)-(X) (No change.)

(4) (No change.)

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

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

Issued in Austin, Texas, on January 12, 1990.

TRD-9000439

William D. Taylor
Executive Director
Texas Department of
Commerce

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 320-9666



TITLE 16. ECONOMIC
REGULATION
Part I. Railroad
Commission of Texas
Chapter 5. Transportation
Division

Subchapter U. General and
Special Rules of Practice
and Procedure

• 16 TAC §5.411

The Railroad Commission of Texas proposes an amendment to §5.411, concerning parties in interest, pursuant to a petition from Charles E. Munson. The proposed amendment would limit the time period for intervening in opposition to an application for authority.

Ronald D. Stutes, hearings examiner, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed section.

Mr. Stutes 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 greater certainty about the identity of parties of interest in a contested case proceeding. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Public comment is invited and may be submitted within 60 days to Ronald D. Stutes, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711.

The amendment is proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the commission to regulate motor carriers in all matters.

§5.411. Parties in Interest.

(a) (No change.)

(b) Any interested person, public official, agency, or department of the State of Texas or any of its political subdivisions, or any civic or trade organization shall be permitted to intervene:

(1) in support of or in opposition to all or part of the relief sought in any protested proceeding by filing a petition for leave to intervene showing the nature of its interest in the proceeding within five days following the expiration date of the protest period provided for in §5.420 of this title (relating to Publication of Notice in Nonrulemaking Proceedings) [at least 10 days in advance of the hearing date]; or

(2) (No change.)

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

(f) Any intervention in opposition shall be recognized only so long as persons who have timely filed protests con-

tinue as active protestants in the proceeding. If all persons who have timely filed protests withdraw or are stricken as protestants, the case shall proceed as an unprotected matter.

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 January 15, 1990.

TRD-9000501

Ciril Payne
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Proposed date of adoption: March 24, 1990

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

govern its procedures and to carry in effect the purposes of the law.

§231.90. Findings and Final Orders.

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 January 12, 1990.

TRD-9000403

Marjorie A. Bronk, R.N.,
M.S.H.P.
Executive Director
Board of Vocational Nurse
Examiners

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 835-2071

(3) a ruling of each proposed findings of fact, if submitted.

(b) Parties shall be notified either personally or by first class mail of any decision or order. When an agency issues a final decision or order ruling on a motion for rehearing, the agency shall send a copy of that final decision or order by first class mail to the attorneys of record and shall keep an appropriate record of that mailing. If a party is not represented by an attorney of record, than the agency shall send a copy of a final decision or order ruling on a motion for rehearing by first class mail to that party, and the agency shall keep an appropriate record of that mailing. A party or attorney of record notified by mail of a final decision or order as required by this section shall be presumed to have been notified on the date such notice is mailed.

(c) A decision is final, in the absence of a timely motion for rehearing, on the expiration of the period for filing a motion for rehearing, and is final and appealable on the date of rendition of the order overruling the motion for rehearing, or on the date the motion is overruled by operation of law.

(d) If the agency finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a final decision or order in a contested case, it shall recite the finding in the decision or order as well as the fact that the decision or order is final and appealable on the date rendered and no motion for rehearing is required as prerequisite for appeal.

(e) Except as provided herein, a motion for rehearing is a prerequisite to an appeal. A motion for rehearing must be filed by a party within 20 days after the date the party or his attorney of record is notified of the final decision or order. Replies to a motion for rehearing must be filed with the agency within 30 days after the date the party or his attorney of record is notified of the final decision or order, and agency action on the motion must be taken within 45 days after the date the party or his attorney of record is notified of the final decision or order. If agency action is not taken within the 45-day period, the motion for rehearing is overruled by operation of law 45 days after the date the party or his attorney of record is notified of the final decision or order. The agency may by written order extend the period of time for filing the motions and replies and taking agency action, except that an extension may not extend the period for agency action beyond 90 days after the date the party or his attorney of record is notified of the final decision or order. In the event of an extension, the motion for rehearing is overruled by operation of law on the date fixed by the order, or in the absence of a fixed date, 90 days after the date the party or his attorney of record is notified of the final decision or order.

TITLE 22. EXAMINING BOARDS

Part XII. Texas State Board of Vocational Nurse Examiners

Chapter 231. Administration

Disciplinary Action

• 22 TAC §231.90

(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 State Board of Vocational Nurse Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Vocational Nurse Examiners proposes the repeal of §231.90, concerning findings and final orders. The section is being repealed in order to adopt a new section that will be in compliance with the Administrative Procedure and Texas Register Act as amended September 1, 1989.

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

Mrs. Bronk 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 not be applicable, as the public is relatively unaffected by this particular proposed repeal. There will be no effect on small businesses as a result of enforcing the repeal. 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 Marjorie A. Bronk, Executive Director, Board of Vocational Nurse Examiners, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

The repeal is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Texas State Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to

The Texas State Board of Vocational Nurse Examiners proposes new §231.90, concerning decisions and orders. This new section is proposed to parallel the Administrative Procedure and Texas Register Act as it was amended September 1, 1989.

Marjorie A. Bronk, Executive Director, 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.

Mrs. Bronk 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 not be applicable as the public is relatively unaffected by this particular proposed section. There is no additional economic cost to persons who are required to comply with the section as proposed. There will be no effect on small businesses as a result of enforcing the section.

Comments on the proposal may be submitted to Marjorie A. Bronk, Executive Director, Board of Vocational Nurse Examiners, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

The new section is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Texas State Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§231.90. Decisions and Orders.

(a) Findings of fact shall be based exclusively on the evidence and on matters officially noted. Final decisions or orders adverse to a party in a contested case must be in writing or stated in the record. The final decision shall include:

(1) findings of fact and conclusions of law, separately stated;

(2) findings of fact accompanied by a concise and explicit statement of the underlying facts supporting the findings; and

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 January 12, 1990.

TRD-9000399

Marjorie A. Bronk, R.N.,
M.S.H.P.
Executive Director
Board of Vocational Nurse
Examiners

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 835-2071

◆ ◆ ◆
• 22 TAC §231.92

The Texas State Board of Vocational Nurse Examiners proposes an amendment to §231.92, concerning proceedings for review. The amendment is being made for clarification purposes and to parallel the Administrative Procedure and Texas Register Act as amended September 1, 1989.

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

Mrs. Bronk 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 not be applicable, as the public is relatively unaffected by this particular section. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Marjorie A. Bronk, Executive Director, Board of Vocational Nurse Examiners, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

The amendment is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Texas State Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§231.92. Proceedings for Review. Proceedings for review are instituted by filing a petition in a [the] district court with competent jurisdiction within 30 days after the board's decision becomes [service of] final and appealable [decision of the board].

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 January 12, 1990.

TRD-9000402

Marjorie A. Bronk, R.N.,
M.S.H.P.
Executive Director
Board of Vocational Nurse
Examiners

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 835-2071

◆ ◆ ◆
Chapter 233. Education

Operation of a Vocational
Nursing Program

• 22 TAC §§233.21, 233.22, 233.24

The Texas State Board of Vocational Nurse Examiners proposes amendments to §233.21, concerning director, §233.22, concerning instructors, and §233.24, concerning minimum teaching personnel. The amendment to §233.21 will allow programs more latitude to evaluate additional relevant qualifications for program directors. The amendment to §233.22 will allow programs more latitude to evaluate additional relevant qualifications for instructors and expands on the role of adjunct faculty. Section 233.24 is amended to follow guidelines of the Texas Higher Education Coordinating Board.

Marjorie A. Bronk, executive director, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mrs. Bronk 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 not be applicable, as the public is relatively unaffected by these particular proposed sections. There will be no effect on small businesses as a result of enforcing the sections. 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 Marjorie A. Bronk, Executive Director, Board of Vocational Nurse Examiners, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

The amendments are proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Texas State Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§233.21. Director. The director shall be a registered nurse licensed to practice in the State of Texas. The director shall have been actively employed in nursing for the past five years, preferably in supervision or teaching. The director shall have a degree or equivalent experience that will demonstrate competency or advanced preparation in nursing, education, and administration. **If the director has not been actively employed in nursing for the past five years, the director's advanced preparation in nursing, education, and nursing administration, and prior relevant nursing employment may be taken into consideration by the board staff in evaluating qualifications for the position. The director shall have had five years of varied nursing experience since graduation.**

The director shall have the authority to direct the program in all its phases including approval on selection of teaching staff, admissions, progression, probation, and dismissal of students. A director qualifications form shall be submitted to the board office for approval prior to **beginning a new program and prior to hiring a new director for an existing program.** The director shall be employed solely for program development at least eight weeks prior to beginning a new program. The director shall be responsible to the controlling agency. The director may have responsibilities other than the program, provided that an assistant program coordinator is designated to assist with program management. A director with responsibilities other than the program may not have major teaching responsibilities. Written job descriptions which clearly delineate responsibilities of the director and coordinator are required. The director shall inform the board office of coordinator appointment.

§233.22. Instructors. Instructors shall be nurses licensed to practice in the State of Texas. Instructors shall have been actively employed in nursing for the past three years. **If the instructor has not been actively employed in nursing for the past three years, the instructor's advanced preparation in nursing, education, and nursing administration, and prior relevant nursing employment may be taken into consideration by the board staff in evaluating qualifications for the position.** Instructors shall have had three years of varied nursing experience since graduation. Instructor qualification forms shall be submitted to the board office for approval prior to hiring. Instructors shall have no other responsibilities but the program. Instructors shall be responsible for all initial nursing procedures in the clinical area and ascertain that the student is competent before allowing the student to perform an actual nursing procedure independently. Instructors shall be responsible for developing, implementing, and evaluating curriculum; participating in development of standards for admission, progression, probation, and dismissal of students, and participation in academic guidance and counseling. **Adjunct faculty are exempt from meeting the instructor qualifications as long as the courses taught are not nursing theory or clinical courses. Adjunct faculty shall not be included in the required faculty/student ratio for the program.**

§233.24. Minimum Teaching Personnel. From the twelfth class day [date of enrollment,] there shall be for the program, a minimum of one full-time nursing instructor for every 15 students. Directors/coordinators without major teaching or clinical responsibilities shall be excluded from the instructor/student ratio. A nursing faculty member for each affiliating agency is preferred to a designate supervisor. Des-

ignite supervisors shall be excluded from instructor/student ratio.

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 January 12, 1990.

TRD-9000407 Marjorie A. Bronk, R.N.,
M.S.H.P.
Executive Director
Board of Vocational Nurse
Examiners

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 835-2071

Vocational Nursing Education Standards

• 22 TAC §233.64

The Texas State Board of Vocational Nurse Examiners proposes an amendment to §233.64, concerning student policies. The section is being amended to mandate that schools notify students of the investigations contained in the application for licensure and the investigation process.

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

Mrs. Bronk 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 student awareness of the boards procedures when they answer "yes" to the investigation questions contained in the application for licensure. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Marjorie A. Bronk, Executive Director, Board of Vocational Nurse Examiners, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

The amendment is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Texas State Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§233.64. Student Policies. The school shall have well-defined student policies. Student policies shall be based on statutory and board requirements. Policies shall include notification to students of the investigation questions contained in the application for licensure and the board's investigation process. Copies of the student policies shall be furnished to all students at the beginning of the school year. The school shall maintain signed receipt

of student policies in all students' records [It is a school's responsibility to define and enforce student policies].

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 January 12, 1990.

TRD-9000406 Marjorie A. Bronk, R.N.,
M.S.H.P.
Executive Director
Board of Vocational Nurse
Examiners

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 835-2071

Vocational Nurse Education Records

• 22 TAC §233.82

The Texas State Board of Vocational Nurse Examiners proposes an amendment to §233.82, concerning required student forms. The section is being amended for consistency with the proposed amendment of §233.64.

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

Mrs. Bronk 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 not be applicable, as the public is relatively unaffected by this particular section. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Marjorie A. Bronk, Executive Director, Board of Vocational Nurse Examiners, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

The amendment is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Texas State Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§233.82. Required Student Forms. The required student forms are the student application, physical examination, clinical practice evaluation (4), nursing transcript, signed receipt of written student policies, and statement of withdrawal.

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 January 12, 1990.

TRD-9000405 Marjorie A. Bronk, R.N.,
M.S.H.P.
Executive Director
Board of Vocational Nurse
Examiners

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 835-2071

Chapter 235. Licensing

Application for Licensure

• 22 TAC §235.11, §235.18

The Texas State Board of Vocational Nurse Examiners proposes amendments to §235.11 concerning professional graduates and §235.18 concerning handicapped candidates. The amendment of §235.11 is to make the language consistent with the intent of the section. The amendment to §235.18 will elaborate upon the requirements for modifications of the licensure examination for handicapped candidates.

Mrs. Bronk, 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.

Mrs. Bronk 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 a specific guideline for handicapped candidates applying for the licensure examination and consistency of language. There will be no effect on small businesses as a result of enforcing the sections. 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 Marjorie A. Bronk, Executive Director, Board of Vocational Nurse Examiners, 9101 Burnet Road, Suite 105, Austin, Texas 78758 (512) 835-2071.

The amendments are proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Texas State Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§235.11. Policies Concerning Professional Graduates. Graduates of a professional nursing program will be eligible to write the examination for a vocational nurse [nurses] licensure once [when] the graduate has unsuccessfully written the registered nurse licensure [board] examination administered by the Board of Nurse Examiners. The professional nurse graduate will be allowed four opportunities for the licensing examination; one initial and three reexaminations to have commenced within two years of [graduation] the registered nurse board notification of the applicant of first failure of the registered nurse licensure examination.

§235.18. Handicapped Candidate.

(a) A handicapped candidate for the examination for licensure who otherwise is

qualified shall not be deprived of the opportunity to take the licensing examination solely by reason of that handicap. "Handicapped persons" means any person who has a [Such handicaps may include] physical or mental impairment which substantially limits one or more major life activities and has a record of such an impairment [must be identified while enrolled in the Nursing Education Program.] (Reference the Rehabilitation Act, 1973).

(b) A written request [requests] for appropriate accommodations [modifications of the examination and/or the procedures] for administration must be submitted to the board at least 130 days prior to the examination date. Should the deadline date fall on a Saturday, Sunday, or a holiday, the written request must be received in the board office on the first working day following. [The] Procedural guidelines and criteria from [of] the National Council of State Boards of Nursing shall be followed. [for handicapped candidates. All requests shall include an evaluation of the disability by a physician or psychologist. In the event an impairment necessitating elaborate adaptation of the usual test procedure occurs within the 130 days prior to the examination date, the candidate would not be eligible for that examination. Elaborate adaptation is utilization of personnel other than assigned proctors and/or placement of candidate elsewhere other than designated table.]

(c) The request for appropriate accommodations for administration shall include:

(1) a letter from the candidate requesting specific modifications, including a description of the candidate's handicap and when it was diagnosed;

(2) a letter from the candidate's nursing education program director explaining what modifications were made by the nursing program to accommodate the candidate during his/her program of study; and

(3) a written evaluation of the disability from an appropriate professional confirming the diagnosis of a handicap and suggesting what test modifications are warranted based on the candidate's condition. If a learning disability is identified, a detailed report must be submitted by a professional certified or trained in the area of learning disabilities. These costs are the responsibility of the candidate.

(d) The request for consideration of special testing accommodations must occur prior to the candidate writing the NCLEX-PN for the first time (For further elaboration see subsection (g)(2) of this section).

(e) Modifications of testing procedures costs will be borne by the agency. The counselor and candidate will be in-

formed of the costs for modification of examination materials.

(f) A disability occurring after graduation will require the documentation noted in subsection (c) (1), (2), and (3) of this section and will be reviewed and decided by the executive director.

(g) Handicapped candidates are required to write NCLEX-PN in Austin to ensure appropriate accommodations and monitoring.

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 January 12, 1990.

TRD-9000404 Marjorie A. Bronk, R.N.,
M.S.H.P.
Executive Director
Board of Vocational Nurse
Examiners

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 835-2071

◆ ◆ ◆
Part XXII. Texas State
Board of Public
Accountancy

Chapter 523. Continuing
Professional Education

Mandatory Continuing
Education (CE) Program

• 22 TAC §523.63

(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 State Board of Public Accountancy or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Public Accountancy proposes the repeal of §523.63, concerning mandatory continuing education. The repeal will allow for the adoption of a new §523.63.

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

Mr. Bradley, 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 the utilization of the new proposed §523.63. There will be no effect on small businesses as result of enforcing the repeal. 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 Cynthia Hairgrove, Attorney, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide

the Texas State Board of Public Accountancy with the authority to promulgate rules regarding mandatory continuing education requirements.

§523.63. Mandatory CE Attendance.

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 January 11, 1990.

TRD-9000395 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 450-7066

◆ ◆ ◆
The Texas State Board of Public Accountancy proposes new §523.63, concerning mandatory continuing education. The new section establishes the deadline for all licensees to comply with mandatory continuing education requirements, and permits a lower three-year accrual period through 1994.

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

Mr. Bradley, 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 conformity with recent amendments to the Act. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Cynthia Hairgrove, Attorney, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6 (a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding mandatory continuing education requirements.

§523.63. Mandatory CE Attendance.

(a) For a 1990 or 1991 license, mandatory continuing education (CE) attendance is required of any licensee engaged to any degree in the practice of public accounting as a condition for a license. The practice of public accounting is defined in the Rules of Professional Conduct in §501.2 of this title (relating to Definitions). The reporting period is September 1-August 31 of the following year.

(1) A licensee in public practice shall accrue a minimum of 40 CE credit hours during the current reporting period, or a minimum of 120 CE credit hours during the current and the two most recent report-

ing periods, with at least 20 CE credit hours during the current reporting period. Exceptions are as follows.

(A) An initial licensee shall accrue 4.0 CE credit hours for the full months remaining in the reporting period; for a 1990 or 1991 license, an initial licensee shall accrue a minimum of 20 CE credit hours.

(B) A licensee reentering public practice shall accrue for that license year a minimum of 20 CE credit hours in accounting, auditing, and/or taxation for the current license year prior to engaging in the practice of public accounting. A licensee shall be required to accrue a minimum of 40 CE credit hours for each subsequent license year thereafter. A sworn affidavit must be submitted to the board office reflecting: name, certificate number, date of reentry into public practice, credit hours received, and form of practice, i.e., employee, sole practitioner, member in a firm, and the location of where the licensee will be practicing. This affidavit must be filed within 30 days of the date of reentry into public practice (A blank affidavit may be obtained upon written request from the board).

(C) A licensee who has been licensed for less than three full years must accrue the minimum for an initial licensee plus 40 CE credit hours for each additional year or portion thereof.

(2) A former licensee, whether or not in public practice, whose certificate or registration shall have been revoked for failure to pay the annual license fee for three consecutive years and who makes application for reinstatement, shall pay the required fees and penalties and shall accrue the minimum CE credit hours requirement during the three-year period immediately preceding the date of application for reinstatement. Following reinstatement, a licensee shall conform to mandatory reporting and/or mandatory attendance requirements as outlined herein.

(3) The board may grant exemptions from the mandatory CE attendance requirements as follows:

(A) if a licensee is retired, regardless of age, and completes and forwards to the board an affidavit indicating retirement status and an intent not to practice public accountancy during the following calendar year;

(8) if a licensee is a nonresident of Texas, is not engaged in the practice of public accountancy in the State of Texas and does not intend to serve Texas clients from out of Texas for the following year. A licensee must petition the board for an exemption and submit an affidavit certifying to this effect;

(C) if a licensee shows reasons of health, certified by a medical doctor, that prevent compliance with the CE requirement. A licensee must petition the board for the exemption and provide documentation that clearly establishes the period of disability;

(D) if a licensee is on extended active military duty, does not practice public accountancy during the reporting period, and files a copy of orders to active military duty with the board; or

(E) if upon petition to the board, a licensee who is engaged in the practice of public accountancy, may be granted on an individual case-by-case basis, an exemption from CE attendance for reasons considered by the board to warrant an exemption. For example, the preparation and signing of routine income tax returns or the performance of routine accounting services for clients requiring an aggregate total of less than 40 hours a year, will be considered the basis for an exemption. Preparation of a financial statement for a client is specifically excluded from this exemption.

(4) The board may not grant exemptions from the requirement to report CE credit hours accrued. A licensee must report CE credit hours accrued on the annual license form, even if the number reported is zero.

(5) A licensee who has been granted the retired or disabled status is not required to accrue continuing education.

(6) Rules applicable to licensees prior to 1990 are hereby adopted by reference.

(b) For a 1992 license, mandatory continuing education (CE) attendance is required of any individual licensee, unless specifically exempted by rule. The reporting period is September 1, 1990–August 31, 1991. The following is the CE credit hour requirement.

(1) An initial licensee in public practice must accrue a minimum of 20 CE credit hours or 4.0 CE credit hours for the full months remaining in the current reporting period.

(2) A licensee in public practice who has been licensed for less than three full years shall accrue the requirements for an initial licensee, plus a minimum of 40 CE credit hours for each additional year.

(3) A licensee in public practice who has been licensed for more than three full years shall accrue a minimum of 40 CE credit hours during the current reporting period, or have accrued at least 120 CE credit hours during the current and two most recent reporting periods with a minimum of 20 CE credit hours during the current reporting period.

(4) An initial licensee not in public practice must accrue 4.0 CE credit hours for the full months remaining in the reporting period or a minimum of 20 CE credit hours, whichever is less.

(5) A licensee not in public practice who has been licensed more than one full year shall accrue a minimum of 20 CE credit hours during the current reporting period.

(6) A former licensee whose certificate or registration has been revoked or suspended, and who makes application for reinstatement, shall pay the required fees and penalties and shall accrue the minimum CE credit hours requirement during the three-year period immediately preceding the date of application for reinstatement. Following reinstatement, a licensee shall conform to mandatory reporting and/or mandatory attendance requirements as outlined herein.

(7) The board strongly supports a minimum of 40 CE credit hours for all licensees; however, the board will consider granting an exemption from the continuing education requirement on a case-by-case basis if:

(A) a licensee completes and forwards to the board a sworn affidavit indicating retirement status during the license year for which the exemption is requested. A licensee who has been granted this exemption and who reenters the work force shall be required to accrue continuing education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(B) a licensee completes and forwards to the board a sworn affidavit indicating no association with accounting work. The affidavit shall include, as a minimum, a brief description of the duties performed, job title, and verification by the licensee's immediate supervisor.

(i) For purposes of this section, the term "association with accounting work" shall include the following:

(I) working or supervising work performed in the areas of financial accounting and reporting; tax compliance, planning or advice; management advisory services; data processing; treasury; finance; or audit;

(II) representing to the public that the licensee is a CPA or public accountant in connection with the sale of any services or products, including such designation on a business card, letterhead, promotional brochure, advertisement, or office;

(III) offering testimony in a court of law purporting to have expertise in accounting and reporting, auditing, tax, or management advisory services;

(IV) for purposes of making a determination as to whether the licensee fits one of the categories listed in this subclause and subclauses (I) -(III) of this clause, the questions shall be resolved in favor of inclusion of the work as the term "association with accounting work."

(ii) A licensee who has been granted this exemption and who loses the exemption shall accrue continuing education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(C) a licensee is a nonresident of Texas, and submits a sworn statement to the board that the continuing education requirements of the resident state have been met;

(D) a licensee shows reasons of health, certified by a medical doctor, that prevent compliance with the CE requirement. A licensee must petition the board for the exemption and provide documentation that clearly establishes the period of disability and the resulting physical limitations;

(E) a licensee is on extended active military duty, does not practice public accountancy during the license year for which the exemption was granted, and files a copy of orders to active military duty with the board; or

(F) a licensee shows reason which prevents compliance, that is acceptable to the board.

(8) The board may not grant exemptions from the requirement to report CE credit hours accrued. A licensee must report CE credit hours on the annual license notice form, even if the number reported is zero.

(9) A licensee who has been granted the retired or disabled status is not required to accrue continuing education.

(c) For a 1993 license, mandatory continuing education (CE) attendance is required of any individual licensee, unless specifically exempted by rule. The reporting period is September 1, 1991–August 31, 1992. The following is the CE credit hour requirement.

(1) An initial licensee in public practice must accrue a minimum of 20 CE credit hours or 4.0 CE credit hours for the

full months remaining in the current reporting period.

(2) A licensee in public practice who has been licensed for less than three full years must accrue the requirements for an initial licensee, plus a minimum of 40 CE credit hours for each additional year.

(3) A licensee in public practice who has been licensed for more than three full years shall accrue a minimum of 40 CE credit hours during the current reporting period, or have accrued at least 120 CE credit hours during the current and two most recent reporting periods with a minimum of 20 CE credit hours during the current reporting period.

(4) An initial licensee not in public practice must accrue a minimum of 20 CE credit hours or 4.0 CE credit hours for the full months remaining in the current reporting period.

(5) A licensee not in public practice who has been licensed for less than two full years shall accrue the requirements for an initial licensee, plus a minimum of 40 CE credit hours for each additional year.

(6) A licensee not in public practice who has been licensed for more than two full years shall accrue a minimum of 40 CE credit hours during the current reporting period, or have accrued at least 60 CE credit hours during the current and most recent reporting period with a minimum of 20 CE credit hours during the current reporting period.

(7) A former licensee whose certificate or registration has been revoked or suspended, and who makes application for reinstatement, shall pay the required fees and penalties and shall accrue the minimum CE credit hours requirement during the three-year period immediately preceding the date of application for reinstatement. Following reinstatement, a licensee shall conform to mandatory reporting and/or mandatory attendance requirements as outlined herein.

(8) The board strongly supports a minimum of 40 CE credit hours for all licensees. However, the board will consider granting an exemption from the continuing education requirement on a case-by-case basis if:

(A) a licensee completes and forwards to the board a sworn affidavit indicating retirement status during the license year for which the exemption is requested. A licensee who has been granted this exemption and who reenters the work force shall be required to accrue continuing education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(B) a licensee completes and forwards to the board a sworn affidavit indicating no association with accounting work. The affidavit shall include, as a minimum, a brief description of the duties performed, job title, and verification by the licensee's immediate supervisor.

(i) For purposes of this section, the term "association with accounting work" shall include the following:

(I) working or supervising work performed in the areas of financial accounting and reporting; tax compliance, planning or advice; management advisory services; data processing; treasury; finance; or audit;

(II) representing to the public that the licensee is a CPA or public accountant in connection with the sale of any services or products, including such designation on a business card, letterhead, promotional brochure, advertisement, or office;

(III) offering testimony in a court of law purporting to have expertise in accounting and reporting, auditing, tax, or management advisory services;

(IV) for purposes of making a determination as to whether the licensee fits one of the categories listed in this subclause and subclauses (I)-(III) of this clause, the questions shall be resolved in favor of inclusion of the work as the term "association with accounting work."

(ii) A licensee who has been granted this exemption and who loses the exemption shall accrue continuing education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(C) a licensee is a nonresident of Texas, and submits a sworn statement to the board that the continuing education requirements of the resident state have been met;

(D) a licensee shows reasons of health, certified by a medical doctor, that prevent compliance with the CE requirement. A licensee must petition the board for the exemption and provide documentation that clearly establishes the period of disability and the resulting physical limitations;

(E) a licensee is on extended active military duty, does not practice public accountancy during the license year for

which the exemption was granted, and files a copy of orders to active military duty with the board; or

(F) a licensee shows reason which prevents compliance, that is acceptable to the board.

(9) The board may not grant exemptions from the requirement to report CE credit hours accrued. A licensee must report CE credit hours on the annual license notice form, even if the number reported is zero.

(10) A licensee who has been granted the retired or disabled status is not required to accrue continuing education.

(d) For a 1994 license, mandatory continuing education (CE) attendance is required of any individual licensee, unless specifically exempted by rule. The reporting period is September 1, 1992–August 31, 1993. The following is the CE credit hour requirement.

(1) An initial licensee in public practice must accrue a minimum of 20 CE credit hours or 4.0 CE credit hours for the full months remaining in the current reporting period.

(2) A licensee in public practice who has been licensed for less than three full years must accrue the requirements for an initial licensee, plus a minimum of 40 CE credit hours for each additional year.

(3) A licensee in public practice who has been licensed for more than three full years must accrue a minimum of 40 CE credit hours during the current reporting period, or have accrued at least 120 CE credit hours during the current and two most recent reporting periods with a minimum of 20 CE credit hours during the current reporting period.

(4) An initial licensee not in public practice must accrue a minimum of 20 CE credit hours or 4.0 CE credit hours for the full months remaining in the current reporting period.

(5) A licensee not in public practice who has been licensed for less than three full years must accrue the requirements for an initial licensee, plus a minimum of 40 CE credit hours for each additional year.

(6) A licensee not in public practice who has been licensed for more than three full years must accrue a minimum of 40 CE credit hours during the current reporting period, or have accrued at least 100 CE credit hours during the current and two most recent reporting periods with a minimum of 20 CE credit hours during the current reporting period.

(7) A former licensee whose certificate or registration has been revoked or suspended, and who makes application for reinstatement, shall pay the required fees and penalties and shall accrue the mini-

imum CE credit hours requirement during the three-year period immediately preceding the date of application for reinstatement. Following reinstatement, a licensee shall conform to mandatory reporting and/or mandatory attendance requirements as outlined herein.

(8) The board strongly supports a minimum of 40 CE credit hours for all licensees; however, the board will consider granting an exemption from the continuing education requirement on a case-by-case basis if:

(A) a licensee completes and forwards to the board a sworn affidavit indicating retirement status during the license year for which the exemption is requested. A licensee who has been granted this exemption and who reenters the work force shall be required to accrue continuing education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(B) a licensee completes and forwards to the board a sworn affidavit indicating no association with accounting work. The affidavit shall include, as a minimum, a brief description of the duties performed, job title, and verification by the licensee's immediate supervisor.

(i) For purposes of this section, the term "association with accounting work" shall include the following:

(I) working or supervising work performed in the areas of financial accounting and reporting; tax compliance, planning or advice; management advisory services; data processing; treasury; finance; or audit;

(II) representing to the public that the licensee is a CPA or public accountant in connection with the sale of any services or products, including such designation on a business card, letterhead, promotional brochure, advertisement, or office;

(III) offering testimony in a court of law purporting to have expertise in accounting and reporting, auditing, tax, or management advisory services;

(IV) for purposes of making a determination as to whether the licensee fits one of the categories listed in this subclause and subclauses (I)-(III) of this clause, the questions shall be resolved in favor of inclusion of the work as the term "association with accounting work."

(ii) A licensee who has been granted this exemption and who loses the exemption shall accrue continuing education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(C) a licensee is a nonresident of Texas, and submits a sworn statement to the board that the continuing education requirements of the resident state have been met;

(D) a licensee shows reasons of health, certified by a medical doctor, that prevent compliance with the CE requirement. A licensee must petition the board for the exemption and provide documentation that clearly establishes the period of disability and the resulting physical limitations;

(E) a licensee is on extended active military duty, does not practice public accountancy during the license year for which the exemption was granted, and files a copy of orders to active military duty with the board; or

(F) a licensee shows reason which prevents compliance, that is acceptable to the board.

(9) The board may not grant exemptions from the requirement to report CE credit hours accrued. A licensee must report CE credit hours on the annual license notice form, even if the number reported is zero.

(10) A licensee who has been granted the retired or disabled status is not required to accrue continuing education.

(e) For a 1995 or later license, mandatory continuing education (CE) attendance is required of any individual licensee, unless specifically exempted by rule. The reporting period is September 1–August 31, of the following year. The following is the CE credit hour requirement.

(1) An initial licensee must accrue a minimum of 20 CE credit hours or 4.0 CE credit hours for the full months remaining in the current reporting period.

(2) A licensee who has been licensed less than three full years must accrue the requirements for an initial licensee, plus 40 CE credit hours for each additional year.

(3) A licensee who has been licensed for more than three full years must accrue a minimum of 40 CE credit hours during the current reporting period, or have accrued at least 120 CE credit hours during the current and two most recent reporting periods with a minimum of 20 CE credit hours during the current reporting period.

(4) A former licensee whose certificate or registration has been revoked or suspended, and who makes application for reinstatement, shall pay the required fees and penalties and shall accrue the minimum CE credit hours requirement during the three-year period immediately preceding the date of application for reinstatement. Following reinstatement, a licensee shall conform to mandatory reporting and/or mandatory attendance requirements as outlined herein.

(5) The board strongly supports a minimum of 40 CE credit hours for all licensees; however, the board will consider granting an exemption from the continuing education requirement on a case-by-case basis if:

(A) a licensee completes and forwards to the board a sworn affidavit indicating retirement status during the license year for which the exemption is requested. A licensee who has been granted this exemption and who reenters the work force shall be required to accrue continuing education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(B) a licensee completes and forwards to the board a sworn affidavit indicating no association with accounting work. The affidavit shall include, as a minimum, a brief description of the duties performed, job title, and verification by the licensee's immediate supervisor.

(i) For purposes of this section, the term "association with accounting work" shall include the following:

(I) working or supervising work performed in the areas of financial accounting and reporting; tax compliance; planning or advice; management advisory services; data processing; treasury; finance; or audit;

(II) representing to the public that the licensee is a CPA or public accountant in connection with the sale of any services or products, including such designation on a business card, letterhead, promotional brochure, advertisement, or office;

(III) offering testimony in a court of law purporting to have expertise in accounting and reporting, auditing, tax, or management advisory services;

(IV) for purposes of making a determination as to whether the licensee fits one of the categories listed in

this subclause and subclauses (I)-(III) of this clause, the questions shall be resolved in favor of inclusion of the work as the term "association with accounting work."

(ii) A licensee who has been granted this exemption and who loses the exemption shall accrue continuing education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development),

(C) a licensee is a nonresident of Texas, and submits a sworn statement to the board that the continuing education requirements of the resident state have been met;

(D) a licensee shows reasons of health, certified by a medical doctor, that prevent compliance with the CE requirement. A licensee must petition the board for the exemption and provide documentation that clearly establishes the period of disability and the resulting physical limitations;

(E) a licensee is on extended active military duty, does not practice public accountancy during the license year for which the exemption was granted, and files a copy of orders to active military duty with the board; or

(F) a licensee shows reason which prevents compliance, that is acceptable to the board.

(6) The board may not grant exemptions from the requirement to report CE credit hours accrued. A licensee must report CE credit hours on the annual license notice form, even if the number reported is zero.

(7) A licensee who has been granted the retired or disabled status is not required to accrue continuing education.

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 January 11, 1990.

TRD-9000394

Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 450-7066



TITLE 28. INSURANCE Part I. State Board of Insurance

Chapter 1. General Administration

Subchapter H. Cease and Desist Orders

• 28 TAC §§1.901-1.911

The State Board of Insurance proposes new §§1.901-1.911, concerning the issuance of emergency cease and desist orders. Sections 1.901-1.911 were adopted on an emergency basis and became effective on October 4, 1989. Notification of the emergency adoption of these sections appeared in the October 13, 1989, issue of the *Texas Register* (14 TexReg 5465). These sections are necessary to implement the provisions of the Insurance Code, Article 1.10A, which authorizes the State Board of Insurance to issue cease and desist orders. Issuance of emergency cease and desist orders will augment the board's ability to protect the insurance consuming public of this state from unfair or deceptive acts or practices by insurers or related entities. These sections will inform persons affected by emergency cease and desist orders of procedures available for contesting such orders. Section 1.901 and §1.902 delineate the circumstances under which the commissioner of insurance may issue an emergency cease and desist order. Section 1.903 specifies what the order must contain. Section 1.904 specifies the manner of service. Sections 1.905-1.909 delineate procedures for contesting a cease and desist order and for holding a hearing on any contest or order. Section 1.910 and §1.911 set out procedures for an appeal to the State Board of Insurance.

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

Mr. Gonzales also has determined that, for each of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be the quick imposition of cease and desist orders against persons who engage in unauthorized insurance, unfair and deceptive practices, or both. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Nicholas Murphy, Chief Clerk of the State Board of Insurance, Mail Code 000-1, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new sections are proposed under the Insurance Code, Article 1.04, which authorizes the State Board of Insurance to determine rules in accordance with the laws of this state, and under the Insurance Code, Article 1.10A, which authorizes the commissioner of insurance to issue emergency cease and desist orders.

§1.901. Issuance of Emergency Cease and Desist Orders. The commissioner of insurance may issue an emergency cease and desist order, ex parte, upon verified application by the staff of the State Board of Insurance.

§1.902. Criteria for Issuance of Emergency Cease and Desist Orders. The commissioner of insurance may issue an emergency cease and desist order, ex parte, based upon the application by the staff of the State Board of Insurance if:

(1) the commissioner believes:

(A) an authorized person, as defined in the Insurance Code, Article 1.10A, engaging in the business of insurance is committing an unfair method of competition or an unfair or deceptive act or practice in violation of the Insurance Code, Article 21.21 or Article 21.21-2, or in violation of a rule or regulation promulgated under the Insurance Code, Article 21.21 or Article 21.21-2;

(B) an unauthorized person, as defined in the Insurance Code, Article 1.10A, is engaging in the business of insurance in violation of the Insurance Code, Article 1.14-1, or in violation of a rule or regulation promulgated under the Insurance Code, Article 1.14-1; or

(C) an unauthorized person engaged in the business of insurance acting in violation of the Insurance Code, Article 1.14-1, is committing an unfair method of competition or an unfair or deceptive act or practice in violation of the Insurance Code, Article 21.21 or Article 21.21-2, or in violation of any rule or regulation promulgated under the Insurance Code, Article 21.21 or Article 21.21-2; and

(2) it appears to the commissioner that the alleged conduct is fraudulent, or creates an immediate danger to the public safety, or is causing or can be reasonably expected to cause significant, imminent, and irreparable public injury as these various terms are defined in the Insurance Code, Article 1.10A.

§1.903. Contents of the Order. The order must contain the following information:

(1) the name and last known address of the person against whom the order is entered;

(2) a short and plain statement of the immediate danger to the public safety, or of the alleged conduct which is causing or which is reasonably expected to cause significant, imminent, and irreparable public injury justifying the issuance of the order, and of the factual bases of the order;

(3) a statement of the rights of the person against whom the order is entered with regard to requesting a hearing to show that the cease and desist order should not be affirmed (This statement must include a reference to the specific statutes or rules found to have been violated, a statement of the legal authority and jurisdiction under which the order is issued, specific reference to the time limit for requesting a hearing to review the order, and reference to the statute or statutes in which the time limit is contained. This statement must include the fact that the burden of requesting the hearing is on the person against whom the order was entered);

(4) a statement of the penalties which may be assessed against the person against whom the order was entered in the event of violation of the order; and

(5) a requirement that the person against whom the order is entered immediately cease and desist from the acts, methods, or practices stated.

§1.904. Service of Emergency Cease and Desist Orders. The cease and desist order shall be served on the adversely affected party in accordance with the Insurance Code, Article 1.10A.

§1.905. Request for Hearing on Emergency Cease and Desist Orders. A person who is adversely affected by the issuance of a cease and desist order and who desires a hearing regarding such order must file a written request for hearing with the docket clerk of the hearings section of the State Board of Insurance no later than the 30th day after the date on which the person receives the order. The person filing the written request for hearing must send copies of the request for hearing to the commissioner of insurance, to the attention of the docket clerk of the hearings section, with copies sent to the staff of the State Board of Insurance, if known.

§1.906. When the Hearing Must Be Held. The hearing to show cause why the cease and desist order should not be affirmed or modified shall be held not later than the 10th day after the date the commissioner of insurance receives the request for a hearing unless the parties mutually agree to a later hearing date.

§1.907. Agreements To Hold the Hearing at a Later Date. Agreements to hold the hearing at a later date must be in writing, in accordance with §1.31 of this title (relating to Agreements to Be in Writing). A person who is adversely affected by the issuance of a cease and desist order and who desires a hearing regarding such order must file any such agreement with the docket clerk of the hearings section of the State Board of Insurance before the expiration of the 10th day after the date the request for hearing is received.

§1.908. Notice of Hearing on Emergency Cease and Desist Orders. When the person against whom the order is entered requests a hearing on the cease and desist order, the hearings section of the State Board of Insurance shall issue notice to all parties of the date, time, and place of hearing.

§1.909. Burden of Proof. The burden of proof in this hearing shall be on the party requesting the hearing to show cause why the cease and desist order issued by the commissioner should be set aside. Based upon the evidence presented, the cease and desist order may be affirmed, modified, or set aside in whole or in part.

§1.910. Motion for Stay. If the person against whom the order was entered files a motion for stay of the cease and desist order, the motion for stay shall be heard on or before the date of the show cause hearing. If the parties agree to a later show cause hearing date pursuant to §1.907 of this title (relating to Agreements to Hold the Hearing at a Later Date), the motion for stay may be heard before the date of the show cause hearing upon written motion by any party to the hearing.

§1.911. Appeal to the Board. An application for appeal to the board by a party aggrieved by the affirmation or modification of a cease and desist order shall be in accordance with the Insurance Code, Article 1.04(d), and §1.51 and §1.68 of this title (relating to Appeal from Commissioner's or Fire Marshal's Final Decision or Order; and Initiating Proceedings before the Board).

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 January 12, 1990.

TRD-9000435

Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: February 23, 1990

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

◆ ◆ ◆
Chapter 7. Corporate and
Financial Regulation

Subchapter A. Examination
and Corporate Custodian and
Tax

• 28 TAC §7.58

The State Board of Insurance proposes new §7.58, concerning corporate and financial regulation. Section 7.58 concerns forms and instructions for the preparation and filing of tax returns for insurers and other entities re-

quired to file tax returns with the State Board of Insurance for the 1989 calendar year or required to file quarterly premium tax returns with the board during the 1990 calendar year. Section 7.58 was adopted on an emergency basis and became effective on December 29, 1989. Notice of the emergency adoption appeared in the January 5, 1990, issue of the *Texas Register* (14 TexReg 69). The new section is necessary to provide insurers and other entities with forms and instructions for filing tax returns. Timely and accurate payment of the taxes is necessary for support of regulatory functions of the State Board of Insurance. The new section adopts forms and instructions which facilitate compliance with statutory requirements for reporting and payment of taxes to the State Board of Insurance. The annual gross premium tax return is required by statute to be filed either on or before March 1, 1990, or the date the annual statement for the carrier is required to be filed with the board. Quarterly tax returns are required to be filed four times per year: the first quarter is due and payable March 1, 1990, (or the date the annual statement for such carrier is required to be filed with the State Board of Insurance); the second quarter is due and payable May 15, 1990; the third quarter is due and payable August 15, 1990; and the fourth quarter is due and payable November 15, 1990. The forms and instructions include requirements for information respecting gross premium taxes, maintenance taxes, other taxes, and certain incidental fees, and provide a form to be used in determining and reporting the amount owed. Proposal of this section includes proposal for adoption by reference of forms and instructions. The board has filed copies of these forms and instructions with the Secretary of State's Office, Texas Register Division. Persons desiring copies of the forms and instructions can obtain copies from the Tax Collection Section of the Administrative Services Division of the State Board of Insurance, Three Republic Plaza, Room 284, 333 Guadalupe, Austin.

Lillian B. Talley, director, tax collection, administrative services division, has determined that for the first five-year period the proposed section will be in effect, there will be no fiscal implications for small businesses as a result of enforcing or administering the section. The cost of compliance for small businesses will be the administrative cost in completing the forms and following the instructions. This cost will be at least partially offset because tax returns are statutorily required in some form in any case. There is no expected difference in cost of compliance between small and large businesses on the basis of cost per hour of labor. There will be no effect on state or local government, and there will be no impact on local employment.

Mrs. Talley also has determined that, for each year of the first five years the section is in effect, the public benefit anticipated as a result of enforcing the section will be the adoption of appropriate forms and instructions to facilitate proper tax returns by insurers and other entities required to report and pay taxes to the State Board of Insurance. The anticipated economic cost to persons who are required to comply with the proposed section will be the administrative cost in completing the forms and following the instructions. This cost will be at least partially offset because tax returns are statutorily required in some

form in any case. The cost will depend on each company's record-keeping practices and type of operation.

Comments on the proposal may be submitted to Lillian B. Talley, Director, Tax Collection Section, Administrative Services Division 009-4, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new section is proposed under the Texas Insurance Code, Articles 1.04, 1.10, §9, 1.14-1, 1.14-2, 1.35B, 4.07, 4.10, 4.11, 4.11A, 4.11B, 4.11C, 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 9.59, 21.07-5, 21.07-6, 21.54, and 23.08; the Texas Health Maintenance Organization Act, §22 and §33; and Texas Civil Statutes, Article 6252-13a, §4, and Article 8306, §28. The Insurance Code, Article 1.04, places original jurisdiction for the adoption of rules in the State Board of Insurance. Article 1.10, §9, requires the board to furnish, to companies required to report to the board, statement blanks for the statements required. Article 4.07 specifies the charges for certain fees. The Insurance Code, Articles 4.10, 4.11, 9.59, and 21.54; Texas Civil Statutes, Article 8306, §28; and the Texas Health Maintenance Organization Act, §33, require the payment of taxes on gross premiums by entities regulated by the board or on gross amounts of similar revenue by health maintenance organizations. The Insurance Code, Article 4.11A requires the payment of taxes on the gross amount of administrative or service fees received by an insurance carrier. The Insurance Code, Articles 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 21.07-5, 21.07-6, and 23.08, requires the payment of maintenance taxes by certain entities regulated by the board. The Insurance Code, Articles 4.10, 4.11, and 4.11A, gives the board rulemaking authority. The Texas Health Maintenance Organization Act, §22, gives the board rulemaking authority. Texas Civil Statutes, Article 6252-13a, §4, require and authorize the board to adopt rules of practice setting forth the nature and requirements of all procedures available.

§7.58. Preparation of 1989 Tax Returns. Forms and instructions for the preparation of tax returns and certain fees for insurance companies and other principals for the 1989 calendar year are adopted by reference. These instructions and forms are published by the State Board of Insurance and may be obtained from the Tax Collection Section of the Administrative Services Division of the State Board of Insurance, Three Republic Plaza, Room 284, 333 Guadalupe, Austin, Texas 78701. Each insurer or other entity shall follow such instructions and use and report on such forms as appropriate to its operation. The instructions and forms are more particularly identified as follows:

(1) a form identified as the 1989 General Instructions for Filing Texas Annual Tax Returns for All Texas Licensed Insurance Carriers;

(2) a form identified as the 1989 Specific Instructions for Completing the Texas Annual Tax Return, for Domestic, Foreign, and Alien Life, Health and Accident Carriers;

(3) a form identified as the 1989 Texas Annual Tax Return for Domestic, Foreign, and Alien Life, Health and Accident Companies Doing Business in the State of Texas;

(4) a form identified as the 1989 Specific Instructions for Completing the Texas Annual Tax Return for Domestic, Foreign, and Alien Companies transacting Property and/or Casualty Business in Texas;

(5) a form identified as the 1989 Texas Annual Tax Return for Domestic, Foreign, and Alien Companies, Lloyds, Reciprocal, and Miscellaneous Organizations Transacting Property and Casualty Business;

(6) a form identified as the 1989 Texas Specific Instructions for Completing the Texas Annual Tax Return for Health Maintenance Organizations;

(7) a form identified as the 1989 Texas Annual Tax Return for Health Maintenance Organizations;

(8) a form identified as the 1989 Texas Annual Tax Return, including instructions, for Nonprofit Prepaid Legal Services Corporations;

(9) a form identified as the 1989 Texas Annual Tax Return, including instructions, for Local Mutual Aid Associations;

(10) a form identified as the 1990 Specific Instructions for Preparing and Filing Texas Quarterly Premium Tax Return for Life, Health, and Accident Business;

(11) a form identified as the 1990 Texas Quarterly Premium Tax Return for Life, Health, and Accident Business;

(12) a form identified as the 1990 Specific Instructions for Preparing and Filing Texas Quarterly Premium Tax Return for Property and Casualty Business;

(13) a form identified as the 1990 Texas Quarterly Premium Tax Return for Property and Casualty Business;

(14) a form identified as the 1990 Specific Instructions for Preparing and Filing Texas Quarterly Premium Tax Return for Health Maintenance Organizations;

(15) a form identified as the 1990 Texas Quarterly Premium Tax Return for Health Maintenance Organizations;

(16) a form identified as the 1990 Specific Instructions for Preparing and Filing Texas Quarterly Premium Tax Return for Title Business;

(17) a form identified as the 1990 Texas Quarterly Premium Tax Return for Title Business;

(18) a form identified as the 1989 General Instructions for Completing Texas Annual Tax Return, for companies under the provisions of the Texas Insurance Code, Articles 3.25 and 3.59;

(19) a form identified as the 1989 Texas Annual Tax Return, for Foreign and Alien Life, Health, and Accident Insurance Carriers operating under the provisions of the Texas Insurance Code, Articles 3.25 and 3.59;

(20) a form identified as the 1989 General Instructions for Filing the 1989 Maintenance Tax Returns for Third Party Administrators;

(21) a form identified as the 1989 Annual Texas Maintenance Tax Return for Third Party Administrators;

(22) a form identified as the 1990 Specific Instructions for Preparing and Filing the Texas Quarterly Administrative Services Tax Return;

(23) a form identified as the 1990 Quarterly Texas Tax Return for Administrative Services;

(24) a form identified as the Specific Instructions for Completing the 1989 Texas Annual Tax Return for Administrative Services;

(25) a form identified as the General Instructions for Filing the 1989 Administrative Services Tax Return;

(26) a form identified as the 1989 Annual Texas Tax Return for Administrative Services;

(27) a form identified as the Specific Instructions for Completing the 1989 Texas Annual Tax Return for Title Business;

(28) a form identified as the 1989 Texas Annual Tax Return for Domestic and Foreign Title Companies;

(29) a form identified as the Surplus Lines Agents' Semi-Annual Tax Report of Insurance Placed With Unlicensed Insurers;

(30) a form identified as Instructions for Filing the Surplus Lines Agents' Semi-Annual Tax Report;

(31) a form identified as the 1989 Annual Tax Report Of Insured Applicable To Independently Procured Insurance (FT-1);

(32) a form identified as the Instructions For Filing the 1989 Annual Tax Report Of Insured Applicable To Independently Procured Insurance (FT-1);

(33) a form identified as the Report of Unauthorized Insurance and Instructions For Filing Report of Unauthorized Insurance; and

(34) a form identified as the Annual Purchasing Group Premium Tax Report and Instructions For Filing the Annual Purchasing Group Premium Tax Report.

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 January 12, 1990.

TRD-9000434

Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: February 23, 1990

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

Chapter 15. Surplus Lines Insurance

Subchapter A. General Regulation of Surplus Lines Insurance

• 28 TAC §15.25, §15.29

The State Board of Insurance proposes an amendment to §15.25, concerning surplus lines insurance premium tax trust funds, and new §15.29, concerning actions required of surplus lines agents when purchasing groups purchase insurance through surplus lines agents. The amendment to §15.25 is necessary to harmonize subsection (d) with other amendments to the section, effective July 1, 1989, which were adopted to facilitate implementation of recommendations of the state auditor concerning the manner in which surplus lines trust accounts are established and maintained by surplus lines agents. The amendment to §15.25 provides direction to agents in establishing accounts with regard to how the account is to be titled and the sequence in which owners' names are to appear on the account. The amendment requires that the State Board of Insurance be shown as the first-named owner, since the tax identification number for such accounts, for income-reporting purposes, is that of the State Board of Insurance. It also requires that the name of the agent or agency be shown as the legal owner, in trust, of the account. The amendment is intended to provide for uniform identification for all accounts consonant with changes recommended by the state auditor. New §15.29, states where to file required registration forms, fees, or taxes. The new section also requires marking of policies issued to a purchasing group through a surplus lines agent, but generally these policies need not be filed. The new section is intended to clarify actions required of surplus lines agents under the Insurance Code, Article 1.14-2 and Article 21.54.

Richard B. Schroeter, director, surplus and excess lines section, has determined that for the first five-year period the proposed sections will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment and new section, and there will be no effect on local employment or local economy.

Mr. Schroeter 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 surplus lines insurance. There will be no effect on small businesses as result of enforcing the section. 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 Richard B. Schroeter, Director, Surplus and Excess Lines Section, Mail Code 014-5, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendment and new section are proposed under the Insurance Code, Articles 1.04, 1.14-2, and 21.54. 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 State Board of Insurance shall monitor the activities of surplus lines agents to the extent necessary to protect the public interest. Article 1.24-2, §12(b) provides that all surplus lines premium receipt taxes collected are trust funds in the hands of the surplus lines agent and the property of the state, and shall be maintained in a separate account. Article 21.54, §15, authorizes the board to adopt rules relating to purchasing groups that are necessary to carry out the article.

§15.25. Surplus Lines Insurance Premium Tax Trust Funds.

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

(d) The interest-bearing [demand deposit] account maintained by the agent for the deposit of tax monies shall be entitled: "State Board of Insurance," as first-named owner; "(name of agent or agency), Trustee," as second-named owner; "Tax Trust Account."

(e)-(g) (No change.)

§15.29. When Purchasing Groups Purchase Insurance Through Surplus Lines Agents.

(a) Whenever a purchasing group purchases insurance from an unauthorized insurer through a surplus lines agent, the surplus lines agent shall submit any registration forms, fees, or taxes required by the Insurance Code, Article 21.54, directly to the State Board of Insurance rather than to the Surplus Lines Stamping Office of Texas.

(b) A surplus lines agent shall stamp or write the words "Purchasing Group" conspicuously on every policy, contract, or other detailed evidence of coverage issued to a purchasing group through the surplus lines agent. However, copies of such documents need not be filed with the Surplus Lines Stamping Office of Texas, or the State Board of Insurance, unless requested in a specific case.

(c) The term "purchasing group" has the same meaning in this section as in the Insurance Code, Article 21.54.

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 January 12, 1990.

TRD-9000433

Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: February 23, 1990

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

◆ ◆ ◆
Chapter 19. Agent's Licensing
Subchapter J. Standards of
Conduct for Licensed
Agents

• 28 TAC §19.901, §19.902

The State Board of Insurance proposes amendments to §19.901 and §19.902, concerning standards of conduct for licensed agents. The amendments are necessary to define and clarify standards used for approval or disapproval of names submitted for use by licensed agents. The amendment to §19.901 defines the terms "applicant," "assumed name," and "true name." Section 19.902 provides standards for issuance of a license and standards to be followed when a licensed agent is doing business under an assumed name or doing business at additional offices. The proposed amendments are designed to prevent the use of misleading or deceptive names by licensed agents.

Jack Evins, deputy insurance commissioner, licensing group, has determined that, for the first five-year period the proposed sections will be 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 is a more complete registration of business names used by licensees which differ from their legal names and by prohibiting the use of names which might mislead or confuse consumers, whether by deliberate intent or otherwise. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the proposed amendments.

Comments on the proposal may be submitted to Jack Evins, Deputy Commissioner, Licensing, Mail Code 014-1, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendments are proposed under the Insurance Code, Articles 1.04; 3.75, §8; 21.07, §13; 21.07-1, §15; 21.07-3, §21; 21.14, §26; 21.21, §13; and 23.23(a), and the Texas Health Maintenance Organization Act, §15(g) and §15A(h), which authorizes the State Board of Insurance to establish rules and to administer statutory provisions concerning the regulation of agents and agents' licenses.

§19.901. Definitions Concerning Conduct of Licensed Agents. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Applicant—An individual, partner-

ship, or corporation applying to do business as an agent.

Assumed name—Any name other than a true name.

True name—Present legal name.

§19.902. One Agent, One License.

(a) Only one license of the same type permitted. No agent may hold more than one license of the same type currently in effect. An agent doing an insurance business subject to the provisions of this subchapter shall have the agent's license certificate issued in the agent's true [full, exact legal] name. If an individual is authorized to act as a particular type of agent, that individual need not obtain an additional license in order to participate in a licensed partnership or corporate agency of the same type, but the partnership or corporation must obtain a separate license. Any licensed agent may have additional offices or do an insurance business under assumed names without obtaining an additional license; provided, however, each agent must furnish the State Board of Insurance with a certification identifying any and all offices from which the agent will conduct an insurance agency business, and showing any and all assumed names which the agent will utilize in doing an insurance agency business at each of those offices. Where such a filing is required under the Assumed Business or Professional Name Act (Texas Business and Commerce Code, §36.01, et seq.), or any similar statute, the agent shall provide the State Board of Insurance with a copy of the valid assumed name certificate reflecting proper registration of each assumed name utilized by the agent.

(b) Standards for approval and disapproval of names to be used by licensed agents.

(1) Name states or implies insurance capabilities not permitted under licenses applied for or held. No name proposed by an applicant or licensee shall be approved if such name states or implies, or would lead reasonable persons to infer, that the applicant or licensed agent is an insurer, motor club, hospital service plan, health maintenance organization, prepaid legal services organization, continuing care retirement community, or other entity entitled to engage in insurance activities which in fact are not permitted under licenses applied for or held.

(2) Name states or implies ability to act as an insurer or guarantor. No name proposed by an applicant or licensee shall be approved if such name states or implies, or would lead reasonable persons to infer, that the applicant or licensee is an insurer or guarantor. Nothing in this subsection prohibits the following:

(A) any agent from indicating that such agent is an authorized representative of an admitted insurer if such

agent is also clearly designated as an agent representing such insurer; or

(B) any agent from using a name which includes "Underwriter," "Underwriters," or "Underwriting."

(3) When name is misleading. No name proposed by an applicant or licensee (other than the true name of an individual) shall be approved if it appears that use of the proposed name may mislead the public in any respect. A disapproval under this paragraph may be based on one or more of the criteria listed in Subparagraphs (A)-(C):

(A) the name is the same as, closely resembles, borrows on the name of, or implies affiliation with or sponsorship by, a federal, state, or local governmental authority or program;

(B) the name fails to state or clearly indicate that the applicant or licensee is or will be an insurance agent and the name states or implies, or would lead reasonable persons to infer:

(i) that the applicant or licensee is primarily engaged in some line of business other than the insurance business;

(ii) that the applicant or licensee has expertise in the area of investment, tax shelter, financial or estate planning, or computer programming; or

(iii) that the applicant or licensee is a public interest organization seeking to educate consumers or perform research for the public's benefit;

(C) the name makes use of one or more of the following words or phrases or a derivation of one or more of such words or phrases in a misleading manner:

(i) "administrator";

(ii) "advisor";

(iii) "agency";

(iv) "America" or "American";

(v) "analyst";

(vi) "assigned risk";

(vii) "associate";

(viii) "association";

(ix) "assurance company" or "assurance corporation" or "Assurance, Incorporated";

(x) "benefit";

(xi) "broker";

(xii) "bureau";

(xiii) "care";

Earliest possible date of adoption: February 23, 1990

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

◆ ◆ ◆
**TITLE 31. NATURAL
RESOURCES AND
CONSERVATION**
**Part XIV. Texas Board of
Irrigators**

**Chapter 429. Violation of
Statute or Board Rule**

Complaint Process

• 31 TAC §429.7

The Texas Board of Irrigators proposes an amendment to §429.7, concerning clarification of current complaint investigation procedures and to provide for direct referral of complaints to the attorney general in cases requiring immediate legal action to enforce Texas Civil Statutes, Article 8751, and the rules of the board. The Texas Board of Irrigators proposes this amendment to clarify existing procedures and avoid delays in the enforcement process.

Joyce Watson, executive secretary, has determined that for the first five-year period the proposed section is in effect there will be negligible fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Watson 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 more effective and comprehensive implementation of Texas Civil Statutes, Article 8751. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Larry G. Persky, Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

Comments will be accepted 30 days after the date of publication of the amendment in the *Texas Register*.

The amendment is proposed under the Licensed Irrigators Act, Texas Civil Statutes, Article 8751, §7, which provides the board with the authority to adopt, prescribe, promulgate, and enforce all rules reasonably necessary to effectuate provisions of the Act.

§429.7. Investigation of Complaint.

(a) The chairman of the board may appoint not more than three members of the board to investigate a complaint. The executive secretary shall furnish each board

- (xiv) "city";
- (xv) "company";
- (xvi) "compensation";
- (xvii) "consultant";
- (xviii) "consumer";
- (xix) "coop" or "cooperative";
- (xx) "corporation" or "corp.";
- (xxi) "counselor";
- (xxii) "county";
- (xxiii) "credit union";
- (xxiv) "department";
- (xxv) "deposit insurance";
- (xxvi) "federal";
- (xxvii) "financial advisor" or "financial consultant" or "financial planner";
- (xxviii) "government";
- (xxix) "group";
- (xxx) "HMO" or "health maintenance organization";
- (xxxi) "incorporated" or "Inc.";
- (xxxii) "indemnity company" or "indemnity corporation" or "Indemnity Inc.";
- (xxxiii) "insurer" or "insuror";
- (xxxiv) "investment";
- (xxxv) "investor";
- (xxxvi) "medi" when used as the first part of prefix of a word leg;
- (xxxvii) "mortgage guarantee" or "mortgage guaranty";
- (xxxviii) "national";
- (xxxix) "nationwide";
- (xl) "no fault";
- (xli) "plan";
- (xlii) "referral";
- (xliiii) "research";
- (xliv) "reserve";
- (xlv) "savings";
- (xlvi) "senior";
- (xlvii) "service";
- (xlviii) "social security";
- (xlix) "state";
- (l) "statewide";
- (li) "Texas";
- (lii) "trust";
- (liii) "United States," "U.S.," or "U.S.A."; or
- (liv) "veteran".

(D) The list of words and phrases appearing in Subparagraph (C) of this paragraph is representative only. Such list is intended to serve as a standard or guideline and shall not be considered as enumerating the only words or phrases which might be used in a manner that would be misleading or would have the capacity or tendency to mislead the public in any respect. Subparagraph (C) of this paragraph may be amended from time to time as conditions warrant revision.

(4) Review of disapproval of proposed name by commissioner. Any applicant or licensee whose proposed name has been disapproved pursuant to these standards may request a hearing before the commissioner of insurance. Such request for hearing shall be in writing and shall be submitted to the commissioner no later than 30 days from written notice to the applicant or licensee of disapproval.

(5) Enforcement of standards. The standards established by these regulations are applicable to names filed with the State Board of Insurance upon the effective date of these rules. Agents may continue to use the name(s) under which they are licensed. The adoption of these regulations does not affect the authority of the State Board of Insurance to order an agent to discontinue the use of a name that is shown to mislead the public and violate the Insurance Code, Article 21.21, or rules adopted thereunder; provided, however, that any such action by the State Board of Insurance shall be conducted in accordance with the Insurance Code.

(c) Name registration form to be used. [(b)] The State Board of Insurance adopts by reference Form LDTL in effect on October 1, 1987. In order to comply with the requirements of this section, an agent must register any assumed name or additional office by filing with the Agents License Division of the State Board of Insurance a completed Form LDTL together with the required fee. Any such filing of a Form LDTL shall be treated as an application for expansion of an agent's license authority, and, therefore, a fee equal to the highest license fee established by the State Board of Insurance for any license currently held by the agent shall be paid in support of such filings. Copies of Form LDTL for use under this subsection are available from the Agents License Division, Mail Code 014-3, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

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

member appointed to investigate a complaint with a copy of the complaint file [The chairman may appoint one or more licensed irrigators to assist board members in the investigation of a complaint].

[(b) The executive secretary shall furnish each appointed board member with a copy of the complaint file.]

(b)[c] Appointed members shall investigate the matters complained of and may take steps to secure the respondents' voluntary compliance with Texas Civil Statutes, Article 8751 and these sections, or otherwise informally resolve the matter.

(c)[d] Upon completion of the investigation, the investigating board members shall file with the executive secretary a written report, including a detailed description of the investigation and any informal resolution, and any recommendations to the board. [and a recommendation to the board. The report shall be signed by at least one of the board members investigating the complaint.]

(d) During investigation of a complaint, if the chairman and board members appointed to investigate the complaint determine that immediate legal action is necessary to enforce Texas Civil Statutes, Article 8751 or the rules of the board, the executive secretary immediately shall refer the complaint to the attorney general with a request that suit be initiated to obtain injunctive and other appropriate relief. Copies of the request shall be sent to the complainant, respondent, and all board members. At a subsequent meeting of the board, a board member appointed to investigate the complaint shall report on the investigation and actions taken to enforce Texas Civil Statutes, Article 8751, and the rules of the board.

[(e) Upon receipt of the investigation report, the executive secretary shall send, by first-class mail, copies of the report to the complainant and respondent, notifying them of the deadline for filing written responses to the report. The executive secretary shall also send a copy of the report to the chairman of the board.

[(f) Any response of the complainant or respondent to the investigation report must be in writing and filed with the executive secretary within 14 days after the executive secretary mailed copies of the report to the complainant and respondent.

[(g) Upon receipt of a response to an investigation report, the executive secretary shall send copies of the response to the chairman of the board and the board members appointed to investigate the complaint.]

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 January 17, 1990.

TRD-9000568

Joyce Watson
Executive Secretary
Texas Board of Irrigators

Earliest possible date of adoption: February 23, 1990

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

◆ ◆ ◆
TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services

Chapter 12. Child Nutrition Program

Child Care Food Program

• 40 TAC §§12.1, 12.3, 12.5-12.26

The Texas Department of Human Services (DHS) proposes amendments to §§12.1, 12.3, and 12.5-12.26, concerning reimbursement to adult day care centers for nutritionally acceptable meals, in its Child Nutrition Program chapter. The purpose of the amendments is to comply with United States Department of Agriculture rules that allow certain adult day care centers to participate in and receive reimbursement under the Child Care Food Program.

Burton F. Raiford, chief financial officer, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

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 adult day care centers will receive cash reimbursement for meals and snacks served at the centers. There will be no effect on small businesses as a result of enforcing the sections. There is no anticipated economic cost for individuals who are required to comply with the sections as proposed.

Questions about the content of this proposal may be directed to Keith Churchill at (512) 450-3137 in DHS's Nutrition Assistance Services Section. Comments on the proposal may be submitted to Cathy Rossberg, Policy Communication Services Section-805, Texas Department of Human Services 222-E, 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, Chapter 22, which authorizes the department to administer public assistance programs.

§12.1. Program Purpose. The National School Lunch Act, §17, authorizes the Child Care Food Program (CCFP) to provide assistance to initiate, maintain, and expand quality public and nonprofit food service programs for children or adult participants in non-residential institutions which provide [child] care.

§12.3. Eligibility of Contractors and Facilities.

(a) To participate in the Child Care Food Program, contractors must meet the definitions in 7 Code of Federal Regulations, §226.2 and the appropriate requirements of 7 Code of Federal Regulations, §§226.6 and 226.15-226.19a [and DHS licensing minimum standards. Exception: contractors on military bases and Indian reservations are not required to meet DHS licensing minimum standards].

(b) Facilities must be licensed or otherwise approved by federal, state, or local authorities. Adult day care centers must be licensed by the Texas Department of Health (TDH), except that receipt of Title XIX funds (Medicaid) constitutes approval for program participation. Child care centers must be licensed or registered by DHS. General exception: facilities operated by federal and Indian tribal governments are not required to be licensed or otherwise approved by DHS or TDH.

(c)[(b)] DHS requires contractors to submit as proof of eligibility one or more of the following forms of documentation of tax-exempt status:

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

(d)[(c)] DHS requires contractors to submit documentation of current licensure or registration to operate a day care facility [copies of a current license or registration to operate a child care facility] when they:

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

(e)[(d)] Contractors are ineligible for the Child Care Food Program if they have permitted a member of the governing body, an agent, a consultant, or an employee of the contractor to enter the facility when children are present and any of these persons have been convicted of:

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

§12.5. Application for Program Benefits-Contractors.

(a) To participate in the Child Care Food Program, contractors must submit applications to DHS. The contractor must submit an amended application to DHS when changes occur. DHS approves or denies application for participation according to 7 Code of Federal Regulations, §§226.6, 226.15, 226.16, and 226.23 [(b)-(e) , (h), (j), and (n), 226.15(b), 226.16(b), 226.23(a)-(d) and (f)].

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

§12.6. Agreement.

(a) To participate in the Child Care Food Program, contractors must enter into an agreement with DHS, and facilities must

enter into agreements with sponsoring organizations according to 7 Code of Federal Regulations, §§226.6, 226.15, 226.16, 226.17, 226.18, and 226.23 [an agreement with a sponsoring organization according to 7 Code of Federal Regulations, §§226.6(b), (e), and (n); 226.15(g); 226.16(f); 226.17(b)(6); 226.18(b); and 226.23(a)].

(b) Contractors that purchase meals from a food service management company or school food authority must enter into agreements according to 7 Code of Federal Regulations, §§226.17, 226.19, 226.19a, and 226.21 [an agreement according to 7 Code of Federal Regulations, §§226.17(b)(6), 226.19(b)(10), and 226.21].

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

§12.7. Budget.

(a) Contractors must submit administrative budgets for DHS approval according to 7 Code of Federal Regulations, §§226.6, 226.7, and 226.15 [§§226.6(b)(6) and (e)(2), 226.7(g), and 226.15(b)(3)].

(b) DHS considers adjustments to the budget as amendments to the application. Amendments must be approved or denied by DHS. Sponsoring organizations must submit to DHS written justification [justifications] for the original budget and for any amendments, before the planned effective date. Budget changes are not approved retroactively.

(c) If the budgeted administrative costs of a contractor that sponsors day care homes exceed the allowable amounts calculated under 7 Code of Federal Regulations, §226.12 [(a)], [the] day home sponsoring organizations [organization] must submit to DHS one or more of the following as required by DHS:

(1) documentation providing the source and amount of income to support the additional expense [expenses];

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

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

§12.8. Financial Management System.

(a) Contractors must implement and maintain records supporting the financial management system established by DHS according to 7 Code of Federal Regulations, §§226.6, 226.7, and 226.11 [§§226.6(e)(2), 226.7(m), and 226.11(e)].

(b) (No change.)

(c) Day activity and health services (DAHS) centers participating in the Child Care Food Program must report any reimbursement received under the program on their annual DHS DAHS cost report.

§12.9. Record Retention.

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

(f) Unless indicated otherwise in §12.10(a)-(b) of this title (relating to Procurement Standards), contractors must maintain records according to 7 Code of Federal Regulations, §§226.6, 226.7, 226.10, 226.11, 226.15, 226.16, 226.17, 226.18, 226.19, 226.19a, 226.20, 226.22, and 226.23 [§§226.6(h) (2) and (5), 226.7(m), 226.10(c) and (d), 226.11(e), 226.15(e), 226.16(e), 226.16(d)(4) and (e), 226.17(b)(7) and (8), 226.18(b)(4) and (d)-(f), 226.19(b)(3) (ii) and (9), 226.20(h) and (j), 226.22(d) and (k), and 226.23(c) and (e)].

§12.10. Procurement Standards.

(a) Contractors must obtain food [foods], supplies, equipment, and other goods and services for the Child Care Food Program according to 7 Code of Federal Regulations, §§226.2, 226.6, 226.21, and 226.22, and 7 Code of Federal Regulations, Part 3015 [226.6(h) and (i), 226.21, and 226.22, and Part 3015].

(b) (No change.)

§12.11. Participant Eligibility for Free and Reduced-price Meals.

(a) Contractors must determine eligibility of program participants [children] for free and reduced-price meals according to 7 Code of Federal Regulations, §§226.2, 226.6, 226.15, 226.17-19a, and 226.23 [226.6(e)(7) and (8), 226.15(b)(5) and (e)(2) and (3), 226.17(b)(7), 226.18(e)(3) and (f), 226.19(b)(9)(i), and 226.23].

(b) DHS and contractors must verify eligibility of program participants [children] for free and reduced-price meals according to 7 Code of Federal Regulations, §§226.2, 226.6, and 226.23 [226.6(e)(8), 226.23(e)(1)(ii)(F) and (3)(i) and (h)].

(c) Meals served to program participants enrolled in adult day care centers are eligible for reimbursement only if the program participants reside in the community in their own homes alone, or with spouses, children, or guardians. Meals served to individuals living in residential institutions and attending the adult day care center during the day are not eligible for reimbursement under the program. Such individuals are not to be reported as "enrolled" on the centers' claim forms. This prohibition extends to individuals who are institutionalized on a temporary basis for respite care and crisis intervention.

§12.12. *Civil Rights/Nondiscrimination.* The benefits of the Child Care Food Program are available without discrimination on the basis of race, color, national origin, age, sex, or handicap according to 7 Code of Federal Regulations, §§226.6, 226.22, and 226.23, and 7 Code of Federal Regulations, Parts 15, 15(a), and 15(b) [§§226.6(d)(2)(i)(B), (e)(1) and (k),

226.22(k), 226.23(b)-(d) and (e)(2)(iv), and 7 Code of Federal Regulations Parts 15, 15(a), and 15(b)].

§12.13. *Health Standards.* Contractors and facilities must ensure that all health, safety, and sanitation standards are enforced according to 7 Code of Federal Regulations, §§226.6 and 226.20, and [§§226.6(d)(2)(i)(c)-(f) and (3) and (m), 226.20(k),] DHS licensing minimum standards, and applicable rules as issued by the Texas Department of Health.

§12.14. Meal Requirements.

(a) Contractors must ensure that all program meals served and claimed for reimbursement fulfill the requirements of 7 Code of Federal Regulations §§226.2, 226.6, 226.15-226.20 [226.6(h), 226.15(e)(9) and (11), 226.16(d)(4), 226.17(b)(3)-(6), 226.18(b)(1)-(4) and (6) and (c) and (d), 226.19(b)(4)-(10), 226.20], and 226, Appendix A, Alternate Foods for Meals.

(b) (No change.)

§12.15. Reimbursement Methodology.

(a) DHS reimburses contractors and contractors reimburse facilities according to 7 Code of Federal Regulations, §§226.2, 226.4, 226.6, 226.7, and 226.9-19a, and Code 7 of Federal Regulations, Part 3015 [226.6(c), 226.7, 226.9-226.14, 225.15(e), 226.16(e)(1), 226.16(g) and (h), 226.17(b)(3) and (4), 226.18(b)(6) and (7), 226.19(b)(6) and (8) and (9), and Part 3015]. To assign rates of reimbursement for contractors, DHS uses the option in 7 Code of Federal Regulations, §226.9(b)(3). DHS reimburses contractors according to the options in 7 Code of Federal Regulations §226.9(c)(1). DHS does not use the option described in 7 Code of Federal Regulations, §226.9(d). DHS computes reimbursement for approved child care centers, outside-school-hours-care [and outside-hours-care] centers, and adult day care centers according to the option in 7 Code of Federal Regulations, §226.11(c)(3).

(b) Adult day centers that are independent centers and contractors that sponsor adult day care centers must ensure that the meals for which they claim reimbursement, whether prepared on site or by a food service management company, are not supported by Title III of the Older Americans Act. Title III benefits include all benefits provided under the Older Americans Act (OAA), Part C, including commodities (or cash-in-lieu of commodities) authorized by the OAA and provided by the United States Department of Health and Human Services. If the meals served at the adult day care center are prepared by a food service management company, it is the responsibility of the contractor to ensure that

neither Title III funds nor commodities were used in the meals they have bought.

(c)(b) To be eligible for reimbursement, contractors must ensure that claims for reimbursement are postmarked or received by DHS no later than 30 days after the end of the claim month. Persons who sign the DHS certificate of authority form as the authorized representative of the contractor must sign claims. DHS may approve payment of a claim postmarked or received by DHS later than 30 days after the end of the claim month provided that:

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

(d)(c) Contractors serve and claim second meals for reimbursement according to 7 Code of Federal Regulations, §226.20(j). Contractors that serve meals family style are not eligible for reimbursement for second meals.

(e)(d) Day homes must participate at least 10 days a month to be eligible for payment and to make the sponsoring organization eligible for administrative payment.

(f)(e) Day home providers may not claim Child Care Food Program reimbursement for another day home provider's own children.

§12.16. Advance Payments.

(a) DHS issues and monitors advance payments to eligible contractors, and contractors account for these funds according to 7 Code of Federal Regulations, §§226.2, 226.6, 226.7, 226.10, and 226.16 [226.6(b)(10), 226.7(i) and (j), 226.10(a), (b), and (d), and 226.16(g) and (i)].

(b) For contractors with a claim history, DHS issues monthly advance payments based on the contractors' most recent claim received and processed. For contractors with no claim history, DHS bases the amount of advance payment [payments] on the amount of reimbursement the contractor is projected to earn during the month for which the advance is to be issued. DHS estimates the amount of advance payments based on the number of day homes participating, the number of participants [children] enrolled and served approved meals, or both. DHS issues no retroactive advances. If USDA does not make available sufficient funds for DHS to pay both advance payments and claims for reimbursement in full, DHS pays only claims for reimbursement. DHS recoups advance payments from the claim for reimbursement for the month for which the advance is issued. If the advance payment exceeds the reimbursement earned in the month for which the advance is issued, DHS deducts the excess amount from subsequent advances issued or claim paid, as appropriate.

§12.17. Start-up Payments.

(a) DHS issues start-up payments to day home sponsoring organizations accord-

ing to 7 Code of Federal Regulations, §§226.2, 226.6, 226.7, and 226.12 [226.6(c), 226.7(h) and (j), and 226.12(b)-(e)].

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

§12.18. Commodities/Cash-in-lieu.

(a) DHS provides USDA-donated foods or cash-in-lieu of commodities according to 7 Code of Federal Regulations, §§226.5, 226.6, 226.15, and 226.20 [226.6(g), 226.15(h), and 226.20(l)].

(b) DHS conducts an annual survey to determine the preference of each contractor to receive [for] commodities or cash-in-lieu of commodities, according to 7 Code of Federal Regulations, §226.6 [(g)]. If a majority of contractors choose cash-in-lieu of commodities, DHS issues cash-in-lieu of commodities to all eligible contractors.

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

§12.19. Program Reviews.

(a) Contractors must monitor their program operations and conduct administrative reviews according to 7 Code of Federal Regulations, §§226.15 and 226.16 [(c) and (d) and 226.16(d), and (e)(2)].

(b) Contractors that sponsor day homes conduct their reviews of day home providers according to 7 Code of Federal Regulations, §226.16. [Day home sponsoring organizations conduct their reviews of day home providers according to 7 Code of Federal Regulations §226.16(d)(4)(ii).] DHS does not use the averaging option described in 7 Code of Federal Regulations, §226.16(d)(4)(ii).

(c) (No change.)

§12.20. *Training/Technical Assistance.* Contractors must provide training and technical assistance to their [sponsored] facilities according to 7 Code of Federal Regulations, §§226.6, 226.16, and 226.18 [(d)(2)(i)(G), 226.16(d), and 226.18(b)(2)].

§12.21. *Rights and Responsibilities—Day Home Provider.* In addition to the provisions of 7 Code of Federal Regulations, §§226.18, contractors who sponsor day homes [(b) and (f), day home sponsoring organizations] must not allow any officer, agent, consultant, contractor, or any other employee to:

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

§12.22. Audits.

(a) DHS and Child Care Food Program contractors conduct audits of program administration and operation in day [child] care facilities according to 7 Code of Federal Regulations, §226.7, [(b) and (c) and] §226.8, and 7 Code of Federal Regula-

tions, Part 3015, and §17.101 [Part 3015, and §76.101] of this title (relating to Methods for Auditing Providers).

(b) (No change.)

§12.23. Overpayments.

(a) DHS handles overpayment of claims for reimbursement, advance payments, and start-up payments [are handled] according to 7 Code of Federal Regulations, §§226.6-226.8, 226.10, 226.12, [§§226.6(c), 226.7(j), 226.8(e), 226.10(b), 226.12(c) and (e), and] 226.14, and §76.202 of this title (relating to Recoupment of Improper Payments) .

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

§12.24. Sanctions and Penalties.

(a) DHS investigates program deficiencies, program irregularities, or evidence of violations of criminal law or civil fraud statutes according to 7 Code of Federal Regulations, §§226.6, 226.8, and 226.10 [(c), (j), (l), and (m), 226.8(e), and 226.10(b)(2) , (d), and (f)].

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

§12.25. Denials and Terminations.

(a) DHS denies applications for participation and terminates agreements between DHS and contractors for failure to meet basic eligibility requirements, and according to 7 Code of Federal Regulations, §§226.6, 226.15, 226.16, 226.23, 226.25, and 7 Code of Federal Regulations, Part 3015 [(b)-(e), (h), (j), and (n), 226.15(b) , 226.16(b), 226.23(a)-(d) and i(f), 226.25, and Part 3015].

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

§12.26. Appeals.

(a) Contractor appeals of DHS actions are conducted according to 7 Code of Federal Regulations, §226.6 [(j)] and §79.1602 of this title (relating to Right to a Hearing). DHS requires that contractors appealing actions taken by DHS based on the findings of federal audits request a hearing to be conducted by USDA.

(b) Contractors must provide appeals of denial of eligibility for free and reduced-price meals according to 7 Code of Federal Regulations, §226.23 [(c)(4) and (e)(5)].

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 January 10, 1990.

TRD-09000365

Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Human Services

Proposed date of adoption: April 1, 1990.

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

◆ ◆ ◆
Chapter 49. Child Protective Services

Subchapter C. Eligibility for Child Protective Services

• 40 TAC §49.311

The Texas Department of Human Services (DHS) proposes an amendment to §49.311, concerning eligible individuals, in its Child Protective Services chapter. The purpose of the amendment is to provide eligibility criteria consistent with a risk-based service delivery system, the child at risk field (CARF), which is being pilot-tested in DHS's Region 09 for one year: February 1, 1990-January 31, 1991. The amendment limits the new criteria to Region 09 and to the period of the pilot test.

Region 09 encompasses the following Texas counties: Atacosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Gillespie, Guadalupe, Karnes, Kendall, Kerr, Kinney, LaSalle, Maverick, Medina, Real, Uvalde, Val Verde, Wilson, and Zavala. If the pilot test is successful, the department plans to implement CARF statewide in 1991.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be DHS's increased ability to protect children at risk of maltreatment by making child protective services more effective and efficient and increasing equity of services to child protective services clients. There will be no effect on small businesses as a result of enforcing or administering the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Questions about the content of this proposal may be directed to David A. Sheets at (512) 450-3315 in DHS's Protective Services for Families and Children Department. Comments on the proposal may be submitted to Cathy Rossberg, Policy Communication Services Section-013, Texas Department of Human Services 222-E, P. O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 41, which provides the department with the authority to enforce laws for the protection of children. The amendment is also proposed under the Texas Family Code, Title 2, which authorizes the department to enforce laws and regulations governing the parent-child relationship.

§49.311. Eligible Individuals.

(a) Except as specified in subsection (c) of this section, children [Children] and their families are eligible for services to prevent further abuse/neglect or removal, services to remove children in danger of further harm, or services to reunify families if

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

(b) (No change.)

(c) From February 1, 1990-January 31, 1991, children and their families in DHS Region 09 are eligible for services if there is a risk of future abuse or neglect to a child in the family. Risk is the likelihood of abuse or neglect and is determined through the worker's assessment of the presence and interaction of positive and negative influences attending each of five forces operating within the family.

(1) The child force, including how the child is viewed by the parent, the child's behavior and/or emotions, current status, and vulnerability.

(2) The parent force, including pervasive behaviors, feelings, levels of adaptation; history; parenting practices; and how the parent relates to others outside the home.

(3) The family force, including demographics; family functioning, interaction, and communication; and environmental support.

(4) The maltreatment force, including the nature of the abuse and/or neglect; surrounding circumstances; the form of abuse and/or neglect; and the effects.

(5) The intervention force, including family response to intervention, and external barriers to intervention effectiveness.

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 January 16, 1990.

TRD-09000490 Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Human Services

Proposed date of adoption: April 15, 1990.

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

◆ ◆ ◆
Subchapter O. Foster and Adoptive Home Development

• 40 TAC §49.1501, §49.1502

The Texas Department of Human Services (DHS) proposes amendments to §49.1501

and §49.1502, concerning discipline of children in the department's managing conservatorship, in its Child Protective Services chapter. The purpose of the amendments is to establish a uniform policy regarding discipline of children who are in placement with nonrelatives.

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

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 to promote uniformity in the treatment of children in the department's managing conservatorship and to reduce the likelihood of physically abusive discipline. There will be no effect on small businesses as a result of enforcing the sections. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Questions about the content of this proposal may be directed to Dixie Camp at (512) 450-3301 in DHS's Child Protective Services Policy Section. Comments on the proposal may be submitted to Cathy Rossberg, Policy Communication Services Section-462, Texas Department of Human Services 222-E, 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, Chapter 22, which provides the department with the authority to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The amendments are also proposed under the Texas Family Code, Title 2, which authorizes the department to enforce laws and regulations governing the parent-child relationship.

§49.1501. Decision on Foster Home Applications.

(a) To be accepted as a foster home, the home must meet the department's minimum standards, and DHS [DHR] must have determined, through the foster-home screening and study, that the parents can provide adequate care for [DHR] foster children[,] in the department's managing conservatorship and that they will follow the department's policies for discipline of these children as specified in §49.1502(13) of this title (relating to Adoptive Home Screening).

(b) (No change.)

§49.1502. Adoptive Home Screening. DHS's [DHS'] policies for screening and approval of adoptive homes are as follows:

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

(13) Discipline.

(A) The primary purpose of discipline must be to encourage appropriate behavior, not to punish the child. Children in the department's managing conservatorship must be treated with respect and dignity. Discipline must suit the particular needs and circumstances of each child, and it must take into account the child's age, developmental level, specific misbehavior, previous reaction to discipline, and history, including any history of physical or emotional abuse. No child in the department's managing conservatorship may be deprived of basic necessities or subjected to cruel, harsh, unusual, or unnecessary punishment.

(B) DHS evaluates applicants based on their willingness and ability to:

(i) recognize and respect differences in children, especially children who have been abused or neglected;

(ii) employ methods of discipline that suit the particular needs and circumstances of each child; and

(iii) employ methods of discipline that conform to the policies specified in this paragraph. [Applicants are evaluated based on their willingness and ability to individualize discipline, recognize and respect differences in children, and use appropriate discipline methods. Corporal punishment of children in DHS' managing conservatorship is discouraged. If spanking is to be used on a child in DHS' conservatorship, the child may be spanked only with an open hand on the hands or buttocks. All methods of discipline must conform to the requirements contained in the Minimum Standards for Child Placing Agencies (24-hour and adoption). Discipline must not result in bruises, welts, burns, fractures, sprains, exposure, or poisoning; nor may it consist of withholding of food, shelter, supervision, or medical or educational care. Provisions of the discipline policy for a particular applicant may be waived only upon the concurrence of the regional director for families and children and the Protective Services for Families and Children Branch.]

(14) (No change.)

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

Issued in Austin, Texas, on January 10, 1990.

TRD-09000366

Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Human Services

Proposed date of adoption: April 1, 1990.

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



Subchapter Q. Purchased Protective Services

• 40 TAC §49.1765

The Texas Department of Human Services (DHS) proposes new §49.1765, concerning post-adoption services, in its Child Protective Services chapter. The purpose of the new section is to establish a program under which contract providers will furnish post-adoption services to help adopted children and their adoptive families adjust to adoptions. The proposed section implements House Bill 1806 as passed by the 71st Texas Legislature, which amended the Human Resources Code, Chapter 47, effective September 1, 1989. The amendment authorizes DHS to provide post-adoption services to adoptees and adoptive families whom the department assisted before adoption.

Burton F. Raiford, chief financial officer, has determined that for the first five-year period the proposed section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the section is in effect is an estimated additional cost of \$2,249,610 in fiscal year (FY) 1989-90; \$4,600,000 in FY 1990-91; \$4,600,000 in FY 1991-92; \$4,600,000 in FY 1992-93; and \$4,600,000 in FY 1993-94. There will be no fiscal implications for local government as a result of enforcing or administering the section.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to help adopted children and their families adjust to their adoptions, cope with any history of abuse in the adopted child's background, and avoid permanent or long-term removal of children from adoptive family settings. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of this proposal may be directed to Gwendolyn Gordon at (512) 450-3298 in DHS's Child Protective Services Department. Comments on the proposal may be submitted to Cathy Rossberg, Policy Communication Services Section-015, Texas Department of Human Services 222-E, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The new section is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 47, which authorizes the department to administer programs to promote the adoption of hard-to-place children.

§49.1765. Post-adoption Services.

(a) General description. Beginning on February 15, 1990, the Texas Department of Human Services (DHS) contracts with eligible providers to provide post-adoption services to adopted children and adoptive families to whom the department provided adoption services before adoption. Post-adoption services are provided based on client needs without regard to income.

(b) Client eligibility. DHS provides purchased post-adoption services to adopted children and members of their adoptive families when funds appropriated for the purchase of these services are available and when the following criteria are satisfied:

(1) the department served as managing conservator or provided adoption assistance benefits for the adopted child before the court order granting the adoption;

(2) the adoptive family requests services after the court order granting the adoption; and

(3) the adopted child is under 18. If services begin during a child's 17th year, however, they may continue for as long as six months after the child's 18th birthday.

(c) Contract providers.

(1) Only licensed child-placing facilities that have adoption and postadoption experience with special-needs adoptions may contract with DHS to provide the post-adoption services specified in this section. The term "special-needs adoption" refers to the adoption of a child who meets one of the following criteria at the time of placement:

(A) the child is at least six years old;

(B) the child is at least two years old and a member of a racial or ethnic minority;

(C) the child has a professionally diagnosed physical, mental, or emotional handicapping condition; or

(D) the child belongs to a sibling group that needs to be placed in one home.

(2) Contract providers must furnish post-adoption services either directly or through subcontracts. DHS must approve all prospective subcontractors in advance.

(d) Types of service. Contract providers must offer the following types of post-adoption services according to the specifications in subsections (e)-(1) of this section:

(1) information and referral services;

(2) case management and service planning;

(3) parent groups;

(4) parenting programs;

(5) therapeutic counseling services;

(6) respite care;

(7) residential placement services; and

(8) 24-hour crisis intervention.

(e) Information and referral services. Contract providers must furnish information about the nature and availability of post-adoption support services and about the eligibility requirements for these services to any person or organization that requests this information. Based on limited assessments of client needs, providers must also make referrals to appropriate service providers and other appropriate resources. Contract providers must maintain a monthly log to document all information and referral services that they provide.

(f) Case management and service planning.

(1) The phrase "case management and service planning" refers to the assessment and determination of the need and eligibility for post-adoption services based on the child's current functioning, available resources, the child's prognosis, and prior services and service plans. To help the provider determine the client's need and eligibility, DHS gives the provider access to its adoption files.

(2) Each contract provider must develop a sound, written plan of service for each child it serves. The provider must revise the plan whenever necessary, and DHS must review and approve it at least every six months.

(g) Parent groups.

(1) Either directly or through subcontractors, each contract provider must offer clients access to groups that provide opportunities for adoptive families and children to build supportive networks among themselves for dealing with issues relating to adoption. These groups may include community organizations, peer counseling groups, networking groups, and advocacy groups.

(2) Any member of the adoptive family may participate in these groups.

(3) In order of preference, subcontractors for parent-group services are limited to:

(A) organizations of adoptive parents; and

(B) individuals with knowledge or experience of adoption.

(4) DHS reimburses contract providers for the following types of expense for parent-group services:

(A) mailings;

(B) telephone usage;

(C) rental of meeting facilities;

(D) office supplies;

(E) fees and expenses for speakers and facilitators;

(F) printing of informational material for group members and for the community at large; and

(G) child care and babysitting to permit attendance at meetings.

(h) Parenting programs.

(1) Either directly or through subcontractors, each contract provider must offer educational parenting programs that are designed to:

(A) improve skills in parenting and in communicating with children; and

(B) increase knowledge of:

(i) child development;

(ii) the effects and dynamics of physical, emotional, and chemical abuse and neglect;

(iii) specialized methods of behavior management and discipline; and
(iv) special issues related to adoption.

(2) Any member of the adoptive family may participate in parenting programs.

(3) In order of preference, subcontractors for parenting programs are limited to:

(A) organizations of adoptive parents;

(B) child-placing agencies;

(C) universities, training institutes, and other educational agencies; and

(D) individuals with knowledge or experience of adoption.

(4) DHS reimburses contract providers for the following types of expense for parenting programs:

(A) rental of meeting or training facilities;

(B) fees and expenses for trainers;

(C) materials for participants; and

(D) on-site child care to permit attendance.

(i) Therapeutic counseling services.

(1) Either directly or through subcontractors, each contract provider must offer the following therapeutic counseling services:

(A) diagnosis and assessment, including psychiatric, psychological, and developmental testing, evaluation, and interpretation;

(B) family counseling or therapy, consisting of treatment provided to family groups, including parents, children, and other significant individuals, in order to meet individual and family treatment goals;

(C) individual counseling or therapy, consisting of one-to-one sessions to help the individual meet treatment goals; and

(D) group counseling or therapy, consisting of treatment provided simultaneously to two or more unrelated individuals to meet individual treatment goals.

(2) Any member of the adoptive family may receive therapeutic counseling services.

(3) Therapeutic counseling services must be provided by individual professionals who:

(A) have appropriate degrees or credentials (such as a Ph.D., an M.D., an M.S.W., or a B.S.W.) and are properly licensed and/or certified by the appropriate governing body to practice and provide the services specified in paragraph (1) of this subsection; and

(B) have experience with special-needs adoptions as specified in subsection (c) (1) of this section.

(4) The number of therapeutic counseling services provided must be based on the plan of service as reviewed and approved by DHS at least every six months.

(5) DHS reimburses contract providers for therapeutic counseling services on a unit-of-service basis. The department recognizes the following units of service.

(A) For diagnosis and assessment, the unit of service is one hour or one testing battery.

(B) For family counseling or therapy, the unit of service is one hour per family.

(C) For individual counseling or therapy, the unit of service is one hour per client.

(D) For group counseling or therapy, the unit of service is one hour per client. However, payment for group counseling or therapy is based on proration of a group unit-rate that the contract provider negotiates with DHS regional staff.

(j) Respite care.

(1) Either directly or through subcontractors, each contract provider must offer clients access to respite-care services. These are services provided for a brief, specified time to families that have adopted sibling groups or children with physical, mental, or emotional handicaps. Respite care may be provided for all or part of a 24-hour period, either in or out of the home.

(2) Out-of-home respite care may be provided in registered family day homes, group homes, foster homes, other approved adoptive homes, and in other facilities that offer specialized care.

(3) In-home respite care may be provided by persons specifically trained to give respite care to the client groups specified in paragraph (1) of this subsection and by other individuals selected by the adop-

tive family and approved in the service plan.

(4) DHS reimburses contract providers for up to 30 days of respite care per family within a calendar year. The care must be included in the approved plan of service. Any portion of 24 hours counts as a day of service.

(5) When appropriate and available, other funds must be used in place of or to supplement DHS payments for respite care. These funds may include adoption subsidy benefits, insurance payments, and family income. The provider must:

(A) determine whether third-party payments are available and whether the family is able to pay directly; and

(B) collect and document third-party and family payments. The provider must not bill DHS for amounts that a third party can reimburse.

(k) Residential placement services.

(1) Either directly or through subcontractors, each contract provider must provide adopted children with access to acute therapeutic care in a licensed residential setting during the approved contract period.

(2) Only adopted children are eligible for residential placement services. The child must be expected to return home and function in the adoptive family within

12 calendar months, and he must not be eligible for placement in a state hospital or state school. The child's adoptive family must participate in family treatment during the child's residential placement.

(3) Residential therapeutic care must be provided in a state-licensed or state-certified:

- (A) therapeutic foster home;
- (B) therapeutic camp;
- (C) residential treatment center;
- (D) treatment facility for drug or alcohol abuse; or
- (E) hospital.

(4) The contract provider must attempt to place the child in the least restrictive setting appropriate to the child's needs. DHS must authorize each residential placement in advance.

(5) DHS reimburses contract providers for residential placement services based on daily rates assigned to each of the department's BASIC levels of care (BLOC). Payment for a 24-hour period may not exceed the provider's costs. The department's schedule of daily rates is as follows:

<u>Level of Care</u>	<u>Daily Rate</u>
Level 1	\$ 13
Level 2	\$ 35
Level 3	\$ 48
Level 4	\$ 70
Level 5	\$ 84
Level 6	\$121

(6) When appropriate and available, other funds must be used in place of or to supplement DHS payments for residential placement services. These funds may include adoption subsidy benefits, insurance payments, and family income. The provider must:

(A) determine whether third-party payments are available and whether the family is able to pay directly; and

(B) collect and document third-party and family payments. The provider must not bill DHS for amounts that a

third party can reimburse.

(1) 24-hour crisis intervention. Each contract provider must be available to provide crisis intervention 24 hours a day throughout the year. The phrase "crisis intervention" refers to the immediate provision of appropriate services, including information and referral services, based on the client's immediate needs.

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 January 17, 1990.

TRD-9000574 Cathy Rossberg

Agency Liaison, Policy
Communication Services
Texas Department of
Human Services

Proposed date of adoption: April 1, 1990.

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



Part VI. Texas Commission for the Deaf

Chapter 181. General Rules of Practice and Procedures

Subchapter A. General Provisions

- 40 TAC §§181.1, 181.3, 181.5, 181.7, 181.9, 181.11, 181.13, 181.15, 181.17, 181.19, 181.21, 181.23, 181.35, 181.37, 181.39, 181.43, 181.45, 181.47, 181.49, 181.51

The Texas Commission for the Deaf (TCD) proposes new §181.1, concerning statutory authority; §181.3, concerning definitions; §181.5, concerning commission authority; §181.7, concerning severability; §181.9, concerning functions and responsibilities; §181.11, concerning composition; §181.13, concerning terms of office; §181.15, concerning appointment of chairperson; §181.17, concerning vacancies; §181.19, concerning meetings; §181.21, concerning opportunity to appear before the commission; §181.23, concerning public hearings; §181.35, concerning election of officers; §181.37, concerning duties of officers; §181.39, concerning appointment of the executive director; §181.43, concerning funding; §181.45, concerning discrimination prohibited; §181.47, concerning reports; §181.49, concerning public information; and §181.51, concerning public access to internal procedural documents.

This new Subchapter A replaces existing §§181.11-181.17, which are proposed for repeal elsewhere in this issue of the *Texas Register*. The new sections will update and clarify the existing rules to better assist the public in understanding and following the rules.

The major changes concern the rearrangement of the section in the new subchapter and the inclusion of new provisions covering the commission authorities, board meeting procedure, public hearing opportunities and information, and administration.

Larry D. Evans, executive director, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Evans 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 to ensure that the rules are updated and clarify the public in understanding and following the rules. There will be no effect on small businesses as a result of enforcing the sections. There will be no economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to William F. Eckstein, Assistant Director, P.O. Box 12904, Austin, Texas 78711-2904.

The new sections are proposed under the Human Resources Code, §81.006(b)(3), which provides the Texas Commission for the Deaf with the authority to adopt rules for administration and programs.

§181.1. Statutory Authority. The Human Resources Code, Chapter 81, is incorporated herein and made a part hereof for all purposes.

§181.3. Definitions. The following words and terms, when used in the chapters, subchapters, or sections, of the Texas Commission for the Deaf, shall have the following meanings, unless the context clearly indicates otherwise.

Act—Acts 1979, 66th Legislature, Chapter 186 and 690; Acts 1981, 67th Legislature, Chapters 140 and 566; Acts 1983, 68th Legislature, Chapter 403; Acts 1985, 69th Legislature, Chapter 619; Acts 1987, 70th Legislature, Chapter 343 and 172; and Acts 1989, 71st Legislature, Chapter 2, 183, 219, and 584.

BEI—The Board for Evaluation of Interpreters.

Board—The Board for Evaluation of Interpreters.

Certificate—A license, issued by the board and commission which includes the whole or part of any agency permit, certificate, approval, registration, charter, membership, statutory exemption, or similar form of permission required by state law.

Certification—The commission and board process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a certificate.

Certified interpreter—An interpreter for the deaf who has been evaluated to determine a particular skill level or one who has met requirements or qualifications for a particular skill level and has been so certified to practice interpreting in the State of Texas by the board and commission, or other professional interpreting association.

Chairperson—The member of the commission so designated by the governor, pursuant to Texas Human Resources Code, §81.005.

Commission—The Texas Commission for the Deaf.

Commissioner—Any one of the nine duly appointed members of the commission, including the chairperson.

Contract—Any written document (or series of documents) which obligates the commission to pay money to a person for goods or services rendered from that person, or which obligates the commission to provide goods or services to a person in exchange for money.

Contractor—An agency, organization, individual, or entity of any character representing the interests of the persons with which the commission contracts for implementation of services or programs or provisions of services to individuals who are deaf and hearing impaired.

Deaf or deaf person—A natural person or individual who has a hearing impairment without regard to degree, and regardless of whether the person also has a speech impairment, that such deafness or

hearing impairment inhibits the person's comprehension of or communication with others.

Entity—An association, organization, governmental or business body, or existing body or class of persons that is chartered or organized for representing the interests of persons.

Executive director—The chief administrative officer appointed by the commission to execute such duties, powers, and authority as may be conferred by the commission subject to the provisions of the Act or these rules.

Person—Any person, partnership, corporation, association, governmental subdivision or agency, or public or private entity of any character.

Program—Commission activities designed to deliver or benefits provided by statute.

Qualified interpreter—A certified interpreter or an interpreter for the deaf whose qualifications have been approved by the commission.

Service provider—An entity or a person at a contract from the commission to provide services under a contract.

TCD—The Texas Commission for the Deaf.

§181.5. Authority. The commission has the authority to adopt, issue, amend, and rescind procedural rules to carry out its purposes.

§181.7. Severability. If any rule of the commission or portion thereof is adjudged by a court to be invalid or if any rules of the commission, or portion thereof, is not in conformity with applicable state laws or administrative regulations of the state, that judgment does not affect the remainder of the rules.

§181.9. Functions and Responsibilities. The commission shall carry out the functions of the Texas Commission for the Deaf as prescribed by law. The responsibility of the commission is to provide guidance and direction in the formulation of policies related to the programs and services rendered to individuals who are deaf or hearing impaired, except those which are purely of a welfare nature, those academically-oriented services which are provided by the regularly established educational agencies, and those rehabilitation services which are provided by the regularly established rehabilitative agencies. The services of the commission are coordinated with closely related services available to the deaf persons through other organizations.

§181.11. Composition. The commission is composed of nine members appointed by the governor, with the advice and consent of the Senate. Three members of the commission must be deaf persons, two must be parents of deaf persons, two must be profes-

sionals serving the deaf, and two must be persons from the general public.

§181.13. Terms of Office. Members of the commission are appointed to serve staggered six-year terms, with the terms of one-third of the members expiring on January 31, of each off-numbered year.

§181.15. Appointment of Chairperson. The governor designates the chairperson of the commission from among the members. A member holds the position of chairperson at the pleasure of the governor.

§181.17. Vacancies. The governor fills by appointment the unexpired term when any vacancy on the commission occurs. Members serve until a successor is appointed and has qualified.

§181.19. Meetings.

(a) Scheduling of meetings. The commission shall hold at least six meetings a year. In addition, special meetings may be held in response to a call by the chairperson, or in response to written requests by five members of the commission. Dates, times, and places shall be scheduled by the chairperson after considering the recommendation of the executive director and the best interest of the commission in obtaining a variety of sites and maximum attendance at the least expense. The chairperson shall attempt to schedule meetings convenient to members. All meetings shall be governed by Robert's Rules of Order open to the public, except during any executive session, and conducted in accordance with Texas Civil Statutes, Article 6252-17.

(b) Agendas. The chairperson, with the assistance of the executive director, shall prepare and submit to each member of the commission prior to each meeting a preliminary copy of the agenda, listing items that he believes should be considered by the commission, those required by law, and others as members have requested. Materials supplementing the agenda may be included. Official agendas are distributed the day of the commission meeting. The official agendas shall be filed with the Texas secretary of state (Texas Register Section).

(c) Quorum. Five members of the commission shall constitute a quorum. Commission action shall require a simple majority vote and when a majority vote is required, this is deemed to mean a majority of those members present at a meeting having a quorum. The chairperson shall vote only to break a tie.

(d) Minutes. Drafts of the minutes shall be forwarded to each member for review and comments or corrections prior to approval by the commission. "Official minutes" are those which the recording secretary prepares, the commission approves at a

regular or special meeting, and are affixed with the original signature of the chairperson conducting the meeting and the secretary. Official minutes shall be kept in the office of the executive director and be open to inspection by the public.

(e) Proxies. No proxies shall be permitted at any meeting of the commission.

(f) Attendance. If a member fails to attend three regularly scheduled meetings of the commission during each calendar year, except when the absence is excused by majority vote of the commission, such member shall be removed.

(g) Executive session. Executive sessions of the commission shall be limited to personnel matters, contracts, pending, or contemplated litigation regarding the commission. The chairperson of the commission shall consult with the Office of Attorney General for consideration of matters other than those listed herein prior to filing of agendas.

(h) Teleconference prohibited. The commission and any committees and subcommittees of the commission may not meet and/or vote on cases and issues by telephone conference call in compliance with the Texas Open Meeting Act.

§181.21. Opportunity to Appear Before the Commission.

(a) Any member of the public may appear before the commission during public comments period listed on the meeting's agenda at any regularly scheduled or special open meeting to speak on any issue under the jurisdiction of the commission and of concern to the deaf community. During the public comments period the members of the public will identify themselves and whom they represent to the commission.

(b) During the public comments period, appearances before the commission may not exceed three minutes per person. The person must notify the executive director of the commission their desire to participate in the public comments. The executive director shall deliver a list of those who wish to participate in the public comments to the chairperson of the commission prior to the public comments.

§181.23. Public Hearings.

(a) The commission shall do the following in regard to public hearings:

(1) conduct at least one public hearing annually on state plan to ensure public input from deaf individuals and associations, service providers, agencies, and the general public;

(2) give adequate notice of the times, dates, and locations of the public hearings to give interested parties reasonable opportunity to have input;

(3) maintain a record, by registration of participants at the door of the public hearing, to document the number of persons attending the hearing in the following categories:

(A) individuals attending;

(B) natural persons speaking on behalf of agencies or organizations (service providers) and deaf associations; and

(C) number of the general public.

(b) The procedure for making public comment or testimony is as follows.

(1) Persons who wish to make public comment or testimony will register at the door of the public hearing and indicate that they wish to speak.

(2) Hearing natural persons who wish to make public comment or testimony must come to the microphone provided, if they are able, to insure their comments are heard.

(3) Deaf natural persons who wish to make public comment or testimony must come to the microphone provided with a sign language/oral interpreter to insure their signed/oral comments are visible to the audience and heard through the interpreter.

(4) Persons registered to speak will be recognized in the order in which they appear on the speaker's registration sheet, except as noted in paragraph (8) of this subsection.

(5) Each person making comment will identify himself or herself and the agency/organization he or she represents.

(6) Persons making comments should furnish the commission with a written copy of their testimony, if prepared, for the record.

(7) If a large number of persons wish to speak, a time limitation of no more than five minutes per speaker may be established at the beginning of the public hearing by the chairperson of the commission.

(8) persons who are unable to stay for the entire length of the hearings should make arrangements with the commission to be called upon to comment at the beginning of the hearing.

(9) The commission will accept written statements from those who cannot attend the public hearing in person within a reasonable time following the conclusion of the scheduled public hearing.

(c) Information and input from the hearing will be used in the preparation of the state plan and the development of program priorities, programs, and policies for the biennium covered by the plan, as feasible, taking into consideration the available

funding from the program period or for that planning period.

(d) If requested by 25 individuals, an association with 25 members or more, or a governmental body, any meeting during which the commission is to consider the adoption of proposed rules or amendments to the state plan shall become a public hearing for the purpose of discussing the rules or amendments as such meetings shall be posted as such. The procedures for public comment and testimony shall be used as provided in this section.

§181.35. Elections of Officers. The commission will meet annually to elect from its members a vice chairperson, a secretary, and other officers as it deems necessary to take office September 1. For the election of any officer, a simple majority vote of those present is required. Officers may be reelected. Should resignation, death, or incapacity for any reason create a vacancy in any office, the other officers shall, at the next regular meeting, conduct an election to fill the unexpired portion of the former officer's term.

§181.37. Duties of Officers.

(a) As regards the duties of officers, the chairperson shall:

- (1) serve at the pleasure of the governor;
- (2) preside at all meetings and call special meetings;
- (3) appoint all committees and their chairpersons;
- (4) approve all expenditures for equipment and supplies which exceed \$5,000; and
- (5) perform such other duties as may be prescribed by law or by action of the commission.

(b) As regards the duties of officers, the vice chairperson shall:

- (1) preside over meetings in the absence of the chairperson;
- (2) perform the duties of chairperson in his or her absence or his or her incapacity; and
- (3) act as parliamentarian.

(c) As regards the duties of officers, the secretary shall:

- (1) notify members of all meetings;
- (2) preside over meetings in the absence of the chairman and vice chairman;
- (3) arrange for recording minutes of commission meetings and transmit a copy of minutes of the previous meeting to each member before each ensuing meeting;
- (4) have charge of all records, proceedings, and documents of the commission;

(5) furnish appropriate certification that the posting of the notice for each commission meeting was according to statutory requirements; and

(6) assume other responsibilities as assigned by the commission.

§181.39. Appointment of the Executive Director. The commission shall appoint an executive director to serve as the chief administrative officer of the commission. In selecting an executive director, the commission shall give preference to a person who is deaf. The executive director should preferably have experience in programs serving the deaf and preferably be skilled in American Sign Language. The executive director shall perform duties and carry responsibilities for the commission in accordance with a board handbook consisting of policies for functions of the commission administration and programs. The commission shall adopt the policies at regular open meetings.

§181.43. Funding. The commission shall establish legislative budget requests with the advice and assistance of the executive director and approve operating budgets of appropriated funds and funds from other sources as permitted by the constitution and the laws establishing the commission.

§181.45. Discrimination Prohibited. The commission shall comply with the Federal Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, as amended, and Texas Civil Statutes, Article 6252-16, as amended, including, but not limited to, giving equal opportunity both to those seeking employment and those seeking services without regard to race, color, religion, sex, national origin, handicap (disability), or socio-economic level.

§181.47. Reports. The commission shall make a complete and detailed report to the governor and the presiding officer of each house of the legislature each year, showing all appropriations received and how they have been expended, and covering its activities and accomplishments and making recommendations for further improvement of the conditions of the deaf in the state.

§181.49. Public Information.

(a) The commission prepares information for consumers and service recipients which describes its regulatory functions and procedures of the commission for handling complaints.

(b) The commission prepares and provides, without cost, notices of its address and telephone number for use by the general public. The commission will provide for such notification through inclusion of the information:

(1) on each registration form, application, or written contract for services

of a person or entity regulated or authorized by this title;

(2) on a sign that is prominently displayed in the place of business of each person or entity regulated or authorized by this title; or

(3) in a bill for service provided by a person or entity regulated or authorized by this title.

(c) The public information notice must be at least five inches by seven inches, and read: "Complaints regarding noncompliance with the Texas Commission for the Deaf Act (Texas Human Resources Code, Chapter 81) should be directed to the Texas Commission for the Deaf, 510 South Congress Avenue, Suite 300, P.O. Box 12904, Austin, Texas 78711, (512) 469-9891 (voice or TDD)."

§181.51. Public Access to Internal Procedural Documents. Copies of internal procedural documents, manuals, and guidelines pertinent to the activities of the commission or copies of the hearing and appeal procedures for the commission are maintained for public view and inspection at the office of the Texas Commission for the Deaf on working days between the hours of 8 a.m. and 5 p.m. Copies of hearing and appeal procedures are available upon written request by any individual expressing a desire to review these procedures. Requests should be made to the Texas Commission for the Deaf, P.O. Box 12904, Austin, Texas 78711.

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 January 8, 1990.

TRD-9000353

Larry D. Evans
Executive Director
Texas Commission for the
Deaf

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 469-9891

◆ ◆ ◆
Operations

• 40 TAC §§181.11-181.17

The Texas Commission for the Deaf proposes the repeal of §§181.11-181.17, concerning operations. The repealed sections would be replaced by a new subchapter, Subchapter A of Chapter 181 as proposed for adoption concerning general provisions of the commission in this issue of the *Texas Register*.

Larry D. Evans, 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.

Mr. Evans also has determined that for each year of the first five years the sections are in

effect the public benefit anticipated as a result of enforcing the sections will be the elimination of obsolete regulations. There will be no effect on small businesses as a result of enforcing the sections. 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 William F. Eckstein, Assistant Director, P.O. Box 12904, Austin, Texas 78711.

The repeals are proposed under the Human Resources Code, §81.006(b)(3), which provides the Texas Commission for the Deaf with the authority to adopt rules for administration and programs.

§181.11. *Composition.*

§181.12. *Meetings.*

§181.13. *Election of Officers.*

§181.14. *Duties of Officers.*

§181.15. *Executive Director.*

§181.16. *Funding.*

§181.17. *Policies of the Commission.*

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

Issued in Austin, Texas, on January 8, 1990.

TRD-9000354 Larry D. Evans
Executive Director
Texas Commission for the Deaf

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 469-9891

◆ ◆ ◆
**Subchapter C. Program
Standards and Procedures**

• **40 TAC §181.491**

The Texas Commission for the Deaf (TCD) proposes new §181.491, concerning approved courses and workshops for the instruction and continuing education of interpreters for the deaf.

The new Subchapter C of Chapter 181 concerns program standards and procedures.

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

Mr. Evans also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to enable the public apply for approved courses and work-

shops for the instruction and continuing education for certified interpreters. There will be no effect on small businesses as a result of enforcing the section. There will be no economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to William F. Eckstein, Assistant Director, P.O. Box 12904, Austin, Texas 78711-2904.

The new section is proposed under the Human Resources Code, §81.006(b)(3), which provides the Texas Commission for the Deaf with the authority to adopt rules for administration and programs.

§181.491. *Approved Courses and Workshops for the Instruction and Continuing Education of Interpreters for the Deaf.*

(a) Purpose and scope. The purpose of this section is to establish a system and set forth a procedure for approving courses and workshops for instruction and continuing education of interpreters for the deaf mandated in the Human Resources Code, §81.006(a)(5).

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

(1) Applicant—A person who applies to the commission for approved courses and workshops for instruction and continuing education of interpreters for the deaf.

(2) BEI—The board.

(3) Board—The Board for Evaluation of Interpreters.

(4) Class hours—Contact hours of formal class instruction or the equivalent as may be defined and adopted by the commission.

(5) Commission—The Texas Commission for the Deaf.

(6) Coordinator The person in the commission who is designated to work with the commission and board in administering the continuing education program, and who may be addressed as follows: Coordinator, Continuing Education Program, Texas Commission for the Deaf, 510 South Congress, Suite 300, Austin, Texas 78711-2904.

(7) Certificate—An interpreter certificate issued by the Texas Commission for the Deaf Board for Evaluation of Interpreters.

(8) Certificate holder—Any holder of a certificate or any interpreter who is duly certified as a certified interpreter by the commission under the authority of the Human Resources Code, §§81.007, 81.0071, and 81.0072.

(9) Instructor—An individual approved by the commission to provide instruction and training in the discipline of interpreting in an educational setting or workshop.

(10) Interpreter—A natural person certified by the Texas Commission for the Deaf to practice interpreting Texas.

(11) Practitioner—An interpreter who is certified under the laws of this state and who is capable of interpreting for the deaf for the purpose of communication facility.

(12) Provider—A statewide agents' association or a professional association, or a local chapter of a national or statewide agents' association or professional association; an accredited college or university; a proprietary school; or an educational publisher; or a Texas public school system; or a workshop consultant or sponsor.

(13) Sponsor—An individual or group of individuals that offers or intends to offer a course of study or workshop in the discipline of interpreting; provided, however, that the individual or group is not employed in the capacity of instructor by sponsoring an institution or workshop.

(14) Staff—Persons employed in the commission.

(c) Continuing education. Continuing education for interpreters for interpreters for the deaf consists of a series of planned individual learning experiences beyond the initial certification evaluation program which qualifies a certificate holder for a renewal of interpreter certification in compliance with §183.75 of this title (relating to BEI Recertification Process).

(d) Types of acceptable learning experiences. Continuing education undertaken by a certificate holder for interpreter certification renewal or any individual who may benefit from a continuing education program shall be acceptable if the experience falls in one or more of the following types:

(1) courses, workshops, seminars, conferences, lectures, and staff development activities oriented towards the enhancement of interpreting practice, values, skills, and knowledge;

(2) preparation and delivery time for lectures or preparation time for articles for publication;

(3) instruction or consultation in programs such as institutes, seminars, workshops, and conferences which are designed to increase professional knowledge and skills related to the practice of interpreting provided that such instruction and consultation is not a part of, or required as a part of, one's employment;

(4) completion of academic courses in areas supporting development of skill and competence in interpreting at an institution which meets the accreditation standards acceptable to the commission (e.g., accreditation by a recognized accrediting agency);

(5) cross-professional and/or cross-disciplinary training if it is clearly related to the enhancement of interpreting practice, values, skills, and knowledge; or

(6) videotape viewing or tele-development courses or workshops related to development of skill and competence in interpreting.

(e) Continuing education unit. A continuing education unit (CEU) is a basic unit of measurement used to credit certificate holders for certification renewal or individuals with continuing education activities for certification requirements or professional growth. One CEU is defined as 10 contact or clock hours of attendance and participation in an approved continuing education experience or 15 contact or clock hours for each semester hour earned from an interpreting training or sign language curriculum of an accredited college or university.

(f) Applicability of continuing education requirements. Continuing education requirements are referred to §183.75 of this title (relating to BEI Recertification Process).

(g) Procedures for approval of CEU or programs. Certificate holders, organizations, and individuals may initiate requests for commission approval and hour credits of specific programs for continuing education unit credited either before or after these programs occur.

(1) The certificate holder is ultimately responsible for providing, or arranging for sponsors to provide, the information necessary for the commission to make a determination of the applicability of the program to the continuing education requirements.

(2) Sponsors may initiate their own requests and may, when approval is obtained in advance, announce such approval in connection with the training event utilizing statements prescribed by the commission.

(h) Criteria for approval of continuing education activities. Each continuing education experience submitted by an applicant will be evaluated on the basis of the following criteria:

(1) relevance of the subject matter to increase or support the development of skill and competence in interpreting;

(2) objectives of specific information and/or skill to be learned;

(3) subject matter, educational methods, materials, and facilities utilized including the frequency and duration of sessions and the adequacy to implement learner objectives;

(4) sponsorship and leadership of programs including the name of sponsoring individual(s) or association(s), program leaders if different from sponsors, and contact person if different from the preceding;

(5) documentation from sponsor(s) including evaluative statement of performance; and

(6) qualifications of a speaker or course/workshop presenter.

(i) The commission credit. A provider or applicant shall assure that the commission will be credited in all materials, publications, and news releases relating to approved courses and workshops for instruction and continuing education of interpreters for the deaf. The provider or applicant shall add the commission's credit to the provider's or applicant's certificate of attendance or participation.

(j) The retroactive approval. Courses and workshops that occurred after September 1, 1987, will be retroactively approved upon receipt of application for consideration of CEUs. The application for the retroactive approval expires August 31, 1989.

(k) A listing of approved courses and workshops. The commission will provide a list of approved courses and workshops for instruction and continuing education of interpreters for the deaf which will be revised and updated periodically. Any continuing education activity must be provided by an approved provider or sponsor.

(l) CE form signatures. Each approved provider or sponsor of continuing education experience will designate a specific individual whose signature will be accepted as verification of a valid continuing education experience. Unauthorized signatures will not be accepted.

(m) Record keeping. Forms, except Form CE-004, as prescribed by the commission shall be maintained in the office of the commission for records and audit. All continuing education reports and records submitted or maintained for the purpose of certification or continued course/workshop approval are subject to audit or review by the commission or board.

(1) An approved course or workshop is one that has been submitted to the commission for approval on Form CE-001, has been reviewed and approved by staff and has been placed on the list of approved courses and workshops. Form CE-001 is provided self-explanation as to what necessary and pertinent information shall be included.

(2) The provider or sponsor shall furnish to each certificate holder or any interested parties participating in an approved course or workshop who successfully completes an approved course or workshop a certificate of attendance Form CE-002. Form CE-002 shall include the following information: certificate holder's full name, signature, course/workshop title, completed date, BEI card number, course/workshop number, credit hours, pro-

vider/sponsor's name, and approved provider/sponsor's signature. If a participant does not hold a BEI certificate, Form CE-002 also shall include the participant's address and social security number or Texas driver's license number.

(3) The provider or sponsor shall make available a blank Form CE-003, Certificate Holder's Continuing Education Summary Sheet, to participants. Form CE-003 is provided and is self-explanatory as to what necessary and pertinent information shall be included. The certificate holder shall furnish to the board as part of the certificate renewal, Form CE-003 to be attached to renewal application, which the board at any time may verify by requiring submission of the completion certificates.

(4) The provider or sponsor may reproduce a certificate of attendance Form CE-004 to give to each participant who successfully completes an approved course or workshop. Form CE-004 shall include the following information: participant's name, course/workshop title and number, continuing education unit number, signature of provider/sponsor, and date.

(5) The provider or sponsor shall submit to the commission Sponsor Report, Form CE-005 within 10 days of conclusion of approved courses or workshops. Form CE-005 shall include pertinent data that is necessary for the commission's legislative reports.

(n) Certificate holder's responsibility for record keeping. The certificate holders who successfully complete approved courses or workshops are responsible for their own continuing education records. This includes preserving for five years copies of the certifications received upon completion of an approved course or workshop. The accuracy of a certificate holder's records is subject to verification at any time, as more particularly set forth in subsection (m) of this section.

(o) Discrepancies in records. If such records are audited or reviewed and are suspected of being falsified, incomplete, or in any way questionable, the certificate holder or provider/sponsor shall have 30 days in which to correct the discrepancies or submit new documentation. In the case of a provider/sponsor, if the required corrections have not been taken by the end of the 30-day period, approval may be withdrawn for any courses or workshops administered by the provider or sponsor and that provider or sponsor prevented from resubmitting or submitting any courses or workshops for approval for a period of 180 days. In a case of a certificate holder, if compliance has not been made within the 30-day period, the certificate holder will be subject to the commission's disciplinary action.

(p) Distribution of rules and attachments. A copy of these rules relating to the continuing education as promulgated by the commission shall be given to any interested

person upon request made to the offices of the commission.

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

Issued in Austin, Texas on January 8, 1990.

TRD-9000355
Larry D. Evans
Executive Director
Texas Commission for the Deaf

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 469-9891

Subchapter D. Rulemaking Procedures

• 40 TAC §§181.551, 181.553, 181.555, 181.557, 181.559, 181.561

The Texas Commission for the Deaf (TCD) proposes new §181.551, concerning initiation; §181.553, concerning notice; §181.555, concerning hearings; §181.557, concerning petitions for adoption of rules; §181.559, concerning validity, and §181.561, concerning terminology.

The new Subchapter D of Chapter 181 concerns a rulemaking procedure which assists the public in understanding of following the rules.

Larry D. Evans, executive director, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Evans 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 to ensure that the rules give the public an opportunity for following the rulemaking procedures. There will be no effect on small businesses as a result of enforcing the sections. There will be no economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to William F. Eckstein, Assistant Director, P.O. Box 12904, Austin, Texas 78711-2904.

The new sections are proposed under the Human Resources Code, §81.006(b)(3), which provides the Texas Commission for the Deaf with the authority to adopt rules for administration and programs.

§181.551. Initiation. Proceedings for the adoption, amendment, revision, or repeal of rules, regulations, and standards shall be initiated by a majority of the commission at its meeting as prescribed by state law.

§181.553. Notice. Notice of the adoption, amendment, revisions, or repeal of any rule, regulation, or standard shall be as required by the Administrative Procedure and Texas Register Act.

§181.555. Hearings. Prior to the adoption, amendment, revision, or repeal of any rule, regulation, or standard, the commission will afford reasonable opportunity to all interested persons to submit data, views, or arguments, orally or in writing as required by the Administrative Procedure and Texas Register Act.

§181.557. Petitions for Adoption of Rules.

(a) Any interested person or organization may petition the commission requesting the adoption, amendment, revision, or repeal of any of its rules, regulations, or standards.

(b) The term "rule" is used as defined in the Administrative Procedure and Texas Register Act, Article 6252-13a, §3.

(c) To be considered by the commission, the petition must be submitted in writing. The petition shall be addressed to Texas Commission for the Deaf, 510 South Congress Avenue, P.O. Box 12904, Austin, Texas 78711-2904. Form 282 that is prescribed for the petition should:

(1) specify or otherwise make clear that it is made pursuant to the provisions of the administrative procedure and Texas Register Act;

(2) clearly state the body or substance of the rule requested for adoption, and if appropriate, relate the requested rule to an adopted rule or rules of the commission;

(3) contain the full name, address, and telephone number of the petitioner; and

(4) be signed and dated by the petitioner.

(e) Upon receipt of a petition, the executive director will:

(1) acknowledge, in writing, receipt of the petition, and specify the date that the petition was received in the commission office;

(2) communicate with the petitioner to clarify the requested rule or to clarify other relevant information contained within the petition, if necessary.

(f) In accordance with Texas Civil Statutes, Article 6252-13a, §11, within 60 days of the submission date, the executive director shall either recommend in writing to the commission that the petition be denied, or shall initiate rulemaking procedures. If the commission agrees with the reasons for denial, then the commission shall deny the petition in writing, stating the reasons for the denial. If the commission disagrees with the executive director's recommendations, then it will direct that rulemaking procedures be initiated.

(g) Where the time required to review the petition or the scheduling of com-

mission meetings will not permit the commission to act on the petition within the required 60 days, the executive director shall respond to the petitioner within the required 60 days, notifying the petitioner of the executive director's recommendations concerning the petition and the date of the commission meeting at which the recommendation will be presented to the commission for action.

§181.559. Validity. No rule hereafter adopted and no amendment, revision, or repeal of any rule shall be valid:

(1) unless approved by majority of the commission;

(2) unless adopted, amended, revised, or repealed in substantial compliance with these procedures; and

(3) unless indexed, filed, published, and made available for public inspection as required by state law.

§181.561. Terminology. The commission may define and interpret terms, whether they were used in the Act. All definitions and interpretations shall be consistent with the proposes fairly intended by the policies and provisions of the 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 January 8, 1990.

TRD-9000356
Larry D. Evans
Executive Director
Texas Commission for the Deaf

Earliest possible date of adoption: February 23, 1990

For further information, please call: (512) 469-9891

TITLE 43.

TRANSPORTATION

Part III. Texas Department of Aviation

Chapter 63. Air Carrier Regulations

• 43 TAC §§63.1, 63.2, 63.6, 63.7, 63.11, 63.12, 63.17, 63.21-63.30

(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 Department of Aviation or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Department of Aviation proposes the repeal of §§63.1, 63.2, 63.6, 63.7, 63.11, 63.12, 63.17, and 63.21-63.30, concerning certificated air carriers. The repeals eliminate the rules that require certain air carriers to hold a certificate of public convenience and Necessity. The repeals also eliminate related

requirements, including application and reporting requirements.

C. A. (Clay) Wilkins, executive director of the Department of Aviation, has determined that the repeals will have no impact on local economies.

C. A. (Clay) Wilkins, executive director of the Department of Aviation, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications as a result of enforcing and administering the repeals, except an annual savings to the state government of the cost of 50% of one employee's salary and related administrative expenses, together estimated to total \$18 million per year.

Mr. Wilkins 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 be a reduction in burdensome paperwork requirements which will allow carriers to implement changes more quickly and better compete with other carriers; and a reduction of governmental regulation to allow regulation by market forces. 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 Lydia Scarborough, Director, Support and Services, Texas Department of Aviation, P.O. Box 12607, Austin, Texas 78701, (512) 476-9262. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by Lydia Scarborough, Director, Support and Services, Texas Department of Aviation not more than 15 calendar days after notice of the proposed change in sections has been published in the *Texas Register*.

The repeal is proposed under Texas Civil Statutes, Title 3A, Article 46c-6, which provide the Texas Department of Aviation with the authority to promulgate and administer economic rules and regulations over air carriers.

§63.1. Certificated Air Carriers.

§63.2. Certificates of Public Convenience and Necessity.

§63.6. Time Limitations.

§63.7. Appeals of the Commission's Violations of the Time Limitations.

§63.11. Application for Certificates of Public Convenience and Necessity.

§63.12. Application for the Transfer of a Certificate of Public Convenience and Necessity.

§63.17. Minimum Capitalization.

§63.21. Reporting Requirements.

§63.22. Certificate Obligations.

§63.23. Equipment.

§63.24. Insurance

§63.25. Transportation of Public Servants by Air Carriers.

§63.26. Access to and Inspection of Carrier Facilities.

§63.27. Identification of Aircraft.

§63.28. Schedules.

§63.29. Fares, Rates, and Tariffs.

§63.30. Limitations of Liability for Lost or Damaged Baggage or Freight.

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 January 15, 1990.

TRD-9000507 Lydia Scarborough
Director, Support and
Services
Texas Department of
Aviation

Earliest possible date of adoption: February 23, 1990

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



• 43 TAC §63.2

The Texas Department of Aviation proposes new §63.2, concerning scheduled intrastate air passenger carriers. The new section exempts scheduled intrastate air passenger carriers from the requirement of obtaining a certificate of public convenience and necessity.

C. A. (Clay) Wilkins, executive director of the Department of Aviation, has determined that the new section will have no impact on local economies.

C. A. (Clay) Wilkins, executive director of the Department of Aviation, has determined that

for the first five-year period the section is in effect there will be no fiscal implications as a result of enforcing and administering the section, except an annual savings to the state government of the cost of 50% of one employee's salary and related administrative expenses, together estimated to total \$18 million per year.

Mr. Wilkins also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a reduction in burdensome paperwork requirements which will allow carriers to implement changes more quickly and better compete with other carriers; and a reduction of governmental regulation to allow regulation by market forces. 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 Lydia Scarborough, Director, Support and Services, Texas Department of Aviation, P.O. Box 12607, Austin, Texas 78701, (512) 476-9262. 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 Lydia Scarborough, Director, Support and Services, Texas Department of Aviation not more than 15 calendar days after notice of the proposed new section has been published in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Title 3A, Article 46c-6, which provide the Texas Department of Aviation with the authority to promulgate and administer economic rules and regulations over air carriers and which, in the interest of limiting the scope of regulation, provide the Texas Department of Aviation with the authority to exempt any class of air passenger carriers from any or all requirements of the Texas Department of Aviation Act.

§63.2. Scheduled Intrastate Air Passenger Carriers. Air passenger carriers providing scheduled intrastate air service are exempted from the requirement of obtaining a certificate of public convenience and necessity.

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

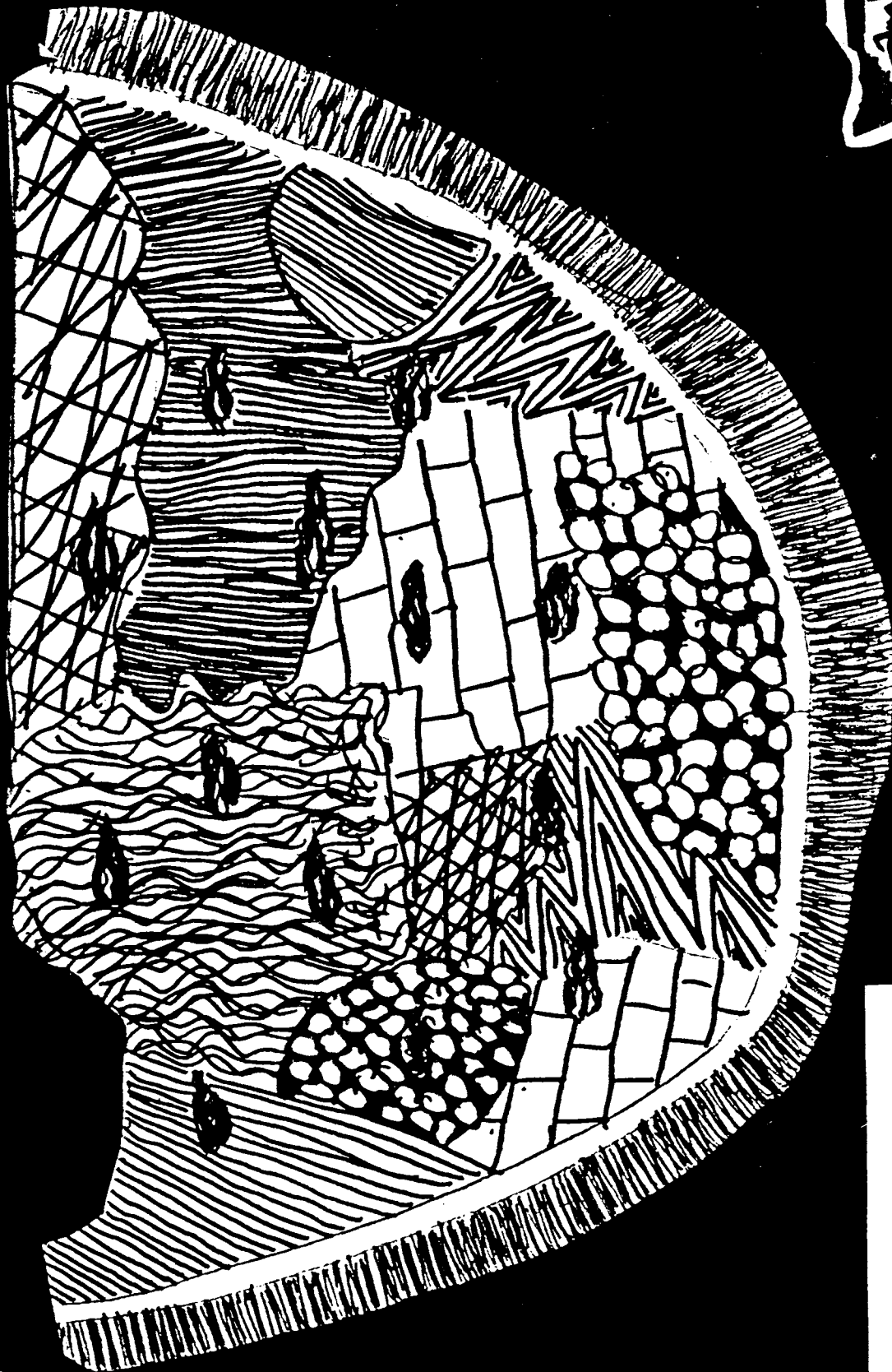
Issued in Austin, Texas on January 15, 1990.

TRD-9000508 Lydia Scarborough
Director, Support and
Services
Texas Department of
Aviation

Earliest possible date of adoption: February 23, 1990

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





Name: Amber Christy

Grade: 6

School: Lake Highlands Elementary, Richardson

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 IV. Texas Department of Licensing and Regulation

Chapter 60. Texas Commission of Licensing and Regulation

Subchapter C. Fees

- 16 TAC §60.66

The Texas Department of Licensing and Regulation has withdrawn from consideration for permanent adoption a proposed new §60.66 which appeared in the November 14, 1989, issue of the *Texas Register* (14 TexReg 5992). The effective date of this withdrawal is January 12, 1990.

Issued in Austin, Texas, on January 12, 1990

TRD-9000437

Elvis G. Schulze
Acting General Counsel
Texas Department of
Licensing and
Regulation

Effective date: January 12, 1990

For further information, please call: (512) 463-3127

Chapter 79. Vehicle Storage Facilities

- 16 TAC §79.82

The Texas Department of Licensing and Regulation has withdrawn from consideration for permanent adoption a proposed new §79.82 which appeared in the October, 6, 1989, issue of the *Texas Register* (14 TexReg 5328). The effective date of this withdrawal is January 16, 1990.

Issued in Austin, Texas, on January 16, 1990

TRD-9000529

Elvis G. Schulze
Acting General Counsel
Texas Department of
Licensing and
Regulation

Effective date: January 16, 1990

For further information, please call: (512) 463-3127

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 5. Program Development

Subchapter P. Testing and Remediation

- 19 TAC §§5.311-5.314, 5.316-5.318

The Texas Higher Education Coordinating Board has withdrawn from consideration for permanent adoption to proposed amendments to §5.311-5.314, 5.316-5.318, which appeared in the September 19, 1989, issue of the *Texas Register* (14 TexReg 4838). The effective date of this withdrawal is January 16, 1990.

Issued in Austin, Texas, on January 16, 1990

TRD-9000514

Suzanne Ortiz
Special Projects Director
Texas Higher Education
Coordinating Board

Effective date: January 16, 1990

For further information, please call: (512) 462-6420

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter L. Motor Fuels Tax

- 34 TAC §3.198

The Comptroller of Public Accounts has withdrawn from consideration for permanent adoption a proposed new §3.198 which appeared in the December 26, 1989, issue of the *Texas Register* (14 TexReg 6850). The

effective date of this withdrawal is January 10, 1990.

Issued in Austin, Texas, on January 10, 1990

TRD-9000327

Wade Anderson
Rules Coordinator
Comptroller of Public
Accounts

Effective date: January 10, 1990

For further information, please call: (512) 463-4004

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

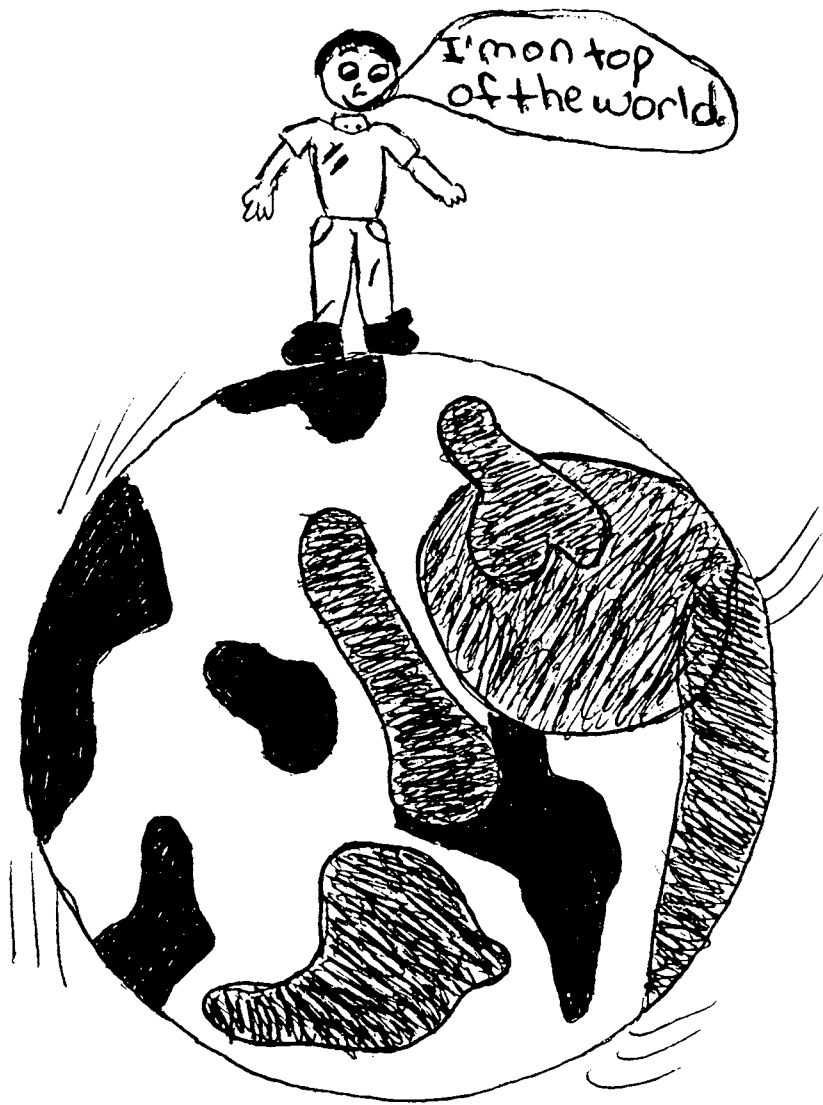
Chapter 48. Community Care for Aged and Disabled

Model Waiver Program

- 40 TAC §48.2501

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91.24(b), the proposed amendment to §48.2501, submitted by the Texas Department of Human Services has been automatically withdrawn, effective January 16, 1990. The amendment as proposed appeared in the July 14, 1989, issue of the *Texas Register* (14 TexReg 3396).

TRD-9000498



Name: Beverly Solis

Grade: 5

School: Forbes Elementary #124, San Antonio

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 13. CULTURAL RESOURCES

Part VII. State Preservation Board

Chapter 111. Rules and Regulations of the Board

• 13 TAC §111.13

The State Preservation Board adopts an amendment to §111.13, without changes to the proposed text as published in the October 27, 1990, issue of *Texas Register* (14 TexReg 80).

The section was amended because the State Preservation Board wishes to reduce the risk of fire and injury to persons from materials used in events on the Capitol grounds.

The amendment outlines permissible activities in the Capitol by providing additional safeguards for fire and life safety.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Government Code, Chapter 443, which provides the State Preservation Board with the authority to enact rules concerning the buildings, (Capitol and G.L.O.B.) and their use.

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 January 15, 1990.

TRD-9000481 Michael Schneider
Staff Services Officer
State Preservation Board

Effective date: February 5, 1990

Proposal publication date: October 27, 1989

For further information, please call: (512) 463-5495

• 13 TAC §111.20

The State Preservation Board adopts an amendment to §111.20, without changes to the proposed text as published in the October 27, 1989, issue of the *Texas Register* (14 TexReg 80).

The section was amended because the State Preservation Board wishes to reduce the risk of fire and injury to persons from materials used in events on the Capitol grounds.

The amendment outlines permissible activities on the grounds by providing additional safeguards for fire and life safety.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Government Code, Chapter 443, which provides the State Preservation Board with the authority to enact rules concerning the buildings, (Capitol and G.L.O.B.) and their use.

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 January 15, 1990.

TRD-9000480 Michael Schneider
Staff Services Officer
State Preservation Board

Effective date: February 5, 1990

Proposal publication date: October 27, 1989

For further information, please call: (512) 463-5495

• 13 TAC §111.21

The State Preservation Board adopts new §111.21, without changes to the proposed text as published in the November 17, 1989, issue of the *Texas Register* (14 TexReg 85).

The new section provides guidance for persons, including outside contractors, performing or supervising cutting, welding, soldering, grinding, and torch paint removal in the Capitol and General Land Office Building. Also, the new section provides information for managers of personnel engaged in such work.

The new section will act as guidelines to any personnel using open-flame or spark producing equipment. It outlines the approval and preparation process, and in addition, specifies the procedures to be followed after the project.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Government Code, Chapter 443, which provides the State Preservation Board with the authority to enact rules concerning the buildings, (Capitol and G.L.O.B.) and their use.

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 January 15, 1990.

TRD-9000479 Michael Schneider
Staff Services Officer
State Preservation Board

Effective date: February 5, 1990

Proposal publication date: November 17, 1989

For further information, please call: (512) 463-5495

TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter B. Operating Certificates, Permits, and Licenses

• 16 TAC §5.42

The Railroad Commission of Texas adopts new §5.42, without changes to the proposed text as published in the September 19, 1989, issue of the *Texas Register* (14 TexReg 4837). The new section was proposed pursuant to a petition from NCH Corporation.

The new section is adopted in order to ensure that all smaller communities have adequate motor carrier service, and to avoid situations where the only available service is discontinued.

The new section as proposed would provide that the fact that only one carrier is authorized to serve any community shall be prima facie evidence of a lack of adequate motor carrier service to the community.

Comments in favor of the rule argued for a more effective transportation system. Comments in opposition to the rule argued that the rule would complicate applications for authority, that the petitioners and supporters failed to cite instances of where the problem exists, and that the rule is beyond the statutory authority of the commission.

Commenting in favor of the proposed new section were the Greater Dallas Chamber and the Gainesville Area Chamber of Commerce. Commenting in opposition to the section were Texas Shippers for Fair, Uniform and Non-Discriminatory Truck Rates, the Common Carrier Motor Freight Association, Inc., the Sand and Gravel Motor Carriers Association, Inc., and the Southwest Warehouse and Transfer Association, Inc.

The commission disagrees with the comments in opposition to the proposed new section. Rules are designed to apply to general situations without regard to particular circumstances in any specific areas; further, if there are no circumstance where the rule should operate, the protestants can defeat the rule; finally, the commission's general authority to regulate transportation matters allows it broad

authority to interpret what constitutes inadequate service by existing carriers.

The new section is adopted under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the Commission to regulate motor carriers in all matters.

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 January 15, 1990.

TRD-9000500 Kent Hance
 Chairman
 Railroad Commission of
 Texas

Effective date: February 6, 1990

Proposal publication date: September 19, 1989

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

◆ ◆ ◆
**Part II. Public Utility
Commission of Texas**
Chapter 23. Substantive Rules
Records and Reports

• **16 TAC §23.11**

The Public Utility Commission of Texas adopts an amendment to §23.11, with changes to the proposed text as published in the September 15, 1989, issue of the *Texas Register*. (14 TexReg 4676).

The amendment is adopted to establish filing deadlines for semi-annual and annual earnings reports. Additionally, the amendment specifies the commission's filing deadlines for copies of reports filed with the Securities and Exchange Commission (SEC).

Comments concerning the proposed amendments were filed by: El Paso Electric Company, Houston Lighting & Power Company, Gulf States Utilities Company, Northeast Texas Electric Cooperative, Inc., Sam Rayburn G&T Electric Cooperative, Inc., Tex-La Electric Cooperative of Texas, Inc., Southwestern Public Service Company, Stamford Electric Cooperative, Inc., Texas-New Mexico Power Company, Texas Utilities Electric Company, West Texas Utilities Company, Brazoria Telephone Company, Byers/Petrolia Telephone Company, Community Telephone Company, Fort Bend Telephone Company, Lake Dallas Telephone Company, Muenster Telephone Corporation of Texas, San Marcos Telephone Company, AT&T, John Staurulakis, Inc. on behalf of several telephone companies and cooperatives, Central Telephone Company of Texas, Lufkin-Conroe Telephone Exchange, Inc., Contel of Texas, Inc., Colorado Telephone Cooperative, Inc., GTE Southwest Incorporated, Kerrville Telephone Company, MCI Telecommunications Corporation, Metromedia Long Distance, Inc., Mustang Telephone Company, Southwestern Bell Telephone Company, CP National Corporation, Tri-County Telephone Company, Waterwood Communication, Inc., Southwest Arkansas Telephone Cooperative, Inc., Curtis Blakely & Company, P.C. on behalf of several telephone companies and cooperatives,

Texas Statewide Telephone Cooperative, Inc., Texas Telephone Association, and the commission's General Counsel and Staff.

The comments received related to three issues. First, the commentators requested additional time for the filing of the earnings reports. The original amendment would have required utilities to file the earnings reports within 60 days after the reporting period. The commentators advised the commission that this filing deadline did not give adequate time to prepare these reports since most utilities have to file financial reports with the SEC and other federal regulatory commissions within 90 days of the end of the year. The commentators suggested that 90 to 120 days was necessary to file the reports in order to have sufficient time to prepare accurate and reliable reports. The commission agrees that utilities should be afforded additional time to file the earnings reports to assure that accurate and reliable earnings reports are filed. The commission does not agree that 120 days is needed to prepare the reports. The commission believes that 100 days is sufficient time to prepare these reports since the reports require much of the same financial information contained in other reports prepared by the utilities. As a result of the comments, the commission changed the filing deadlines to 100 days after the end of the reporting period.

The second issue raised in the comments related to the filing deadline for the filing of copies of reports filed with the SEC. The commentators suggested that there were logistics problems in filing copies of SEC reports and filings simultaneously with the SEC. The utilities requested additional time to file the reports to ensure timely compliance. Based on these comments, the commission changed the language to afford utilities 15 days to file with the commission copies of SEC filings.

The final issue raised by the commentators dealt with the duplicative nature of the earnings reports with other filings made at the Commission. The commentators suggested that the data requested in the earnings report was duplicative of other filings required in §23.11, including information required to be filed related to affiliate transactions pursuant to §23.11(f). The commentators argue that because of the duplicative nature of the information required by the earnings reports, that other reports or information did not have to be filed even though currently required by the commission's rules. The commission disagrees and has changed the language in this subsection to clarify that the requirements of the earnings reports do not satisfy the requirements under §23.11(f) requiring the filing of certain information regarding affiliate transactions.

The amendment is adopted under the Public Utility Regulatory Act, Texas Civil Statutes, Article 1446c, §16(a), which authorize the Public Utility Commission of Texas to make rules reasonably required in the exercise of its powers and jurisdiction, and Texas Civil Statutes, Article 1446c, §28(a), which authorizes the Public Utility Commission of Texas to require reports from utilities.

§23.11. *General Reports.*

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

(d) Due dates of reports. All periodic reports must be received by the commission on or before the following due dates unless otherwise specified in this section:

(1) monthly reports: 45 days after the end of the reported period;

(2) quarterly reports other than shareholder reports: 45 days after the end of the reported period;

(3) semi-annual and annual earnings reports: 100 days after the end of the reported period;

(4) shareholder annual reports: seven days from the date of mailing the same to shareholders;

(5) Securities and Exchange Commission Filings: 15 days from the initial filing date with the Securities and Exchange Commission;

(6) special or additional reports: as may be prescribed by the commission.

(e) (No change.)

(f) Relationships with affiliates. Copies of contracts or arrangements between any public utility and any affiliated interest shall be filed with the commission on request. If such contract or arrangement is not in writing, it shall be reduced to writing. The requirements of this subsection are not satisfied by the filing of an earnings report. The following information shall be reported annually:

(1) all ownership and management relationships between companies or between companies and individuals; and

(2) all transactions with affiliates including, but not limited to, payments for costs of any services, or any property, right, or thing, or for interest expense.

(g)-(n) (No change.)

(o) Semi-annual and annual earnings reports. Each utility shall report its semi-annual and annual earnings on forms prescribed by the commission as set out in §23.12 of this title (relating to Financial Records and Reports).

(p) Penalty for refusal to file on time. In addition to penalties prescribed by law, the commission may disallow for rate making purposes the costs related to the activities for which information was requested and not timely filed.

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 January 16, 1990.

TRD-9000576 Jo Campbell
 Commissioner
 Public Utility Commission
 of Texas

Effective date: February 7, 1990

Proposal publication date: September 15, 1989

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

Records and Reports

• 16 TAC §23.12

The Public Utility Commission of Texas adopts an amendment to §23.12, with changes to the proposed text published in the September 15, 1989 issue of the *Texas Register* (14 TexReg 4676).

The amendment is adopted to establish filing requirements for semi-annual and annual earnings reports. All utilities subject to the jurisdiction of the commission will be required to file earnings reports either on a semi-annual or annual basis. The amendments modify the number of copies of certain reports that the utilities must file with the commission. The amendments also clarify the Securities and Exchange Commission (SEC) filings and other reports that are to be filed with the commission. Finally, the amendments change the classification of telephone utilities related to the uniform systems of accounts in order to reflect the current definitions.

Comments concerning the proposed amendments were filed by: El Paso Electric Company, Houston Lighting & Power Company, Gulf States Utilities Company, Northeast Texas Electric Cooperative, Inc., Sam Rayburn G&T Electric Cooperative, Inc., Tex-La Electric Cooperative of Texas, Inc., Southwestern Public Service Company, Stamford Electric Cooperative, Inc., Texas-New Mexico Power Company, Texas Utilities Electric Company, West Texas Utilities Company, Brazoria Telephone Company, Byers/Petrolia Telephone Company, Community Telephone Company, Fort Bend Telephone Company, Lake Dallas Telephone Company, Muenster Telephone Corporation of Texas, San Marcos Telephone Company, AT&T, John Staurulakis, Inc. on behalf of several telephone companies and cooperatives, Central Telephone Company of Texas, Lufkin-Conroe Telephone Exchange, Inc., Contel of Texas, Inc., Colorado Telephone Cooperative, Inc., GTE Southwest Incorporated, Kerrville Telephone Company, MCI Telecommunications Corporation, Metromedia Long Distance, Inc., Mustang Telephone Company, Southwestern Bell Telephone Company, CP National Corporation, Tri-County Telephone Company, Waterwood Communication, Inc., Southwest Arkansas Telephone Cooperative, Inc., Curtis Blakely & Company, P.C. on behalf of several telephone companies and cooperatives, Texas Statewide Telephone Cooperative, Inc., Texas Telephone Association, and the commission's general counsel and staff.

The comments raised seven issues. With the exception of the comments filed by MCI Telecommunications Corporation and General Counsel, the comments were generally opposed to the filing requirements related to the earnings reports. The first issue raised related to whether utilities should be required to file the earnings reports. Several commentors suggested that the commission should not require the earnings reports because of the costs associated with the filing of the reports.

The commission disagrees. Through the adoption of these amendments, the commission's intent is that all utilities subject to the jurisdiction of the commission shall file earnings reports on a semi-annual or annual basis. The earnings reports will enable the commission to execute its duty to effectively and efficiently regulate and monitor the utilities. Further, the regulatory benefits that will be derived from the information contained in the reports far outweigh the potential costs associated with the filings. Finally, the commission believes that the costs will decrease as the utilities become familiar with the reports.

The commentors also suggested that the earnings report was duplicative of other reports filed with the commission. Consequently, the commentors suggested that the earnings reports should not have to be filed. The commission disagrees that the earnings reports are unnecessary because they are duplicative of other regulatory reports. The information requested in the earnings reports is on a jurisdictional basis that cannot be obtained in any other regulatory reports. Additionally, since all utilities are required to file on a uniform and standard basis, the commission will have industry-wide information that was previously not available. The amendments clarify that the earnings report does not duplicate any other reports that are required to be filed with the commission.

Third, some commentors suggested that the financial data contained in the reports should be reported on a fiscal-year basis rather than a calendar-year basis. The commission disagrees and through adoption of these amendments requires all utilities to file on a uniform calendar-year basis. The commission believes that most utilities maintain financial data on a calendar year basis rather than a fiscal year basis in order to provide financial information to other regulatory authorities. Consequently, this reporting requirement is not considered onerous. As stated before, the commission also believes that requiring all utilities to file on a consistent and uniform basis is necessary to effective earnings monitoring.

Fourth, the commentors stated that all utilities should be required to file earnings only on an annual basis. The commission considered these comments and determined that certain filing requirements should be changed. The commission agrees that telephone cooperatives should file only an annual earnings report. An annual earnings report will provide the commission staff with sufficient current information to effectively monitor the cooperatives, earnings. The telephone cooperatives, earnings reports will be filed on or before April 10th of each year. The commission did not agree that other utilities, such as electric investor-owned utilities (IOUs) and telephone companies other than cooperatives should file on an annual basis only. The commission believes that electric IOUs and telephone utilities other than cooperatives should file on a semi-annual and annual basis in order to effectively monitor earnings on a current basis. However, due to the current workload of the commission staff and due to the fact that most of the electric IOUs have or will have pending rate applications during 1990, the commission has decided that electric IOUs will only be required to file one earnings report for 1990. This report will cover the 12

months ending December 31, 1989, and shall be filed on or before April 10, 1990. Beginning in 1991, the electric IOUs will be required to file on a semi-annual and annual basis as required by the amendments. The commission believes that effective monitoring of electric IOUs can take place with this one-time modification of the filing requirements.

The commentors also suggested that the commission should consider providing exemptions from filing the earnings reports. The commission disagrees and has not adopted any waiver provisions. The commission believes that in order to effectively and efficiently monitor the earnings of utilities, it needs the uniform and standard information from all utilities, regardless of the size of the utility. Consequently, at this time the commission is not making a provision for exemptions from the filing requirements.

Several commentors requested waiver of the electronic filing requirements. The commission does not agree with the request and does not provide for waiver of filing the report by electronic means. The commission believes that utilities, large and small, have the capability either internally or externally to provide the reports on floppy disk. Additionally, since the commission is providing one copy of the floppy disk at no charge, the costs associated with having the reports placed on the disk is minimized.

General counsel suggested that the proposed amendments should be clarified to list the other annual and SEC reports that must be filed with the commission. The commission agrees and has modified the language in §23.12(b)(3) and (4) to state that copies of quarterly shareholder reports, SEC 10-Ks, 10-Qs, 8-Ks, and Registration Statements must be filed with the commission. Additionally, the commission retained the language in the original §23.12(b)(1)(C) that requires each utility or utility holding company subject to annual reporting to the SEC to file three copies of this annual report with the commission.

The amendments are adopted under the Public Utility Regulatory Act, Texas Civil Statutes, Article 1446c, §16(a), which authorizes the Public Utility Commission of Texas to make rules reasonably required in the exercise of its powers and jurisdiction, and Texas Civil Statutes Article 1446c, §28(a), which authorizes the Public Utility Commission of Texas to require reports from utilities.

§23.12. *Financial Records and Reports.*

(a) Uniform system of accounts. Every public utility shall keep uniform accounts as prescribed by the commission of all business transacted. The classification of utilities, index of accounts, definitions, and general instructions pertaining to each uniform system of accounts as amended from time to time shall be adhered to at all times, unless provided otherwise by these rules, or specifically permitted by the commission.

(1) Classification. For the purposes of accounting and reporting to the commission, each public utility shall be classified with respect to its annual operating revenues as follows:

(A) Telephone utilities:

(i) Class A: annual operating revenues exceeding \$1 million;

(ii) Class B: annual operating revenues less than \$1 million.

(B) (No change.)

(2) System of accounts. For the purpose of accounting and reporting to the commission, each public utility shall maintain its books and records in accordance with the following prescribed uniform system of accounts.

(A) Telephone utilities:

(i) Class A: uniform system of accounts as adopted and amended by the Federal Communications Commission for Class A utilities or other commission-approved system of accounts as will be adequately informative for all regulatory purposes;

(ii) Class B: uniform system of accounts as adopted and amended by the Federal Communications Commission for Class B utilities or other commission-approved system of accounts as will be adequately informative for all regulatory purposes.

(B) Electric utilities:

(i) Class A: uniform system of accounts as adopted and amended by the Federal Energy Regulatory Commission for Class A utilities or other commission-approved system of accounts as will be adequately informative for all regulatory purposes;

(ii) Class B: uniform system of accounts as adopted and amended by the Federal Energy Regulatory Commission for Class B utilities or other commission-approved system of accounts as will be adequately informative for all regulatory purposes;

(iii) Class C: uniform system of accounts as adopted and amended by the Federal Energy Regulatory Commission for Class C utilities or other commission-approved system of accounts as will be adequately informative for all regulatory purposes;

(iv) Class D: uniform system of accounts as adopted and amended by the Federal Energy Regulatory Commission for Class D utilities or other commission-approved system of accounts as will be adequately informative for all regulatory purposes.

(C) Other system of accounts. When a utility has adopted a uniform system of accounts as may be required by a state or federal agency other than those previously mentioned in this section (e.g.

United States Department of Agriculture-Rural Electrification Administration), that system of accounts may be adopted by the utility after notification to the commission.

(D) Merchandise accounting.

Each utility shall keep separate accounts to show all revenues and expenses resulting from the sale or lease of appliances, fixtures, equipment, directory advertising, or other merchandise.

(3)-(4) (No change.)

(b) Financial and operating reports. The following financial and operating reports shall be filed with the commission.

(1) Annual reports.

(A) Telephone utilities.

(i) (No change.)

(ii) All telephone utilities filing a consolidated system report with the Federal Communications Commission or operating in the State of Texas and other states, shall file a supplemental annual report on a form prescribed by the commission showing the total operation (interstate and intrastate combined) in Texas.

(B) Electric utilities.

(i) Each Class A and B electric utility shall file with the commission the same annual report required by the Federal Energy Regulatory Commission or United States Department of Agriculture-Rural Electrification Administration and a copy of all correspondence had with respect thereto. Such annual reports shall be filed with the commission on the same dates as required to be filed by the Federal Energy Regulatory Commission or United States Department of Agriculture-Rural Electrification Administration, whichever is applicable. Class A and B electric utilities which are not required to file such reports shall file with the commission an annual report on the form prescribed by the Federal Energy Regulatory Commission.

(ii) (No change.)

(C) Each utility shall submit to the commission three copies of its annual report to shareholders, customers, or members. Each utility or utility holding company subject to annual reporting to the Securities and Exchange Commission, shall file three copies of such annual report with the commission.

(2) Semi-annual and annual earnings reports. Each utility shall file with the commission earnings reports showing the information required by the commission to enable it to properly monitor telephone and electric utilities within the state. The semi-annual and annual reports shall be filed on a calendar year basis. Each utility shall file three copies of the commission-

prescribed earnings report and shall electronically transmit one copy of the report no later than the dates prescribed in §23.11 of this title (relating to General Reports).

(A) Telephone utilities.

(i) All telephone utilities except cooperatives. Each telephone utility except cooperatives shall file earnings reports on a semi-annual and annual basis.

(ii) Cooperatives. Each telephone cooperative shall file earnings reports on an annual basis.

(B) Electric utilities.

(i) Investor-owned utilities. Each investor-owned electric utility shall file earnings reports on a semi-annual and annual basis. However, for the monitoring period for January 1, 1989-December 31, 1989, each investor-owned utility shall file one earnings report on or before April 10, 1990. For the 1990 monitoring period and thereafter, each investor-owned electric utility shall file earnings reports on a semi-annual and annual basis.

(ii) Distribution Cooperatives, Generation and Transmission Cooperatives, and River Authorities. All electric distribution cooperatives, generation and transmission cooperatives, and river authorities shall file earnings reports on an annual basis.

(3) Quarterly shareholder reports. Each utility shall submit to the Commission three copies of its quarterly report to shareholders, customers, or members.

(4) Securities and Exchange Commission reports. Three copies of all 10-Ks, 10-Qs, 8-Ks, and Registration Statements filed with the Securities and Exchange Commission shall be submitted to the commission no later than 15 days from the initial filing date with the Securities Exchange Commission.

(5) Duplicate information. A utility shall not be required to file with the commission forms or reports which duplicate information already on file with the commission.

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

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

Issued in Austin, Texas on January 16, 1990.

TRD-9000575
Jo Campbell
Commissioner
Public Utility Commission
of Texas

Effective date: February 7, 1990

Proposal publication date: September 15, 1989

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

◆ ◆ ◆
**Part IV. Texas Department
of Licensing and
Regulation**

**Chapter 61. Labor/Licensing
and Enforcement Division**

Subchapter B. Wrestling

• **16 TAC §§61.201-61.207**

The Texas Department of Licensing and Regulation adopts the repeal of §§61.201-61.207, without changes to the proposed text as published in the September 5, 1989, issue of the *Texas Register* (14 TexReg 4528).

The repeals are in response to the passage of House Bill 863, which amended the Texas Boxing and Wrestling Act (Article 8501-1) to deregulate wrestling and to transfer licensing of wrestling promoters to the Secretary of State's Office effective September 1, 1989.

The function of the repeals is to comply with House Bill 863 and transfer licensing of wrestling promoters to the Secretary of State's Office.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 9100, which provide the Texas Department of Licensing and Regulation with the authority to deregulate wrestling and to transfer the licensing of wrestling promoters to the Secretary of State's Office.

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 January 10, 1990.

TRD-9000378 Larry E. Kosta
Acting Executive Director
Texas Department of
Licensing and
Regulation

Effective date: February 1, 1990

Proposal publication date: September 5, 1989

For further information, please call: (512) 463-3127

◆ ◆ ◆
Chapter 71. Child Labor

• **16 TAC §§71.1-71.6**

The Texas Department of Licensing and Regulation adopts the repeal of §§71.1-71.6, without changes to the proposed text as published in the September 5, 1989, issue of the *Texas Register* (14 TexReg 4534).

These sections are being repealed in response to the passage of House Bill 863 which transfers the administration of child labor program to the Texas Employment Commission as of September 1, 1989.

The function of these sections is to repeal obsolete rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 9100, which provide the Texas Department of Licensing and Regulation with the authority to transfer the administration of the child labor program to the Texas Employment Commission effective September 1, 1989.

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 January 10, 1990.

TRD-9000376 Larry E. Kosta
Acting Executive Director
Texas Department of
Licensing and
Regulation

Effective date: February 1, 1990

Proposal publication date: September 5, 1989

For further information, please call: (512) 463-3127

◆ ◆ ◆
**Chapter 77. Health Spa
Act/Labor, Licensing, and
Enforcement**

• **16 TAC §§77.1, 77.5, 77.9, 77.13,
77.17, 77.21**

The Texas Department of Licensing and Regulation adopts the repeal of §§77.1, 77.5, 77.9, 77.13, 77.17, and 77.21, without changes to the proposed text as published in the September 5, 1989, issue of the *Texas Register* (14 TexReg 4539).

These sections are being repealed in response to the passage of House Bill 863 which transfers administration of the health spa program to the Secretary of State's Office as of September 1, 1989.

The repeal of obsolete rules is the function of the sections.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 9100, which provide the Texas Department of Licensing and Regulation with the authority to transfer administration of the health spa program to the Secretary of State's Office.

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 January 10, 1990.

TRD-9000377 Larry E. Kosta
Acting Executive Director
Texas Department of
Licensing and
Regulation

Effective date: February 1, 1990

Proposal publication date: September 5, 1989

For further information, please call: (512) 463-3127

**Chapter 79. Vehicle Storage
Facilities**

• **16 TAC §§79.1, 79.3, 79.5, 79.9,
79.13, 79.21, 79.25, 79.29, 79.33,
79.37, 79.39, 79.41**

The Texas Department of Licensing and Regulation adopts the repeal of §§79.1, 79.3, 79.5, 79.9, 79.13, 79.21, 79.25, 79.29, 79.33, 79.37, 79.39, and 79.41, without changes to the proposed text as published in the July 4, 1989, issue of the *Texas Register* (14 TexReg 3273).

The repeals are adopted to allow new proposed rules to provide greater clarity and consistency for persons who operate a vehicle storage facility.

These sections are being repealed so new rules can comply with House Bill 863.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 6687-9a, which provide the Texas Department of Licensing and Regulation with the authority to adopt rules establishing requirements for the licensing of persons who operate vehicle storage facilities.

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 January 10, 1990.

TRD-9000379 Larry E. Kosta
Acting Executive Director
Texas Department of
Licensing and
Regulation

Effective date: February 5, 1990

Proposal publication date: July 4, 1989

For further information, please call: (512) 463-3127

◆ ◆ ◆
• **16 TAC §§79.1, 79.10, 79.20,
79.30, 79.40, 79.70-79.73, 79.80,
79.81, 79.83, 79.90-79.94, 79.100,
79.101, 79.102**

The Texas Department of Licensing and Regulation adopts new §§79.1, 79.10, 79.20, 79.30, 79.40, 79.70-79.73, 79.80, 79.81, 79.83, 79.90-79.94, 79.100, 79.101 and 79.102. Sections 79.1, 79.10, 79.20, 79.72, 79.73, 79.90, 79.91, 79.94, and 79.100 are adopted with changes to the proposed text as published in the October 6, 1989, issue of the *Texas Register* (14 TexReg 5328). Sections 79.30, 79.40, 79.70, 79.71, 79.80, 79.81, 79.83, 79.92, 79.93, 79.101, and 79.102 are adopted without changes and will not be republished.

The new sections will allow for the compliance of House Bill 863 in relation to vehicle storage facilities, uniform department numbering system, and reorganization of the sections to conform with other department rule format.

The new sections will provide for clarity and consistency concerning the requirements for operation of a vehicle storage facility.

Comments received were generalized questions concerning insurance and city zoning.

The City of Austin was both in favor and opposed to certain provisions of the new sections.

The agency did add language to clarify insurance requirements and language that dealt with other statutes and administrative rules and city ordinances.

The new sections are adopted under Texas Civil Statutes, Articles 6687-9a and 9100, which provide the Texas Department of Licensing and Regulation with the authority to adopt rules establishing requirements for the licensing of persons to operate vehicle storage facilities.

§79.1. Authority. The sections in this chapter are promulgated under the Vehicle Storage Facility Act (Texas Civil Statutes, Article 6687-9a) and Texas Civil Statutes, Article 9100.

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

Act—The Vehicle Storage Facility Act, Texas Civil Statutes, Article 6687-9a, relating to vehicle storage facilities.

Commission—The commission of the Texas Department of Licensing and Regulation.

Commissioner—The commissioner of the Texas Department of Licensing and Regulation.

Day—A calendar day.

Department—The Texas Department of Licensing and Regulation.

Fence—An enclosure of wood, chain link, iron, concrete, masonry, or other department-approved construction placed around a space used to store vehicles and designed to prevent intrusion and escape.

Principal—An individual who:

(A) holds personally, or as a beneficiary of a trust, or by other constructive means:

(i) 10% of a corporation's outstanding stock; or

(ii) more than \$25,000 of the fair market value of a business;

(B) has the controlling interest in a business;

(C) has a participating interest of more than 10% in the profits, proceeds, or capital gains of a business, regardless of whether the interest is direct or indirect, is through share, stock, or any other manner, or includes voting rights;

(D) is a member of the board of directors or other governing body of a business; or

(E) serves as an elected officer of a business.

Vehicle—A motor vehicle subject to registration under the Certificate of Title Act, Texas Civil Statutes, Article 6687-1, or any other device designed to be self-propelled or transported on a public highway and which is towed or transported to a vehicle storage facility without the owner's consent.

Vehicle owner—A vehicle owner is:

(A) a person in whose name the vehicle is registered under the Certificate of Title Act, Texas Civil Statutes, Article 6687-1;

(B) a person in whose name the vehicle is registered under General Laws, Acts of the 41st Legislature, Second Called Session, 1929, Chapter 88, Texas Civil Statutes, Article 6675-2, §2, or a member of the person's immediate family;

(C) a person who holds the vehicle through a valid lease agreement; or

(D) an unrecorded lienholder with right to possession.

Vehicle storage facility—A garage, parking lot, or any facility owned or operated by a person other than a governmental entity for storing or parking 10 or more vehicles. Ten or more vehicles shall mean the capacity to park or store 10 or more vehicles a year.

§79.20. Licensing Requirements.

(a) A person must hold a current license issued by the commissioner in order to operate a vehicle storage facility.

(b) A license to operate a vehicle storage facility is not transferrable or assignable.

(c) license to operate a vehicle storage facility issued by the commissioner is valid only for the physical location indicated on the license.

(d) An application for a license to operate a vehicle storage facility must be made under oath and must contain:

(1) a list of felony convictions and misdemeanor convictions for which the maximum punishment is confinement in jail or a fine exceeding \$500, that were obtained against the applicant, a partner, a principal, or the general manager or an officer of the applicant, during the three years immediately preceding the date of the application;

(2) the name and address of each partner, if the applicant is a partnership;

(3) the name and address of each corporate officer, if the applicant is a corporation;

(4) the names of all owners of the vehicle storage facility and the percentage of ownership interest each holds in the facility;

(5) the name of the operator/manager of the vehicle storage facility if it is not operated/managed by one of the owners;

(6) the facility's physical address, mailing address, and telephone number;

(7) the vehicle storage facility's storage capacity;

(8) if applicable, the height of the fence enclosing the vehicle storage facility and the date it was installed;

(9) a statement indicating whether or not the facility has an all weather surface as required by §79.100 of this title (relating to Technical Requirements);

(10) a statement indicating whether or not the facility has the signs posted in the proper locations required by §79.100 of this title (relating to Technical Requirements); and

(11) a statement indicating whether or not the facility has the lighting required by §79.100 of this title (relating to Technical Requirements).

(e) A corporation's application must be signed and sworn to by its president and secretary.

(f) Each license issued by the commissioner under this Act expires on the anniversary date of when it is issued.

(g) A licensee may apply annually, on a form provided by the department, to renew the license.

(h) If a renewal application is not submitted before a license expires, the license may not be renewed.

(i) An individual, partnership, or corporation whose license expires and is not renewed must apply for a new license if the vehicle storage facility is still in business.

§79.72. Responsibilities of the Licensee—Documentation.

(a) Each licensee shall keep written records on each vehicle kept or stored at the vehicle storage facility. These records shall contain:

(1) the year, make, model, color, correct license plate number, state issuing the license, and correct vehicle identification number of the vehicle;

(2) the date, time, and location from which the vehicle was towed, and who authorized the tow;

(3) the name of the tow truck driver, the tow truck's regular and tow truck license plate numbers, and the name of the company that towed the vehicle;

(4) the date the vehicle was released and the name of the individual to whom the vehicle was released;

(5) the date if any vehicle transfer, and the address of the location to which it was transferred along with the name of the towing company and tow truck driver who made the transfer;

(6) a copy of any certificate of title issued after the vehicle came into the possession of the vehicle storage facility, any certificate of authority to demolish, any police auction sales receipt, or any transfer document issued by the State of Texas for the vehicle if vehicle ownership has been transferred due to any action of the vehicle storage facility or the vehicle has been disposed of or demolished; and

(7) all amounts received at the time the vehicle was released, including the specific nature of each charge.

(b) Documentation may be kept in the form of wrecker tickets and wrecker slips if all required information is recorded on those tickets and slips.

(c) All required documentation shall be made available by the licensee, his agent, or his employee for inspection and copying upon request by department personnel, or a certified law enforcement officer within his jurisdiction, during the same hours the vehicle storage facility must ensure that vehicles are available for release to the vehicle owner.

(d) Required records shall be kept under the care and custody of the licensee for at least two years from the date the vehicle was received.

(e) When a person demonstrates ownership or right to possession of a motor vehicle stored at a vehicle storage facility:

(1) the person or his/her authorized representative shall be entitled to inspect a copy of the wrecker slip or wrecker ticket for the motor vehicle and shall not be required to pay any fees or charges before doing so. Placing the slip or ticket behind a glass enclosure for the person to inspect satisfies this requirement;

(2) the person, or his/her authorized representative, shall have access to, and be allowed to remove, any personal belongings in the vehicle, unless otherwise indicated by a certified law enforcement officer. The storage facility must require a receipt from the person to whom the personal belongings are released for any such property removed from the stored vehicle by the vehicle owner or authorized representative; and

(3) the person or his/her authorized representative shall have access, during normal business hours, to the vehicle for the purposes of insurance and/or repair estimates.

§79.73. Responsibilities of the Licensee—Vehicle Transfers.

(a) When a motor vehicle has been delivered to a storage facility, the vehicle may not be moved from that facility within the first 31 days of storage without the vehicle owner's authorization. If it becomes necessary to move the vehicle during the first 31 days of storage because of storage facility capacity problems, neither the registered vehicle owner or recorded lienholder(s) may be assessed an additional charge. The vehicle storage facility must send notice in accordance with §79.70(b) of this title (relating to Responsibilities of the Licensee—Accepting Vehicles for Storage), except that the notice must be sent no less than 72 hours prior to moving the vehicle.

(b) If a vehicle is moved from storage facility, the licensee shall:

(1) charge only those fees otherwise permitted by §79.101 of this title (relating to Technical Requirements—Storage Fees/Charges) after the vehicle is towed to another location without the vehicle owner's permission;

(2) comply with all provisions of Texas Civil Statutes, Article 6701g-3, relating to the rights of the owner of a stored vehicle;

(3) allow the vehicle owner or his/her authorized representative to obtain possession of the vehicle upon presentation of any one of the following:

(A) a notarized power-of-attorney;

(B) a department-approved affidavit of right of possession;

(C) a court order;

(D) a title;

(E) a tax collector's receipt and a license plate renewal card accompanied by a conforming I.D.;

(F) notarized proof of loss claim of theft from an insurance company to show a right to possession, and payment of all fees, at any time between the hours posted on the sign at the location where the vehicle is stored; or

(G) positive name and address information corresponding to that contained in the files of the Motor Vehicle Division of the Texas Department of Highways and Public Transportation and payment of all fees, at any time between the hours posted on the sign at the location where the vehicle is stored;

(4) retain records and inform the vehicle owner upon request of the location where the vehicle is at all times from the date on which the vehicle is transferred from the vehicle storage facility until such time as the vehicle is recovered by the vehicle owner or a new certificate of title, a certificate of authority to demolish, a police auction sales receipt, or a transfer document is issued by the State of Texas; and

(5) maintain a record of the ultimate disposition of the vehicle, including the date and name of the person to whom the vehicle is released or a description of the document under which the vehicle was sold or demolished.

§79.90. Sanctions—Administrative Sanctions.

(a) If a licensee, a partner of a licensee, a principal in the licensee's business, or an employee of the licensee, with the licensee's knowledge, violates the Act, or a rule or order promulgated under the Act, the commissioner shall:

(1) issue a written warning to the licensee specifying the violation;

(2) deny, revoke, or suspend a license; or

(3) place a person on probation whose license has been suspended.

(b) If a suspension is probated, the commissioner may require the person to:

(1) report regularly to the commissioner on matters that are the basis of the probation; or

(2) limit practice to the areas prescribed by the commissioner.

(c) If, after investigation of a possible violation and the facts surrounding that possible violation, the commissioner determines that a violation has occurred, the commissioner shall issue a preliminary report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative sanction be imposed on the person charged, and recommending the precise nature and conditions, if any, of that proposed sanction. The commissioner shall base the recommended sanction, and any accompanying conditions, on the following factors:

(1) the seriousness of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts made to correct the violation; and

(5) any other matters that justice may require.

(d) Not later than the 14th day after the day on which the preliminary report is

issued, the commissioner shall give written notice of the violation to the person charged. The notice shall include:

(1) a brief summary of the charges;

(2) a statement of the proposed sanction, and any accompanying conditions; and

(3) a statement of the right of the person charged to a hearing on the occurrence of the violation and the sanction and any terms thereof.

(e) Not later than the 20th day after the date on which the notice is received, the person charged may accept the determination of the commissioner made under this rule, including the recommended sanction and all accompanying conditions, or make a written request for a hearing on that determination.

(f) If the person charged with the violation accepts the determination of the commissioner, the commissioner shall issue an order approving the determination and ordering that the recommended sanction and accompanying conditions be imposed upon that person.

(g) If the person charged fails to respond in a timely manner to the notice, or if the person requests a hearing, the commissioner shall set a hearing, give written notice of the hearing to the person, and designate a hearings examiner to conduct the hearing.

(h) If an administrative hearing is held, and the person wishes to dispute the administrative sanction imposed, not later than the 30th day after the date on which the decision is final as provided by the Administrative Procedure and Texas Register Act, §16(c) (Texas Civil Statutes, Article 6252-13a), the person charged shall file a petition for judicial review contesting the fact of the violation and/or the administrative sanction. Judicial review is subject to the substantial evidence rule and shall be instituted by filing a petition with a Travis County district court as provided by the Administrative Procedure and Texas Register Act, §19 (Texas Civil Statutes, Article 6252-13a). A motion for rehearing is a prerequisite to appeal under this section.

§79.91. Sanctions—Administrative Penalty/Fine.

(a) If a person violates the Act, or a rule or order adopted or issued by the commissioner relating to the Act, the commission may, in addition to or in lieu of a sanction imposed under §79.90 of this title (relating to Sanctions—Administrative Sanctions), assess an administrative penalty in an amount not to exceed \$1,000 for each violation.

(b) A penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(c) If, after investigation of a possible violation and the facts surrounding that possible violation, the commissioner determines that a violation has occurred, the commissioner shall issue a preliminary report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative penalty not to exceed \$1,000 for each violation be imposed on the person charged, and recommending the amount of that proposed penalty. The commissioner shall base the recommended amount of the proposed penalty on the following factors:

(1) the seriousness of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts made to correct the violation; and

(5) any other matters that justice may require.

(d) Not later than the 14th day after the day on which the preliminary report is issued, the commissioner shall give written notice of the violation to the person charged. The notice shall include:

(1) a brief summary of the charges;

(2) a statement of the amount of the penalty recommended; and

(3) a statement of the right of the person charged to a hearing on the occurrence of the violation and the amount of the penalty.

(e) Not later than the 20th day after the date on which the notice is received, the person charged may accept the determination of the commissioner made under this rule, including the recommended penalty, or make a written request for a hearing on that determination.

(f) If the person charged with the violation accepts the determination of the commissioner, the commissioner shall issue an order approving the determination and ordering that the person pay the recommended penalty.

(g) If the person charged fails to respond in a timely manner to the notice, or if the person requests a hearing, the commissioner shall set a hearing, give written notice of the hearing to the person, and designate a hearings examiner to conduct the hearing.

(h) If an administrative hearing is held, not later than the 30th day after the date on which the decision is final as provided by the Administrative Procedure and Texas Register Act, §16(c) (Texas Civil Statutes, Article 6252-13a), the person charged shall:

(1) pay the penalty in full; or

(2) file a petition for judicial review contesting the fact of the violation and/or the administrative penalty/fine. Judicial review is subject to the substantial evidence rule and shall be instituted by filing a petition with a Travis County district court as provided by the Administrative Procedure and Texas Register Act, §19 (Texas Civil Statutes, Article 6252-13a). A motion for rehearing is a prerequisite for appeal under this section. If this petition for judicial review is filed, the person must forward the amount of the administrative penalty/fine to the department for deposit in an escrow account, or post a supersedeas bond with the department in the amount of the penalty/fine, until judicial review is final.

(i) A person charged with a penalty who is financially unable to comply with subsection (h)(2) of this section is entitled to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(j) Except as provided by subsection (i) of this section, failure to forward the amount possessed or post the bond with the department, in the manner and within the period prescribed by the department, results in a waiver of legal rights to judicial review. If the person charged fails to forward the amount assessed or post the bond, the commissioner or the attorney general may bring an action for the collection of the penalty.

§79.94. Sanctions—Revocation or Suspension because of a Criminal Conviction.

(a) The commissioner may revoke, suspend, or deny a license issued under the Act, or place a person on probation whose license has been suspended, if the commissioner determines that a licensee, a partner of the licensee, a principal in the licensee's business, or an employee of the licensee has been finally convicted of:

(1) a felony; or

(2) a misdemeanor that:

(A) is punishable by confinement or by a fine exceeding \$500; and

(B) directly relates to a duty or responsibility of a vehicle storage facility operator.

(b) The commissioner may also, after hearing, suspend, revoke, or deny a certificate of registration because of a person's felony probation revocation, parole revocation, or revocation of mandatory supervision.

(c) In determining whether a criminal conviction directly relates to the operation of a vehicle storage facility, the commissioner shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the operation and of a vehicle storage facility;

(3) the extent to which a certificate of registration might offer an opportunity to engage in further criminal activity of the same type as that in which the person was previously involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of operating a vehicle storage facility.

(d) In determining the present fitness of a person who has been convicted of a crime, the commissioner shall also consider:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person at the time of the commission of the crime;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person prior to and following the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) other evidence of the person's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person.

(e) It shall be the responsibility of the applicant, to the extent possible, to secure and provide the department the recommendations of the prosecution, law enforcement, and correctional authorities as required.

(f) The applicant shall also furnish proof, in such form as may be required by the department, that he or she has maintained a record of steady employment, has supported his or her dependents per court order, has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted.

§79.100. Technical Requirements. Each vehicle storage facility:

(1) shall notify consumers and service recipients of the name, mailing address, and telephone number of the depart-

ment for purposes of directing complaints to the department. The licensee may use a sticker or rubber stamp to convey the required information. The notification shall be included on:

(A) any written wrecker slip or ticket;

(B) a sign prominently displayed at the place of payment; or

(C) any bill for service;

(2) if not enclosed by a five foot high fence on or before September 1, 1985, shall be completely enclosed by a fence at least six feet high with a gate which is locked at all times the licensee or an agent or employee is not at the storage lot;

(3) shall have an all-weather surface such as concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel, shell, or caliche, that enables the safe and effective movement of stored vehicles upon all portions of the lot, both under their own power and under tow, at all times, regardless of prevailing weather conditions;

(4) shall have a clearly visible and readable sign at its main entrance setting out the name of the storage lot, the street address, the telephone number, the hours, within one hour of which, vehicles will be released to vehicle owners, and the storage lot's state license number preceded by either the phrase "VSF License Number", "License Number", "State License Number" or "TDLR Number";

(5) must have vehicles available for release 24 hours a day within one hour's notice if it accepts vehicles 24 hours a day;

(6) if it does not accept vehicles 24 hours a day, must have vehicles available for release within one hour between the hours of 8 a.m. and 12 a.m. Monday-Saturday and from 8 a.m.-5 p.m. on Sundays except for nationally recognized holidays. It is not the intent of this section to require release of vehicles after 12 a.m., and refusal to release after that time, even with notice after 11 p.m., is not a violation of this section;

(7) shall post on its sign a telephone number for the vehicle owner to contact in order to obtain release of the vehicle;

(8) shall have a sign setting out the per diem charge for storage and all other fees which may be charged by the storage lot, including administrative and preservation/pound fees. This sign shall be located so it is clearly visible to a vehicle owner prior to paying the fees;

(9) shall have a publicly listed and operable telephone where the licensee can be contacted. If the telephone number is changed from the number set out in the

vehicle storage license application, the licensee shall give the department written notice of the change prior to the date the new number is used. The notice shall include the storage lot's name, its location, its license number, the old telephone number, and the new telephone number;

(10) shall maintain illumination levels adequate for nighttime release of vehicles. Adequate shall mean sufficient to allow inspection of a vehicle for damage at the time of release. At a minimum, there must be one lighting fixture containing at least a 250 watt element for each 1/4 acre of storage area;

(11) shall not permit any tow truck which is not registered and displaying the required Texas Tow Truck license plate per the provisions of the Texas Tow Truck Act, Texas Civil Statutes, Article 6687-9b, and the administrative rules promulgated thereunder, to enter onto the grounds of the facility.

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

Issued in Austin, Texas, on January 11, 1990.

TRD-9000375

Larry E. Kosta
Acting Executive Director
Texas Department of
Licensing and
Regulation

Effective date: February 5, 1990

Proposal publication date: October 6, 1989

For further information, please call: (512) 463-3127

◆ ◆ ◆
TITLE 25. HEALTH SERVICES
Part I. Texas Department of Health
Chapter 115. Home Health Care Agencies

Licensing and Regulation

• **25 TAC §§115.2, 115.5, 115.8, 115.9, 115.12**

The Texas Department of Health adopts the amendments to §§115.2, 115.5, 115.8, 115.9, and 115.12. Sections 115.2, 115.8, 115.9, and 115.12 are adopted with changes to the proposed text as published in the September 26, 1989, issue of the *Texas Register* (14 Tex Reg 5018). Section 115.5 is adopted without changes and will not be republished. The department will adopt the proposed amendments to §115.10 and §115.15 and the new §115.19 at a later date.

In the December 26, 1989, issue of the *Texas Register* (14 TexReg 6885) amendments to §§115.2, 115.5, 115.8-115.10, and 115.12 were published as submitted in error by the Texas Department of Health. The published adopted rules are not the rules approved by the Board of Health at its December meeting

and therefore are invalid. A correction of error statement for these amendments is published in the In Addition section of this issue of the Texas Register. In order to prevent confusion the text of the amendments approved by the Board of Health is being published in this section of the Texas Register. The department apologizes for any inconvenience this may have caused.

The amendments incorporate statutory language in the definitions and the application and issuance of temporary license section. The amendments require agencies to comply with state law concerning criminal history checks and provide clarification regarding the department's action to deny, suspend, or revoke an agency's license.

Concerning §115.8, conditions of annual license, in subsection (i) the citation to Chapter 106 was changed to the correct citation; §75.1001. To clarify how the agency would demonstrate compliance with the criminal history checks, the department has added language stating the agency is to maintain documentation to show compliance with criminal history checks of applicants.

Concerning §115.9, standards for a Class A license, an editorial change was made to reference the new citation of 42 Code of Federal Regulations Part 484.

Concerning §115.12, license denial, suspension, or revocation, in subsection (b)(3), the citation to Chapter 106 was changed to the correct citation, §75.1001.

All references to home health medication aides have been deleted from these sections. Requirements relating to home health medication aides will be adopted in the amendments to §115.10 and §115.15 and new §115.19 at a later date.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Health and Safety Code, §142.012, which provides the Board of Health with the authority to adopt rules concerning home health agencies; and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health and the commissioner of health.

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

Certified agency—A person who provides a home health service and is certified by an official of the Department of Health and Human Services indicating compliance with conditions of participation in the Social Security Act, Title XVIII.

Home health service—The provision of a health service for pay or other consideration in a patient's residence, but does not include the provision of care under an attendant care program administered by the Texas Department of Human Services.

§115.8. Conditions of Annual License.

(a)-(h) (No change.)

(i) A Class A or Class B home health agency shall comply with Human Resources Code, Title 6, Chapter 106, requiring criminal conviction checks of certain home health agency employees, and the rules adopted by the Texas Department of Human Services under 40 TAC §75.1001 et seq. Documentation shall be maintained by the agency to show compliance with criminal history checks of applicants.

§115.9. Standards for a Class A License. A Class A agency shall meet the conditions of participation as either a home health agency or a hospice in the insurance program for the aged within the meaning of the Social Security Act and the regulations adopted thereunder (42 Code of Federal Regulations Part 484 or §418.1 et seq.), which regulations are adopted by reference herein for all purposes. Copies of the regulations adopted by reference in this section are indexed and filed in the Health Facility Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

§115.12. License Denial, Suspension, or Revocation.

(a) (No change.)

(b) The department may also take action under subsection (a) of this section:

(1) if a Class A agency's provider agreement under the Social Security Act, Title XVIII, has been terminated by the certifying body, Health Care Financing Administration, or if the agency withdraws its certification or its request for certification, the department may suspend or revoke the license of a Class A home health agency that fails to maintain its certification qualifying the agency as a certified agency. A Class A home health agency that submits a request for a hearing as provided by this section is governed by the requirements of the statute or this chapter relating to a Class B home health agency until suspension or revocation is finally determined by the department or, if the license is suspended or revoked, until the last day for seeking review of the department order or a later date fixed by order of the reviewing court;

(2) for fraud, misrepresentation, or concealment of a material fact on any documents required to be submitted to the department or required to be maintained by the agency pursuant to this chapter; or

(3) if the agency fails to comply with the Human Resources Code, Title 6, Chapter 106, and the rules adopted by the Texas Department of Human Services under 40 TAC §75.1001 et seq.

(c) The department may suspend or revoke an existing valid license or disqualify a person from receiving a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the licensed occupation.

(1) In determining whether a criminal conviction directly relates to an occupation, the department shall consider:

(A) (No change.)

(B) the relationship of the crime to the purposes for requiring a license to engage in the occupation. The following felonies and misdemeanors relate to the licensing of an agency because these criminal offenses indicate an inability or a tendency to be unable to own or operate an agency:

(i) the misdemeanor of knowingly or intentionally acting as an agency without an appropriate license issued under the statute;

(ii) a misdemeanor and/or felony offense involving moral turpitude;

(iii) a misdemeanor and/or felony offense under various titles of the Texas Penal Code:

(I) Title 5, concerning offenses against the person;

(II) Title 7, concerning offenses against property;

(III) Title 9, concerning offenses against public order and decency;

(IV) Title 10, concerning offenses against public health, safety, and morals; and

(V) Title 4, concerning offenses of attempting or conspiring to commit any of the offenses in clauses (i)-(iii) of this subparagraph;

(iv) the misdemeanors and felonies listed in clauses (i)-(iii) of this subparagraph. The misdemeanors and felonies are not inclusive in that the department may consider other particular crimes in special cases in order to promote the intent of the statute and this chapter;

(C) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of an agency.

(2) (No change.)

(3) If the department denies, suspends, or revokes a license under this section, the director shall give the person written notice:

(A) of the reasons for the decision;

(B) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County, for review of the evidence presented to the department and its decision;

(C) that the person must begin the judicial review by filing a petition with the court within 30 days after the department's action is final and appealable; and

(D) of the earliest date that the person may appeal.

(d) Upon a licensee's felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory supervision, his license shall be revoked.

(e) If the director proposes to deny, suspend, or revoke a license the director shall notify the agency by certified mail, return receipt requested, of the reasons for the proposed action and offer the agency an opportunity for a hearing.

(1) The agency must request a hearing within 30 days of receipt of the notice.

(2) The request for home health licensure hearing must be in writing and submitted to the Director, Health Facility Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(3) A hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §§1.21-1.34 of this title (relating to Formal Hearing Procedures).

(4) If the agency, does not request a hearing, in writing, within 30 days of receipt of the notice, the agency, is deemed to have waived the opportunity for a hearing and the proposed action shall be taken.

(f)-(i) (No change.)

(j) If the department suspends a license, the suspension shall remain in effect until the department determines that the reason for suspension no longer exists. The authorized representative of the department shall investigate prior to making a determination.

(1) During the time of suspension, the suspended license holder shall return his or her license to the department.

(2) If a suspension overlaps a renewal date, the suspended license holder may comply with the renewal procedures in this chapter; however, the department may not renew the license until the department determines that the reason for suspension no longer exists.

(k) If the department revokes or does not renew a license, a person may reapply for a license by complying with the requirements and procedures in this chapter at the time of reapplication.

(1) The department may refuse to issue a license if the reason for revocation or nonrenewal continues to exist.

(2) Upon revocation or nonrenewal, a license holder shall return the license to the department.

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 January 16, 1990.

TRD-9000536 Robert A. MacLean, M.D.
Deputy Commissioner for
Professional Services
Texas Department of
Health

Effective date: January 10, 1990.

Proposal publication date: September 26, 1989.

For further information, please call: (512) 458-7245

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 103. Procedural Rules

Adjudicative Hearings

• 31 TAC §103.42

The Texas Air Control Board (TACB) adopts an amendment to §103.42, without changes to the proposed text as published in the September 1, 1989, issue of the *Texas Register* (14 TexReg 4454). The section is amended by the addition of two new subsections. The first allows enforcement under the Administrative Procedure and Texas Register Act for failure to comply with a subpoena or commission issued by an examiner. The second subsection permits an examiner to impose sanctions if a party abuses an examiner's order.

A public hearing was held on September 26, 1989, in Austin and testimony was received from one commenter who opposed the proposal. The following is a discussion of his comments.

An individual requested that a definition of failure to comply with an examiner's order be included with the two new subsections in §103.42. The commenter expressed concern

that a TACB examiner could use the specified sanctions as an instrument of punishment against citizens or environmental groups participating in a hearing. Failure to comply would be nearly impossible to define within the rule language of this section due to the variability of cases and individual parties involved in cases. The sanctions will allow an examiner to deal on a case-by-case basis with an egregious situation in which a party, on either side, refuses to cooperate without a showing of good cause. The purpose of the sanctions is certainly not to inflict punishment, but rather to expedite the proceedings of the hearing.

The amendment is adopted under the Texas Clean Air Act (TCAA), §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 January 15, 1990.

TRD-9000465 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 5, 1990

Proposal publication date: September 1, 1989

For further information, please call: (512) 451-5711 ext. 354

Adjudicative Hearing

• 31 TAC §103.66

The Texas Air Control Board (TACB) adopts new §103.66, without changes to the proposed text as published in the September 1, 1989, issue of the *Texas Register* (14 TexReg 4484). The new section, concerning legislative continuances, establishes procedures for ruling upon any motion filed by a member of the Texas Legislature for a hearing continuance based on that member's obligation to attend his or her legislative duties.

A public hearing was held on September 26, 1989, in Austin and testimony was received from two commenters during the comment period. Chevron U.S.A., Incorporated and an individual opposed the proposal. The following is a discussion of their comments.

The individual commenter objected to the allowance of a legislative continuance unless the legislator in question is a key lawyer in the case. Further, he asserted that the only purpose of a legislative continuance is to slow the hearing process in favor of polluters. The section wording is virtually a direct quotation of rule number 254 of the Texas Rules of Civil Procedure. Rule number 254 is recognized and used by hearings examiners in Texas out of respect for elected public officials in the Texas Legislature and applies to all legislators, not just those who are attorneys. As to whether a party is a key party in a case, all parties admitted to a hearing by a TACB examiner are considered by the examiner to have equal status, with no one party holding a higher level of importance than another. Finally, the commenter suggested that the TACB develop criteria for the allowance of a legislative continuance. The text of the new

section appears to contain adequate criteria for that purpose.

Chevron U.S.A., Incorporated opposed the new §103.66 contending that a delay in the permitting process may cause a negative economic effect on a proposed project and that a legislative continuance could be used to slow or block the issuance of a permit. The commenter's statements overlook the specific purpose of a legislative continuance and the fact that a permit application hearing, in itself, with or without a continuance, constitutes a delay to a permit applicant. The commenter asserted further that there are many non-legislator attorneys available for participation in permit application hearings. The comment is immaterial and ignores the fact that the individual who applies for a continuance does not have to be a lawyer, only a member of the legislature who is a party to the hearing.

The new section is adopted under the Texas Clean Air Act (TCAA), §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 January 15, 1990.

TRD-9000466 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 5, 1990

Proposal publication date: September 1, 1989

For further information, please call: (512) 451-5711, ext. 354

Chapter 115. Control of Air Pollution From Volatile Organic Compounds

Counties in Other Than Ozone Nonattainment Areas

• 31 TAC §115.1

The Texas Air Control Board (TACB) adopts the repeal of §§115.1 without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3511).

The purpose of the repeal is to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeal.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeal is adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000545 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

Storage of Volatile Organic Compounds in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, and Travis Counties

• 31 TAC §§115.11-115.14

The Texas Air Control Board (TACB) adopts the repeal of §§115.11-115.14, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3512).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000546 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

Loading and Unloading Facilities in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, and Travis Counties

• 31 TAC §115.21, §115.22

The Texas Air Control Board (TACB) adopts the repeal of §115.21, §115.22, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3512).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000537 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

Water Separation in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, and Travis Counties

• 31 TAC §115.31, §115.32

The Texas Air Control Board (TACB) adopts the repeal of §115.31 and §115.32, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3513).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000538 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Vent Gas Control in Aransas,
Bexar, Calhoun, Hardin,
Matagorda, Montgomery,
San Patricio, and Travis
Counties**

◆ ◆ ◆
• 31 TAC §§115.41-115.45

The Texas Air Control Board (TACB) adopts the repeal of §§115.41-115.45, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3513).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000539 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

**Storage of Crude Oil or
Condensate in Hardin,
Matagorda, Montgomery,
and San Patricio Counties**

◆ ◆ ◆
• 31 TAC §115.61, §115.62

The Texas Air Control Board (TACB) adopts the repeal of §115.61 and §115.62, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3514).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000540 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Exemption in Aransas, Bexar,
Calhoun, Hardin, Matagorda,
Montgomery, San Patricio,
and Travis Counties**

◆ ◆ ◆
• 31 TAC §§115.81

The Texas Air Control Board (TACB) adopts the repeal of §§115.81 without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3514).

The purpose of the repeal is to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeal.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeal is adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000541 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Compliance in Aransas, Bexar,
Calhoun, Hardin, Matagorda,
Montgomery, San Patricio,
and Travis Counties**

◆ ◆ ◆
• 31 TAC §115.91

The Texas Air Control Board (TACB) adopts the repeal of §115.91 without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3515).

The purpose of the repeal is to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeal.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeal is adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000542 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

Storage of Volatile Organic Compounds in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

• **31 TAC §§115.101-115.106**

The Texas Air Control Board (TACB) adopts the repeal of §§115.101-115.106, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3515).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000543 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
Facilities for Loading and Unloading of Volatile Organic Compounds in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces Orange, Tarrant, and Victoria Counties

• **31 TAC §§115.111-115.113**

The Texas Air Control Board (TACB) adopts the repeal of §§115.111-115.113, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3516).

The purpose of the repeals is to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of

comments as being for or against a proposal. No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000544 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
Gasoline Bulk Plants in Harris County

• **31 TAC §§115.121-115.123**

The Texas Air Control Board (TACB) adopts the repeal of §§115.121-115.123, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3516).

The purpose of the repeals is to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000547 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

Filling of Gasoline Storage Vessels (Stage 1) For Motor Vehicle Fuel Dispensing Facilities in Brazoria, Dallas, El Paso, Galveston, Harris, and Tarrant Counties

• **31 TAC §§115.131, 115.132, 115.134, 115.135**

The Texas Air Control Board (TACB) adopts the repeal of §§115.131, 115.132, 115.134, and 115.135, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3517).

The purpose of the repeals is to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000548 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
Water Separation in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

• **31 TAC §§115.141-115.144**

The Texas Air Control Board (TACB) adopts the repeal of §§115.141-115.144, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3517).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000549 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Process Unit Turnaround and
Vacuum-Producing Systems
in Petroleum Refineries in
Brazoria, Dallas, El Paso,
Galveston, Gregg, Harris,
and Jefferson, Nueces,
Orange, Tarrant, and
Victoria Counties**

◆ ◆ ◆
• 31 TAC §§115.151-115.153

The Texas Air Control Board (TACB) adopts the repeal of §§115.151-115.153, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3518).

The purpose of the repeals is to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000550 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Vent Gas Control in Brazoria,
Dallas, El Paso, Galveston,
Harris, Jefferson, Nueces,
Orange, Tarrant, and
Victoria Counties**

◆ ◆ ◆
• 31 TAC §§115.161-115.164

The Texas Air Control Board (TACB) adopts the repeal of §§115.161-115.164, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3518).

The purpose of the repeals is to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000551 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Specified Solvent-using
Processes in Brazoria,
Dallas, El Paso, Galveston,
Gregg, Harris, Jefferson,
Nueces, Orange, Tarrant,
and Victoria Counties**

◆ ◆ ◆
• 31 TAC §§115.171-115.176

The Texas Air Control Board (TACB) adopts the repeal of §§115.171-115.176, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3519).

The purpose of the repeals is to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000553 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Surface Coating Processes in
Brazoria, Dallas, El Paso,
Galveston, Gregg, Harris,
Jefferson, Nueces, Orange,
Tarrant, and Victoria
Counties**

◆ ◆ ◆
• 31 TAC §§115.191-115.194

The Texas Air Control Board (TACB) adopts the repeal of §§115.191-115.194, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3520).

The purpose of the repeals is to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000554 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990
Proposal publication date: July 21, 1989
For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Graphic Arts (Printing) by
Rotogravure and
Flexographic Processes in
Brazoria, Dallas, El Paso,
Galveston, Gregg, Harris,
Jefferson, Nueces, Orange,
Tarrant, and Victoria
Counties**

• **31 TAC §§115.201-115.203**

The Texas Air Control Board (TACB) adopts the repeal of §§115.201-115.203, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3520).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000555 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Perchloroethylene Dry Cleaning
Systems in Brazoria, Dallas,
El Paso, Galveston, Gregg,
Harris, Jefferson, Nueces,
Orange, Tarrant, and
Victoria Counties**

• **31 TAC §§115.221-115.223**

The Texas Air Control Board (TACB) adopts the repeal of §§115.221-115.223, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3520).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000556 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Pharmaceutical Manufacturing
Facilities in Brazoria, Dallas,
El Paso, Galveston, Gregg,
Harris, Jefferson, Nueces,
Orange, Tarrant, and
Victoria Counties**

• **31 TAC §§115.231-115.233**

The Texas Air Control Board (TACB) adopts the repeal of §§115.231-115.233, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3521).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000557 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Fugitive Emission Control in
Petroleum Refineries in
Brazoria, Dallas, El Paso,
Galveston, Gregg, Harris,
Jefferson, Nueces, Orange,
Tarrant, and Victoria
Counties**

• **31 TAC §§115.251-115.255**

The Texas Air Control Board (TACB) adopts the repeal of §§115.251-115.255, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3521).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000558 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Control of Volatile Organic
Compound Leaks From
Gasoline Tank Trucks in
Dallas, El Paso, Harris, and
Tarrant Counties**

• **31 TAC §§115.261-115.264**

The Texas Air Control Board (TACB) adopts the repeal of §§115.261-115.264, without

changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3522).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000559 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Fugitive Emission Control in
Synthetic Organic Chemical,
Polymers and Resin
Manufacturing Processes in
Harris County**

◆ ◆ ◆
• 31 TAC §§115.271-115.275

The Texas Air Control Board (TACB) adopts the repeal of §§115.271-115.275, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3522).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000560 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Fugitive Emission Control in
Natural Gas/Gasoline
Processing Operations in
Harris County**

◆ ◆ ◆
• 31 TAC §§115.281-115.285

The Texas Air Control Board (TACB) adopts the repeal of §§115.281-115.285, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3523).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000561 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Specified Consumer-Solvent
Products in Dallas and
Tarrant Counties**

◆ ◆ ◆
**• 31 TAC §§115.291, 115.293,
115.294**

The Texas Air Control Board (TACB) adopts the repeal of §§115.291, 115.293, and 115.294, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3523).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000562 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
Alternate Means of Control

◆ ◆ ◆
• 31 TAC §115.401

The Texas Air Control Board (TACB) adopts the repeal of §115.401, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3524).

The purpose of the repeal is to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeal.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeal is adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000563 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Volatile Organic Compound
Exemption Status in
Brazoria, Dallas, El Paso,
Galveson, Gregg, Harris,
Jefferson, Nueces, Orange,
Tarrant, and Victoria
Counties**

• **31 TAC §115.412, §115.413**

The Texas Air Control Board (TACB) adopts the repeal of §115.412 and §115.413, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3524).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000564 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**Compliance and Control Plan
Requirements in Brazoria,
Dallas, El Paso, Galveston,
Gregg, Harris, Jefferson,
Nueces, Orange, Tarrant,
and Victoria Counties**

• **31 TAC §§115.421-115.424**

The Texas Air Control Board (TACB) adopts the repeal of §§115.421-115.424, without changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3525).

The purpose of the repeals are to remove material superceded by a new undesignated head, which is adopted in concurrent action.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal.

No comments were received regarding adoption of the repeals.

Copies of the hearing transcript are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas, 78723.

The repeals are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules and regulations 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 January 16, 1990.

TRD-9000565 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: February 15, 1990

Proposal publication date: July 21, 1989

For further information, please call: (512) 451-5711, ext. 354

◆ ◆ ◆
**TITLE 40. SOCIAL
SERVICES AND
ASSISTANCE**

**Part I. Texas Department
of Human Services**

**Chapter 29. Purchased Health
Services**

**Subchapter G. Hospital
Services**

• **40 TAC §29.606**

The Texas Department of Human Services (DHS) adopts an amendment to §29.606, without changes to the proposed text as published in the August 18, 1989, issue of the *Texas Register* (14 TexReg 4114).

Section 29.606 is amended in response to Rider 54 of Senate Bill 222, the Appropriations Act for Fiscal Years 1990/1991. The amendment specifies that, at final settlement of the hospital's fiscal year, hospitals with 100 or fewer licensed beds will be reimbursed the greater of the prospective payments made to the hospital or the amount of reimbursement that would have been made to the hospital during the fiscal year under similar methods and procedures used in Title XVIII of the Social Security Act, as amended, effective October 1, 1982, by Public Law 97-248, Tax Equity and Fiscal Responsibility Act (TEFRA). The amount of reimbursement under the TEFRA principles of reimbursement will be calculated without imposing a TEFRA cap.

The section will function by helping the continued availability and accessibility of services for Medicaid recipients.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on January 16, 1990.

TRD-9000494 Cathy Rossberg
Agency liaison, Policy
Communication
Services
Texas Department of
Human Services

Effective date: February 6, 1990.

Proposal publication date: August 18, 1989.

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

◆ ◆ ◆
**Chapter 85. General Licensing
Procedures**

**Subchapter O. Exemptions
from Licensing**

The Texas Department of Human Services adopts the repeal of §85.2047, amendments to §§85.2011, 85.2017-85.2019, 85.2022, 85.2030, and 85.2037, and new §85.1407, without changes to the proposed text as published in the July 18, 1989, issue of the *Texas Register* (14 TexReg 3461).

The repeal, amendments, and new section are justified because they provide the public with clearer and more concise department rules.

The repeal, amendments, and new section will function by clarifying existing sections and conforming to the licensing statute.

No comments were received regarding adoption of the proposals.

• **40 TAC §85.1407**

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 42, which authorizes the department to administer public and general licensing 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 January 16, 1990.

TRD-9000491 Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Health

Effective date: March 15, 1990.

Proposal publication date: July 18, 1989.

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

Subchapter U. Day Care Licensing Procedures

- 40 TAC §§85.2011, 85.2017-85.2019, 85.2022, 85.2030, 85.2037

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 42, which provides the department with the authority to administer public and general licensing 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 January 16, 1990.

TRD-9000492 Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Human Services

Effective date: March 15, 1990.

Proposal publication date: July 18, 1989.

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

◆ ◆ ◆ • 40 TAC §85.2047

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 42, which provides the department with the authority to administer public and general licensing 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 January 16, 1990.

TRD-9000493 Cathy Rossberg
Agency Liaison, Policy
Communication
Services
Texas Department of
Human Services

Effective date: March 15, 1990.

Proposal publication date: July 18, 1989.

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

◆ ◆ ◆ Part VI. Texas Commission for the Deaf Chapter 181. General Rules of Practice and Procedures

Subchapter E. Gifts, Grants, and Donations

- 40 TAC §§181.690, 181.692, 181.694, 181.696, 181.698, 181.700, 181.702, 181.704

The Texas Commission for the Deaf adopts new §§181.690, 181.692, 181.694, 181.696, 181.698, 181.700, 181.702, and 181.704, without changes to the proposed text as pub-

lished in the November 7, 1989, issue of the *Texas Register* (14 TexReg 5850).

The new sections concern who may accept gifts, grants, and donations for the commission; solicitation, restriction and unrestricted, and transference of gifts, grants, and donations; investing of donations; and standards of conduct between employees and officers of the commission and grantors or donors.

The new sections govern the use of an employee or property of the commission by a grantor, or donor, monetary enrichment of an officer or employee of the commission by a grantor or donor, and other potential conflicts of interest situations.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Human Resources Code, Chapter 81, which provides the Texas Commission for the Deaf with the authority to adopt rules governing the function of the commission and the General Appropriations Act 1989 (Senate Bill 222), 71st Legislature, Rider Number 7, Texas Commission for the Deaf, authorizing the commission for solicitation of gifts, grants, and donations.

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 January 8, 1990.

TRD-9000349 Larry D. Evans
Executive Director
Texas Commission for the
Deaf

Effective date: January 31, 1990

Proposal publication date: November 7, 1989

For further information, please call: (512) 469-9891

◆ ◆ ◆ Subchapter F. Fees

- 40 TAC §181.810

The Texas Commission for the Deaf adopts an amendment to §181.810, without changes to the proposed text as published in the November 7, 1989, issue of the *Texas Register* (14 TexReg 5851).

The commission adopted this amendment because the agency changed the name and format of a publication for interpreter services in Texas. The amendment is necessary because the commission has determined to charge a copy of handbook to cover the commission's publication cost.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §81.006(g), which provides the Texas Commission for the Deaf with the authority to adopt rules for publication fees.

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 January 8, 1990.

TRD-9000350 Larry D. Evans
Executive Director
Texas Commission for the
Deaf

Effective date: January 31, 1990

Proposal publication date: November 7, 1989

For further information, please call: (512) 469-9891

◆ ◆ ◆ • 40 TAC §181.860

The Texas Commission for the Deaf (TDC) adopts new §181.860, without changes to the proposed text as published in the November 24, 1989, issue of the *Texas Register* (14 TexReg 6167).

The new section provides a convenience to the public in purchasing open records from the commission.

The new section allows the sale of copies of the commission materials upon proper request. Charges for copies of open records in standard sizes are made in accordance with the rates established by the State Purchasing and General Services Commission. Other charges for nonstandard size pages of records in computer banks or in other similar record keeping system are made according to the rates established by the commission.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, Chapter 81, which provides the Texas Commission for the Deaf with the authority to adopt rules for the functions of the commission administration.

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 January 9, 1990.

TRD-9000351 Larry D. Evans
Executive Director
Texas Commission for the
Deaf

Effective date: January 31, 1990

Proposal publication date: November 24, 1989

For further information, please call: (512) 469-9891

◆ ◆ ◆ Subchapter H. Memoranda of Understanding with State Agencies

- 40 TAC §181.918

The Texas Commission for the Deaf adopts new §181.918, without changes to the proposed text as published in the October 31, 1989, issue of the *Texas Register* (14 TexReg 5777).

The Texas Commission for the Deaf adopts the new section concerning general provisions pertaining to memoranda of understanding with the Texas Rehabilitation Commission. The section is adopted pursuant to House Bill 550 of the 70th Texas Legislature, which mandates specified state agencies to adopt by rule memoranda of understanding that describe their respective responsibilities, coordinate the delivery of services to persons who are deaf, and reduce duplication of services. In the course of developing memoranda gaps in the delivery of such services and methods to reduce or eliminate such gaps will be identified.

The section adopts by reference an agreement between the Texas Commission for the Deaf and the Texas Rehabilitation Commission.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, Chapter 81.017, which provides the Texas Commission for the Deaf with the authority to adopt rules relating to memoranda of understanding with the designated state agencies.

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 January 8, 1990.

TRD-9000352

Larry D. Evans
Executive Director
Texas Commission for the
Deaf

Effective date: January 31, 1990

Proposal publication date: October 31, 1989

For further information, please call: (512) 469-9891



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, and the final actions printed in this section have not been previously published as proposals.

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

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

The State Board of Insurance has adopted a filing submitted by the Insurance Services Office, Inc., (ISO), of the revision of Territory 099 of the Commercial Lines Manual (CLM), Division 5-Glass.

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 State Board of Insurance. The proposed filing has been available for public inspection for 15 days and a public hearing was not requested by any party.

ISO has proposed a revision to page CF-R-1 of the CLM regarding the definition of Territory 099. The present definition of Territory 099 describes the territory as all counties west or northwest of the western boundaries of certain other counties. The revision of the description of Territory 099 goes further to actually list all the counties in that territory.

There is no change in the constitution of any territory; nor is there any change in the manner in which any cities or counties are coded or rated.

This revision becomes effective April 1, 1990, under the following application:

These changes are applicable to all policies effective on or after April 1, 1990. No policy effective prior to April 1, 1990, shall be endorsed or cancelled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and using the cancellation procedures applying on the date of such request.

This notification is made 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 January 11, 1990.

TRD-9000420

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: April 1, 1990

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



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 on Aging

Wednesday, January 24, 1990, 10 a.m.
The Texas Board on Aging Ad Hoc Committee on Policies and Procedures of the Texas Department on Aging will meet at the Texas Department on Aging, Small Conference Room, 1949 South IH 35, Austin. According to the agenda, the committee will discuss: review of the policies and procedures of the Texas Board on Aging and State Citizens Advisory Council; review of the duties and responsibilities of the Texas Board on Aging and the executive director of the Texas Department on Aging.

Contact: O. P. (Bob) Bobbitt, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: January 15, 1990, 10:20 a.m.

TRD-9000452

Thursday, January 25, 1990, 1:30 p.m.
The Options for Independent Living Advisory Committee of the Texas Department on Aging will meet at 1949 Interstate 35 South, Third Floor, Austin. According to the agenda, the committee will discuss approval of December 6, 1989 meeting minutes; report from subcommittee on request for proposal criteria development; review and discussion of comments received on published rules for the options for independent living program; approval of future meeting dates.

Contact: Linda Heath, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: January 11, 1990, 4:54 p.m.

TRD-9000392

Texas Department of Agriculture

Tuesday, January 23, 1990, 10:30 a.m.
The Texas Department of Agriculture will meet at the District Office, 1801 North Lamar, Suite 103, Dallas. According to the agenda, the department will conduct an administrative hearing to review: cause for denial of application for licensure as a com-

mission merchant by Central Market, Inc.

Contact: Imelda Escobar, P.O. Box 12847, Austin, Texas 78711, (512) 463-7682.

Filed: January 12, 1990, 2:42 p.m.

TRD-9000428

Tuesday, February 6, 1990, 10:30 a.m.
The Texas Department of Agriculture will conduct an administrative hearing to: show cause for the denial of application for licensure as a cash dealer by Rodney E. Romero.

Contact: Imelda Escobar, P.O. Box 12847, Austin, Texas 78711, (512) 463-7682.

Filed: January 16, 1990, 10:47 a.m.

TRD-9000506

Texas Air Control Board

Friday, January 26, 1990, 9:30 a.m.
The Budget and Finance Committee of the Texas Air Control Board will meet at 6330 Highway 290 East, Room 332, Austin. According to the agenda, the committee will discuss overview of staff proposal for fiscal year 1992-1993 budget request; review of staff proposal for toxics program as part of the budget request.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 354.

Filed: January 17, 1990, 2:10 p.m.

TRD-9000601

Friday, January 26, 1990, 10:30 a.m.
The Texas Air Control Board will meet at 6330 Highway 290 East, TACB Auditorium, Austin. According to the agenda, the board will discuss: approval of minutes of the December 8, 1989 meeting; presentation of service awards; public testimony; reports; proposed resolution on amendments to the federal clean air act; enforcement report; agreed enforcement orders; request to revoke special exemption number X-15447; hearing examiner's report; executive session; and new business.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 354.

Filed: January 17, 1990, 2:10 p.m.

TRD-9000602

Texas Antiquities Committee

Friday, January 19, 1990, 9:30 a.m.
The Texas Antiquities Committee met at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the emergency revised agenda, the committee discussed Sierra Club requests for a petition for an evidentiary hearing and for denial of construction clearance and State Department of Highways and Public Transportation request for clearance of the cultural resource assessment for State Highway 45 (from FM 1826 to Loop 1), Austin Outer Parkway, Travis County. The committee met in executive session to discuss contemplated litigation involving State Department of Highways and Public Transportation cultural resource assessment of archeological sites 41TV1536, 41TV1537, 41TV1538, 41TV1539, and 41TV1540, Travis and Hays counties; S.H. 45: Austin Outer Parkway - Segment 3: from I.H. 35 to US 290. The emergency status was necessary because by requesting denial of construction clearance, the Sierra Club request, if granted, will immediately halt on-going construction of the Austin Outer Parkway, Segment 3, Travis County.

Contact: Molly Godwin, P.O. Box 12276, Austin, Texas 78711, (512) 463-6098.

Filed: January 17, 1990, 12:28 p.m.

TRD-9000591

Texas Board of Architectural Examiners

Friday-Saturday, January 26-27, 1990, 9 a.m.
The Texas Board of Architectural Examiners will meet at 8213 Shoal Creek Boulevard, Suite 107, Austin. According to the agenda, the board will discuss: approval of minutes; reinstatements; hearings; examinations; rules and regulations; Sunset report; legislation; reciprocity; alleged violations; agreed orders; fax documents; intern

development program; renewals; election of officers; rules committee appointments; future board meetings.

Contact: Robert H. Norris, 8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78758, (512) 458-1363.

Filed: January 16, 1990, 10:50 a.m.

TRD-9000503

State Banking Board

Wednesday, January 24, 1990, 11 a.m. The State Banking Board will meet at 2601 North Lamar, Austin. According to the agenda, the board will discuss: approval of previous minutes; consideration of interim charter application; change of domicile applications, and charter applications; discontinuance of unmanned teller machines; other pending applications; and the board may convene into executive session

Contact: William F. Aldridge, 2601 North Lamar, Austin, Texas 78705, (512) 479-1200.

Filed: January 16, 1990, 1:48 p.m.

TRD-9000509

State Bar of Texas

Friday, January 12, 1990, 10 a.m. The Executive Committee of the State Bar of Texas met at the Texas Law Center, Room 206-207, 1414 Colorado Street, Austin. According to the emergency revised agenda, the committee considered adoption of 1990 convention budget. The emergency status was necessary because planning for the 1990 convention is now in process. Urgent that budget be considered at this executive committee meeting.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78711, (512) 463-1451.

Filed: January 11, 1990, 12:17 p.m.

TRD-9000372

Thursday, January 25, 1990, noon. The Executive Committee of the State Bar of Texas will meet at the Texas Law Center, Room 206-207, 1414 Colorado Street, Austin. According to the agenda, the committee will consider: adoption of budget committee recommendations; preliminary adoption and authorization to publish proposed budget for 1990-1991 in Texas Bar Journal; adoption of recommendations regarding proposed grievance procedures; and request to provide defense counsel; and report regarding status of archives construction.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78711, (512) 463-1451.

Filed: January 17, 1990, 4:05 p.m.

TRD-9000611

State Board of Barber Examiners

Tuesday, February 6, 1990, 8:30 a.m. The Board Members of the State Board of Barber Examiners will meet at 9101 Burnet Road, Suite 103, Austin. According to the agenda, the board will discuss: approval of minutes of previous meeting; sign teacher and school certificates; interview out-of-state applicants; reports by the executive director; review letters to the board; consider curricula for teacher, manicurist, barber technician and refresher courses; review complaints of RS Barber College of Houston; consider proposed HIV/AIDS workplace guidelines.

Contact: Jo King McCrorey, 9101 Burnet Road, Suite 103, Austin, Texas 78758, (512) 835-2040.

Filed: January 17, 1990, 10:37 a.m.

TRD-9000585

Texas Bond Review Board

Thursday, January 18, 1990, 10 a.m. The Texas Bond Review Board met in the Sergeant's Committee Room, State Capitol, Austin. According to the emergency revised agenda, the board considered adoption of proposed operating rules for the public school facilities funding program. The emergency status was necessary to correct wording.

Contact: Tom K. Pollard, Room 506, Sam Houston Building, Austin, Texas 78711, (512) 463-1741.

Filed: January 17, 1990, 3:20 p.m.

TRD-9000604

Child Care Development Board

Tuesday, January 16, 1990, 2 p.m. The Child Care Development Board held an emergency meeting at the Sam Houston Building, Seventh Floor Conference Room, Austin. According to the agenda, the board reviewed the site selections for the Child Care Center submitted by the State Purchasing and General Services Commission ("SPAGS"). The emergency status was necessary because site selections by SPAGS will not accommodate number of children approved. To meet timeline requirements, emergency decision must be made to begin new selection process or completely change specifications.

Contact: Lynn Leverty, P.O. Box 12608, Austin, Texas 78711, (512) 463-5979.

Filed: January 12, 1990, 8:48 a.m.

TRD-9000397

State Cogeneration Council

Friday, February 16, 1990, 10 a.m. The State Cogeneration Council met at the Central Services Building, Room 402, 1711 San Jacinto Street, Austin. According to the agenda, the council introduced a new board member; approve the minutes; elected a chairman; heard a status report on previously proposed legislative amendment; discussed and considered for approval Cogeneration projects at UT-Dallas and UT-San Antonio; heard public comment on Cogeneration projects at UT-Dallas, and UT-San Antonio; discussed agenda and time; and location of next meeting.

Contact: Carol Stuewe, P.O. Box 12428, Austin, Texas (512) 463-1931.

Filed: January 16, 1990, 9:10 a.m.

TRD-9000488

Board for Lease of State-Owned Lands

Thursday, January 25, 1990, 2:30 p.m. The Board for Lease of Texas Parks and Wildlife Lands of the Board for Lease of State-Owned Lands will meet at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 833, Austin. According to the agenda, the board will discuss approval of the minutes of the previous board meeting; consideration of nominations; terms, conditions and procedures for the April 3, 1990 oil, gas and other minerals lease sale; power line easement application, Calhoun County; pipeline easement application, Freestone County.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78711, (512) 463-5016.

Filed: January 16, 1990, 9:58 a.m.

TRD-9000495

Texas Department of Commerce

Friday, January 19, 1990, 1 p.m. The Texas Exporters Loan Review Committee of the Texas Department of Commerce met at the First City Centre, Suite 700, 816 Congress, Austin. According to the agenda, the committee reviewed Trojan Elevator loan request, Ed Sosa Export Finance Coordinator.

Contact: William D. Taylor, P.O. Box 12728, Austin, Texas 78711, (512) 472-5059.

Filed: January 11, 1990, 4:46 p.m.

TRD-9000391

◆ ◆ ◆
Court Reporters Certification Board

Saturday, January 27, 1990, 8:30 a.m. The Court Reporters Certification Board will meet at 510 South Congress Avenue, Conference Room, Austin. According to the agenda, the board will review minutes from the previous meeting; consider statistical data from previous exam; consider correspondence from board members and reports from committees; hold preliminary reviews in cause numbers 90155701 and 90092502; conduct formal hearing in cause numbers 89050608, 89090913, and 89090914; consider operating budget for fiscal year 1990; consider miscellaneous correspondence and any other business that may come before the board.

Contact: Peg Liedtke, 510 South Congress Avenue, Suite 310, Austin, Texas 78704, (512) 463-1630.

Filed: January 17, 1990, 10:40 a.m.

TRD-9000586

◆ ◆ ◆
Credit Union Department

Friday, January 26, 1990, 10 a.m. The Credit Union Commission of the Credit Union Department will meet at the Credit Union Department Building, 914 East Anderson Lane, Austin. According to the agenda, the commission will discuss: elect commission chairman and vice chairman; invite public input for future consideration; receive minutes of December 11, 1989 meeting and communication reported by the commission; consider final revisions of rule 91.2 (interpretations), rule 91.206 (amendments); rule 93.91 (chairman to preside), and rule 95.301 (application). Proposed revision of rule 91.402 (permanent records), appointment of committees of legislative advisory and commissioner evaluation, hearing date for appeal of a denial of application to expand field of membership, and sick leave pooling policy; and conduct executive session to discuss credit unions and problem cases and to confer with legal counsel regarding field of membership guidelines and contemplated litigation.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: January 17, 1990, 10:30 a.m.

TRD-9000581

◆ ◆ ◆
The Texas Department of Criminal Justice Board of Pardons and Paroles

Monday-Friday, January 22-26, 1990, 10

a.m. The Texas Department of Criminal Justice Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, a panel (composed of 3 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: Karin Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: January 12, 1990, 11:02 a.m.

TRD-9000400

◆ ◆ ◆
Texas Education Agency

Thursday-Friday, January 18-19, 1990, 11:30 a.m. and 8:30 a.m. respectively. The Commissioner's Advisory Committee on the Long-Range Plan for Public Education of the Texas Education Agency held an emergency meeting in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee discussed: report on January meeting of the State Board of Education Committee on long-range planning; long-range planning for schools; subcommittee meetings--responses to draft long-range plan; review of mission statement, goals, and objectives; subcommittee reports and committee discussion of goals 1 and 2 and goals 3 and 4; State Board of Education School Finance Plan; subcommittee reports and committee discussion of goals 5, 8, 6, 7, and 9; general discussion on long-range planning for public education in Texas. The emergency status was necessary because the agency found it was of urgent public necessity for this meeting to be held at that time to recommend to the State Board of Education final wording of the board's mission statement, goals, and objectives for board approval in February and for submission to the legislature.

Contact: Cynthia Levinson, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9350.

Filed: January 16, 1990, 1 p.m.

TRD-9000502

Tuesday, January 23, 1990, 10 a.m. The Accountable Costs Advisory Committee of the Texas Education Agency will meet at 105 West 15th Street, John H. Reagan Building, Room 106, Austin. According to the agenda, the committee will discuss approval of minutes; report on board proposed funding plan; minimum basic methodology revisited; review of significant questions from November 30, 1989 meeting; discussion of generic cost allocation scheme; curriculum requirements; accreditation criteria; discussion of exemplary program definition; preliminary analysis of transportation data; determination of future

meeting date(s).

Contact: Joe Wisnoski, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9704.

Filed: January 12, 1990, 4:26 p.m.

TRD-9000440

Tuesday, January 23, 1990, 10 a.m. The Commissioner's Advisory Council for Regional Services-Committee for Research and Development of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will discuss Public Education Information Management System (PEIMS) update; review of actions taken by the State Board of Education; discussion of computer services to school districts.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: January 12, 1990, 4:25 p.m.

TRD-9000441

Tuesday, January 23, 1990, 1:30 p.m. The Commissioner's Advisory Council for Regional Services-Committee for Accreditation of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will review actions taken by the State Board of Education; discussion of issues related to the provision of training services to school districts.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: January 12, 1990, 4:25 p.m.

TRD-9000442

Tuesday, January 23, 1990, 1:30 p.m. The Commissioner's Advisory Council for Regional Services-Committee for Curriculum and Personnel Development of the Texas Education Agency will meet in Room 1-109, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the commission will review actions taken by the State Board of Education; discussion of TEA/Education Service Center efforts for curriculum and personnel development.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: January 12, 1990, 4:25 p.m.

TRD-9000443

Tuesday, January 23, 1990, 1:30 p.m. The Commissioner's Advisory Council for Regional Services-Committee for Operations and Services/Special Programs of the Texas Education Agency will meet in Room 1-110, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will review

actions taken by the State Board of Education; discussion of issues related to the education service center comprehensive plan and application.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: January 12, 1990, 4:25 p.m.

TRD-9000444

Wednesday, January 24, 1990, 8:30 a.m. The Commissioner's Advisory Council for Regional Services of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will discuss reports; comments from the commissioner of education.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: January 12, 1990, 4:25 p.m.

TRD-9000445

Friday, January 26, 1990, 10 a.m. The Attention Deficit Hyperactivity Disorder Multidisciplinary Advisory Committee of the Texas Education Agency will meet in Room 1-110, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will discuss: organizational meeting of this committee which was mandated by Senate Bill 1668 (71st Texas Legislature). The purpose of this committee is to develop proposed guidelines for school districts for identifying and testing children with attention deficit disorder and to develop a proposed program for providing appropriate services to those children and their families.

Contact: Dr. Kimberly Hoagwood, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9414.

Filed: January 16, 1990, 4:17 p.m.

TRD-9000530

Employees Retirement System of Texas

Tuesday, January 23, 1990, 8:30 a.m. The Board of Trustees of the Employees Retirement System of Texas will meet in the ERS Auditorium, ERS Building; 18th and Brazos Streets, Austin. According to the agenda, the board will review and approve minutes of the board meeting for December 19, 1989; appeals of contested cases; consideration of and action on a request from proposal to implement the strategic plan for the Texas employees uniform group insurance program; consideration of and action on the selection of an actuary to provide actuarial services with respect to the retirement programs administered by the system; consideration of and action on proposed amendments to the principles and guidelines of the board of trustees; executive director's re-

port; executive session; any action resulting from the executive session; set date of next trustee meeting.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas 78711, (512) 476-6431, ext. 213.

Filed: January 12, 1990, 11:04 a.m.

TRD-9000401

Texas Employment Commission

Tuesday, January 23, 1990, 8:30 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda, the commission will discuss prior meeting notes; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on commission docket 4; and set date of next meeting.

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

Filed: January 15, 1990, 4:17 p.m.

TRD-9000482

Texas State Board of Registration for Professional Engineers

Tuesday, January 23, 1990, 1:30 p.m. The Ad Hoc Committee of the Texas State Board of Registration for Professional Engineers will meet at 1917 IH 35 South, Board Room, Austin. According to the agenda, the committee will discuss the board's interpretation of the Texas Engineering Practice Act as it applies to privately owned public utilities and cooperative utilities; interpretation of Texas Instrument's questions.

Contact: Charles E. Nemir, 1917 IH 35 South, Austin, Texas 78741, (512) 440-7723.

Filed: January 12, 1990, 10:41 a.m.

TRD-9000410

Wednesday-Thursday, January 24-25, 1990, 8:30 a.m. The Texas State Board of Registration for Professional Engineers will meet at 1917 IH 35 South, Board Room, Austin. According to the emergency revised agenda, the board will add to the original agenda filed on January 12, 1990, and reads as follows. Board will consider a request by Texas Council of Engineering Laboratories to ratify the staff's response to posed questions-exhibit 7i. The emergency status was necessary because the request was received for clarification of items that must be made prior to the next board meeting.

Contact: Charles E. Nemir, 1917 IH 35

South, Austin, Texas 78741, (512) 440-7723.

Filed: January 17, 1990, 2:10 p.m.

TRD-9000603

Wednesday-Thursday, January 24-25, 1990, 1:30 p.m. The State Board of Registration for Professional Engineers will meet at 1917 IH 35 South, Board Room, Austin. According to the agenda, the board will receive reports from board members and staff; interview applicants; take action on applications for registration; reading of communications; and any other business which comes before the board.

Contact: Charles E. Nemir, 1917 IH 35 South, Austin, Texas 78741, (512) 440-7723.

Filed: January 12, 1990, 10:42 a.m.

TRD-9000409

Texas Funeral Service Commission

Friday, January 19, 1990, 1 p.m. The Texas Funeral Service Commission met at the Texas State Capitol, Senate Reception Room, Austin. According to the agenda, the commission considered correction of findings of fact on formal hearing, embalmer practical exams and executive director's report.

Contact: Larry A. Farrow, 8100 Cameron Road, Building B, Suite 550, Austin, Texas 78753.

Filed: January 11, 1990, 12:36 p.m.

TRD-9000373

Interagency Council for Genetic Services

Friday, January 26, 1990, 10 a.m. The Interagency Council for Genetic Services will meet in Room G-107, 1100 West 49th Street, Austin. According to the agenda, the council will prepare a report for the 72nd Legislature as required by CSSB Number 506.

Contact: Dr. Patti J. Patterson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7321.

Filed: January 16, 1990, 2:04 p.m.

TRD-9000517

Texas Health and Human Services Coordinating Council

Wednesday, January 24, 1990, 2 p.m. The Texas Health and Human Services Coordinating Council will meet at the Texas Department on Aging, 1949 South IH-35,

Third Floor Conference Room, Austin. According to the agenda, the council will discuss: minutes of October 23, 1989 meeting; SLIAG committee report; Sunset advisory commission overview; fiscal reports (a) annual report (1989) (b) state audit report (SLIAG 1989); commission on children, youth and families report; cost analysis for residential contract care for children (1988); state agency census planning committee; information and referral project update; THHSCC projects update (a) statewide needs appraisal project (b) reference guide (c) contractor report form; Human Services interagency committee update; THHSCC sick leave pool; advisory committees update; executive director's report; old business; and new business.

Contact: Patricia O. Thomas, 311-A East 14th Street, Austin, Texas 78711, (512) 463-2195.

Filed: January 15, 1990, 4:27 p.m.

TRD-9000484

Wednesday, January 24, 1990, 2 p.m. The Texas Health and Human Services Coordinating Council will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Conference Room, Austin. According to the revised agenda, the council will discuss: new business; and public comment.

Contact: Patrice Thomas, 311-A East 14th Street, Austin, Texas 78711, (512) 463-2195.

Filed: January 16, 1990, 4:55 p.m.

TRD-9000572

Friday, January 26, 1990, 9 a.m. The Texas Emergency Medical Services Advisory Council of the Texas Department of Health will meet in Room T-607, 1100 West 49th Street, Austin. According to the agenda, the council will discuss: approval of minutes of previous meeting; introduce new members; act on nominating committee report; election of officers; revision of rule concerning fire extinguishers; revision of rules pertaining to vehicle specifications; hear reports of chairperson, associate commissioner, bureau chief (management assignments; NHTSA draft report on Texas EMS; public hearing); trauma committee; hear messages/communications to TEMSAC; and other information items.

Contact: Gene Weatherall, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7550.

Filed: January 16, 1990, 2:04 p.m.

TRD-9000518

Texas High-Speed Rail Authority

Thursday, January 25, 1990, 10 a.m. The Texas High-Speed Rail Authority will meet in Room 101, John H. Reagan Building,

15th Street and Congress Avenue, Austin. According to the agenda, the authority will discuss: initial organizational matters; election of officers; discussion of franchise application procedures (statutory); and agency organization and staffing.

Contact: Allan Rutter, P.O. Box 12428, Austin, Texas 78711, (512) 463-1778.

Filed: January 16, 1990, 4:47 p.m.

TRD-9000552

Texas Historical Commission

Thursday, January 25, 1990, 4 p.m. The Executive Committee of the Texas Historical Commission will hold an emergency meeting at the Carrington-Covert House (Library), 1511 Colorado Street, Austin. According to the agenda, the committee will discuss: Texas Awards for historic preservation; appointment of representative to Columbian Quincentenary Commission; public service announcements. The emergency status was necessary because of being unable to finalize agenda prior to deadline.

Contact: Cindy Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: January 16, 1990, 2:55 p.m.

TRD-9000522

Friday, January 26, 1990, 8 a.m. The Archeology Committee of the Texas Historical Commission will meet at the 15th Street Cafe in the Guest Quarters Suite Hotel, 303 West 15th Street, Austin. According to the agenda, the committee will discuss: stewardship program; and report of the special committee on human remains.

Contact: Helen Simons, P.O. Box 12276, Austin, Texas 78711, (512) 463-6090.

Filed: January 16, 1990, 4:56 p.m.

TRD-9000571

Friday, January 26, 1990, 8 a.m. The Department of Archaeological Planning and Review of the Texas Historical Commission will meet at the 15th Street Cafe at the Guest Quarters Hotel, 303 West 15th Street, Austin. According to the agenda, the commission will discuss summary of legal activity related to department's §106 activity.

Contact: Jan Murray, P.O. Box 12276, Austin, Texas 78711, (512) 463-6096.

Filed: January 16, 1990, 2:54 p.m.

TRD-9000523

Friday, January 26, 1990, 8 a.m. The National Register Programs Committee of the Texas Historical Commission will meet in the El Rose Apartment Building, Second Floor, 108 West 16th Street, Austin. According to the agenda, the committee will discuss: resolution on the importance of preserving the Maverick-Altgelt Ranch and Fenstermaker-Fromme Farm Histori-

c/Archeological District in Bexar County; announcements; approval of fiscal year 1990 certified local government grants; approval of transfer of fiscal year 1989 survey and planning grant funds; review of fiscal year 1990 survey and planning grant applications; and quarterly report of activities.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: January 16, 1990, 4:56 p.m.

TRD-9000573

Friday, January 26, 1990, 8 a.m. The Main Street Committee of the Texas Historical Commission will meet at the 15th Street Cafe, Guest Quarters Hotel, 303 West 15th Street, Austin. According to the agenda, the committee will discuss: progress in Main Street cities; first lady's tour; 1991 applicant cities; and 1992 budget.

Contact: Anice Read, P.O. Box 12276, Austin, Texas 78711, (512) 463-6092.

Filed: January 16, 1990, 2:54 p.m.

TRD-9000524

Friday, January 26, 1990, 8:30 a.m. The Architecture Committee of the Texas Historical Commission will meet at the El Rose Building Library (2nd Floor), 108 West 16th Street, Austin. According to the agenda, the committee will discuss: quarterly report of activities; Steamboat House; NASA; governor's mansion; Texas preservation trust fund; report on federal funding and legislation; Old San Antonio Road; Texas state capitol; Texas historic preservation grant update/reallocation.

Contact: Curtis Tunnell, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: January 12, 1990, 1:44 p.m.

TRD-9000426

Friday, January 26, 1990, 9:30 a.m. The Texas Historical Commission Quarterly Meeting will be held in the Stephen F. Austin Building, Room # 118, 1700 North Congress, Austin. According to the agenda, the commission will discuss: chairman's report-T. R. Fehrenbach; CHC and museum services committee report-Lunelle Anderson; national register programs committee report-Karl Komatsu; publications committee report-Jim Nabors; state marker committee report-John M. Bennett; architecture committee report-Suzanne Harris; Archeology committee report-Harold Courson; archaeological planning and review committee-Carriellu Christensen; Texas antiquities committee report-Barto Arnold; Main Street committee report-Virginia Long.

Contact: Cindy Dally, P.O. Box 12276, Austin, Texas 78701, (512) 463-6100.

Filed: January 12, 1990, 1:44 p.m.

TRD-9000427

Friday, January 26, 1990, 1 p.m. The

Texas Preservation Trust Fund Committee of the Texas Historical Commission will meet in the Guest Quarters Suite Hotel Dining Room, 303 West 15th Street, Austin. According to the agenda, the committee will discuss: update on recent activities; appointments to the advisory board and board of trustees; and future activities.

Contact: Curtis Tunnell, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: January 16, 1990, 2:54 p.m.

TRD-9000525

Saturday, February 3, 1990, 9 a.m. The State Board of Review of the Texas Historical Commission will meet at the Abilene State School, Old Administration Building, Abilene. According to the agenda, the board will discuss: announcements; election of officers; approval of minutes of previous meeting; and review of National Register nominations.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: January 17, 1990, 1:34 p.m.

TRD-9000600

Texas Department of Human Services

Tuesday, January 30, 1990, 9:30 a.m. The Church Relations Advisory Group of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the agenda, the group will discuss committee business; tracking report; emergency food issues; nursing home issues; LAR public hearing results; DHS reorganization regarding Touche Ross study, CRAG name change, and expansion of focus; and concerns of members.

Contact: Lucy Todd, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3129.

Filed: January 16, 1990, 10:24 a.m.

TRD-9000499

Industrial Accident Board

Tuesday, January 16, 1990, 9 a.m. The Industrial Accident Board met at the Bevington A. Reed Building, 200 East Riverside Drive, 1st Floor, Room 107, Austin. According to the agenda, the board discussed approval of board minutes; proposed forms and procedures; adoption of new rule 28 TAC §64.25, repeal of rule 28 TAC §51.5, amendment to rule 28 TAC §55.35, new rule 28 TAC §61.20; amendment of rule 28 TAC §42.155, new rule on 28 TAC §42.158, amendment of rule 28 TAC §61.15; board rule 28 TAC §53.20; response to Texas Hospital Association's rule-making petition; Center for Human

Res. Rep. of 1987 SDS report; review of board files-closed session, Article 8307, §4b Texas Civil Statutes; executive session-litigation-hospital fee guidelines lawsuit; litigation-hospital fee guidelines; review and discuss board activities.

Contact: George E. Chapman, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7960.

Filed: January 12, 1990, 3:44 p.m.

TRD-9000432

State Board of Insurance

Tuesday, January 16, 1990, 10 a.m. The State Board of Insurance held an emergency meeting in Room 414, State Insurance Building, 1110 San Jacinto, Austin. According to the agenda, the board discussed: provide exception to mandatory rate level differential for Texas Workers' Compensation Assigned Risk Pool. The emergency status was necessary in order to continue the effective organization and operation of the Texas Workers' Compensation Assigned Pool so that workers' compensation insurance will remain reasonably available and affordable to employers and insurance consumers of this state.

Contact: Pat Wagner, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6328.

Filed: January 15, 1990, 2:34 p.m.

TRD-9000473

Tuesday, January 23, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 460, Austin. According to the agenda in Docket Number 10513, the section will reopen a public hearing to consider whether disciplinary action should be taken against Hubert Molanders, Nacogdoches, who holds a group I, legal reserve life insurance agent's license and a group II insurance agent's license issued by the board.

Contact: Earl Corbit, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

Filed: January 15, 1990, 2:23 p.m.

TRD-9000467

Tuesday, January 23, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the agenda in Docket Number 10625, the section will conduct a public hearing to consider whether disciplinary action should be taken against Bobby Joe Uselton, Nacona, who holds a group I, legal reserve life insurance agent's license, a group II, insurance agent's license and a local recording agent's license.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: January 15, 1990, 2:24 p.m.

TRD-9000468

Wednesday, January 24, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the agenda in Docket Number 10619, the section will conduct a public hearing to consider whether disciplinary action should be taken against Samuel Albert Scardina, Katy, who holds a group I, legal reserve life insurance agent's license and a group II, insurance agent's license issued by the board.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: January 15, 1990, 2:23 p.m.

TRD-9000469

Wednesday, January 24, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the agenda in Docket Number 10535, the section will conduct a public hearing to consider whether disciplinary action should be taken against Dennis Doyle Lambert, Tyler, who holds a group I, legal reserve life insurance agent's license issued by the board.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: January 15, 1990, 2:23 p.m.

TRD-9000470

Friday, January 26, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 460, Austin. According to the agenda in Docket Number 10677, the section will conduct a public hearing to consider whether disciplinary action should be taken against Lambert Earl Roedersheimer, Houston, who holds a group I, legal reserve life insurance agent's license and a local recording agent's license issued by the board.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: January 15, 1990, 2:23 p.m.

TRD-9000472

Monday, January 29, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 460, Austin. According to the agenda in Docket Number 10664, the section will conduct a public hearing to consider whether disciplinary action should be taken against Joe Kenneth Lucas, Dallas, who holds a group I, legal reserve life insurance agent's license and a group II, insurance agent's license issued by the board.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: January 15, 1990, 2:23 p.m.

TRD-9000471

Tuesday, January 30, 1990, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will conduct a prehearing conference for the general liability hearing scheduled for February 6, 1990.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: January 12, 1990, 12:46 p.m.

TRD-9000421

Tuesday, January 30, 1990, 1:30 p.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will conduct a public hearing to consider appeal and motion for stay of revocations of licenses pending appeal by William Morris Risby of commissioner's order 89-1291.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: January 12, 1990, 12:46 p.m.

TRD-9000422

Lamar University System- Board of Regents

Thursday, January 18, 1990, 3 p.m. The Liaison Committee of the Lamar University System Board of Regents met at the John Gray Institute, Office of the Chancellor, 855 Florida, Beaumont. According to the agenda, the committee discussed chairman's update; procedures, minutes, laws, etc.; student service and related fees; future agenda items; open forum; and reporting processes.

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: January 15, 1990, 9 a.m.

TRD-9000450

Board of Law Examiners

Thursday-Sunday, January 25-28, 1990, 8:15 a.m. The Board of Law Examiners will meet Thursday-Friday, at the Texas Law Center, 1414 Colorado Street, Austin, Saturday, at the BLE Offices, 510 South Congress Avenue # 116, Austin, and Sunday, at Four Seasons Hotel, 99 San Jacinto, Austin. According to the agenda, the board will discuss: minutes of November, 1989 meeting; discussion of Sunset process; dis-

cuss February, 1990 and July 1990 exams; questions of eligibility and special requests; hearings on moral character and fitness; rule VII (i) formal reviews; and budget-current status fiscal year 1990.

Contact: Wayne E. Denton, Suite 116, 510 South Congress Avenue, Austin, Texas 78704, (512) 463-1621.

Filed: January 17, 1990, 11:53 a.m.

TRD-9000590

Legislative Budget Board

Wednesday, January 24, 1990, 10 a.m. The Legislative Budget Board will meet in Room 310, State Capitol, Austin. According to the agenda, the board will consider the governor's budget execution proposals; receive report on Hermann Hospital/U.T.H.S.C. at Houston; and any other business. Following the public hearings, the board may take such action as it determines to be appropriate.

Contact: Jim Oliver, Room 207-A, State Capitol Building, Austin, Texas 78711, (512) 463-1166.

Filed: January 12, 1990, 3:04 p.m.

TRD-9000431

Texas State Library and Archives Commission

Thursday, January 25, 1990, 10 a.m. The Texas State Library and Archives Commission will meet at 1201 Brazos, Lorenzo de Zavala Archives and Library Building, Room 314, Austin. According to the agenda, the commission will discuss: elect chairman and vice-chairman of the commission; approve minutes of the October 5, 1989 commission meeting; approve rules for the Regional Historical Resource Depositories; approve rules for the state government publications program; and committee reports.

Contact: Raymond Hitt, P.O. Box 12927, Austin, Texas 78711, (512) 463-5440.

Filed: January 16, 1990, 10:49 a.m.

TRD-9000504

Thursday, January 25, 1990, 2 p.m. The Records Management and Preservation Advisory Committee of the Texas State Library and Archives Commission will meet at the Department of Public Safety, 5805 North Lamar, Austin. According to the agenda, the committee will discuss: recommendations to the legislature due March 1, 1990; report of the status of submission of retention schedules; other business brought before the committee; and presentation by the Department of Public Safety on their records management program.

Contact: Susan Tension, P.O. Box 149030, Mail Code 413-W, Austin, Texas

78711, (512) 450-4557.

Filed: January 16, 1990, 10:48 a.m.

TRD-9000505

Texas Department of Licensing and Regulation

Thursday, January 25, 1990, 9 a.m. The Manufactured Housing Division of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E.O. Thompson Building, Tenth Floor Conference Room, Austin. According to the agenda, the division will discuss proceedings that consider suspension, revocation, denial or a civil penalty of respondent's, Keith's Mobile Home Movers, license/registration for violation of the department's manufactures housing rules and regulations.

Contact: Jack Shriver, 920 Colorado Street, Austin, Texas 78701, (512) 463-3128.

Filed: January 15, 1990, 4:44 p.m.

TRD-9000486

State Medical Education Board

Saturday, January 20, 1990, noon. The State Medical Education Board met at the Bevington A. Reed Building, Board Room 255, 200 East Riverside Drive, Austin. According to the agenda, the board reviewed problem accounts; and considered adoption of rules and regulations for the loan program operated by that board.

Contact: Mack Adams, P.O. Box 12788, Austin, Texas 78704, (512) 462-6325.

Filed: January 11, 2:52 p.m.

TRD-9000380

Texas State Board of Medical Examiners

Thursday, January 25, 1990, 8 a.m. The Reciprocity Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda, the committee will discuss: possible amendments to board rule 163.9(c); review of applicants; executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e) (1) and Opinion Attorney General 1974, Number H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78701, (512) 452-1078.

Filed: January 17, 1990, 4:55 p.m.

TRD-9000615

Thursday, January 25, 1990, 9:30 a.m. The Examination Committee of the Texas State Board of Medical Examiners will

meet at 1101 Camino LaCosta, Austin. According to the agenda, the committee will discuss: review of applicants; request for visiting professor permit extension; possible study guide for jurisprudence exam; executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Opinion Attorney General 1974, number H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78701, (512) 452-1078.

Filed: January 17, 1990, 4:53 p.m.

TRD-9000618

Thursday, January 25, 1990, 1 p.m. The Legislative Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda, the committee will discuss: Laws re: regulation of acupuncture; Act change re: inactive status; executive director salary; executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Opinion Attorney General 1974, number H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78701, (512) 452-1078.

Filed: January 17, 1990, 4:53 p.m.

TRD-9000617

Thursday, January 25, 1990, 2 p.m. The Ad Hoc Committee on CME of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda, the committee will discuss CME; executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Opinion Attorney General 1974, number H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78701, (512) 452-1078.

Filed: January 17, 1990, 4:55 p.m.

TRD-9000616

Thursday, January 25, 1990, 3 p.m. The Disciplinary Process Review Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda, the committee will discuss: minutes; enforcement report; information brochure; settlement conference results; point system progress report; immunity of persons assisting board; review selected files; executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Opinion Attorney General 1974, number H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78701, (512) 452-1078.

Filed: January 17, 1990, 4:52 p.m.

TRD-9000620

Thursday, January 25, 1990, 4:30 p.m. The Public Information Committee of the Texas State Board of Medical Examiners

will meet at 1101 Camino LaCosta, Austin. According to the agenda, the committee will discuss: update on public information progress; executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Opinion Attorney General 1974, number H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78701, (512) 452-1078.

Filed: January 17, 1990, 4:55 p.m.

TRD-9000614

Thursday-Friday, January 25-26, 1990, 4:30 p.m. and 8 a.m. respectively. The Search Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda, the committee will conduct interviews for executive director position; and executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Opinion Attorney General 1974, number H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78701, (512) 452-1078.

Filed: January 17, 1990, 4:55 p.m.

TRD-9000613

Friday-Saturday, January 26-27, 1990, 9 a.m. and 8:30 a.m. respectively. The Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda, the board will discuss: committee meetings/reports; hearings: possible Act violations, reciprocity; proposals for decisions; executive sessions: pending/contemplated litigation, Article 6252-17, 1(g); orders; state auditor's report; executive director's report: space, personnel, licensure, enforcement, computer, meetings, data bank, handbook, records/logs, contract; public hearings on rules: authority to supply drugs, refund for exam applicants; probationers; approve: medical schools, training programs, minutes; executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Opinion Attorney General 1974, number H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78701, (512) 452-1078.

Filed: January 17, 1990, 4:52 p.m.

TRD-9000621

Saturday, January 27, 1990, 8 a.m. The Finance Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda, the committee will discuss: financial reports; and executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Opinion Attorney General 1974, number H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78701, (512) 452-1078.

Filed: January 17, 1990, 4:53 p.m.

TRD-9000619

Texas Optometry Board

Thursday, January 25, 1990, at 2 p.m. The Texas Optometry Board will meet at the Houston Medical Center Hilton, 6633 Travis Street, Houston. According to the agenda, the board will conduct a regular meeting to hold a formal administrative hearing with licensee, consider reports of secretary-treasurer, legal counsel, executive director, committee chairpersons; unfinished business to consider eligibility of candidate for examination; new business to consider duplicate license issuance, cancellation of licenses, report on attorney general conference, attendance at forthcoming FARB meeting, Medicaid eyeglass program, appearance of licensees who have not fulfilled continuing education requirements, and membership in IAB matters; executive session to be held in compliance with §2(e), Article 6252-17, Texas Civil Statutes, to discuss contemplated, pending litigation, contractual matters, matters referred to attorney general prior to the regular meeting, committees will meet at 10:30 (investigation-enforcement); 11:15 (rules), 11:30 (continuing education), and 1:30 p.m. (remaining committees). Board examination will be administered on January 26-27, 1990 at the University of Houston.

Contact: Lois Ewald, 9101 Burnet Road, Suite 214, Austin, Texas 78758, (512) 835-1938.

Filed: January 17, 1990, 11:37 p.m.

TRD-9000589

Texas Parks and Wildlife Department

Wednesday, January 24, 1990, 7 p.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at Ruth's Chris Steak House, 3010 Guadalupe, Austin. According to the agenda, the commission plan to have dinner and although this function is primarily a social event and no formal action is planned the commission may discuss items on the public hearing agenda scheduled for 9 a.m., January 25, 1990.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 16, 1990, 2:52 p.m.

TRD-9000519

Thursday, January 25, 1990, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters Complex Building B, 4200 Smith School Road, Austin. According to the agenda, the commission will discuss: ap-

proval of minutes; presentation of certificates/awards; exotic fish, shellfish, and aquatic plants; Matagorda Island SP and WMA five-year plan and program; local park funding; boat ramp funding; Armand Bayou and Christmas Bay-coastal preserves/Galveston Bay; Texas coastal preserves: management plans for S. Bay and Welder Flats; Lake Tawakoni SP master plan/Hunt Co.; potential SP site/Webb Co.; nongame stamp artwork; statewide boat speed and buoy marking standards; restricted wild animal proc.; nomination/oil and gas lease/Tyler SP/Smith Co.; nomination/oil and gas lease/Chaparral WMA/Dimmit and LaSalle Co.; pipeline easement/Richland Creek WMA/Freestone Co.; concession contract/Garner SP/Uvalde Co.; termination of concession contract/Choke Canyon SP/McMullen and Live Oak Co.; stocking policy; acquisition/Kerr Co.; acquisition/Anderson Co.; acquisition/Washington Co.; acquisition Presidio Co.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 16, 1990, 2:52 p.m.

TRD-9000521

Thursday, January 25, 1990, noon. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters Complex Building B, 4200 Smith School Road, Austin. According to the agenda, the discuss notice of closed meeting; approval of November 2, 1989 executive session court reporter minutes; land acquisition-Kerr County; land acquisition-Anderson County; land acquisition-Washington County; land acquisition-Presidio County; attorney advice concerning anticipated civil rights litigation.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 16, 1990, 2:51 p.m.

TRD-9000520

State Property Tax Board

Thursday, January 25, 1990, 9 a.m. The State Property Tax Board will meet at 4301 Westbank Drive, Building B, Suite 100, Valuations Conference Room, Austin. According to the agenda, the board will discuss approval of minutes of January 10, 1990; executive session: discussion of candidates for appointment of executive director and interview of candidates pursuant to article 6252-17, §2(g), Texas Revised Civil Statutes; reconvene in open session to act or vote on matters considered in executive session.

Contact: Ron Patterson, 4301 Westbank

Drive, Building B, Suite 100, Austin, Texas 78746, (512) 834-4901.

Filed: January 15, 1990, 3:37 p.m.

TRD-9000477

Texas State Board of Public Accountancy

Wednesday, January 24, 1990, 9 a.m. The Examination Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the agenda, the committee will review information relating to the November, 1989, examination; May, 1990, examination; future examinations; discuss requests made by exam candidates for student loan deferments; review exam candidate file; consider changes to substantive rule 511.57, definition of accounting courses; consideration of changes to substantive rule 511.58, definition of related business subjects; consider substantive rule 511.55, qualification under the 1979 Act, as amended in 1989; consider substantive rule 511.61, qualifications under the 1979 Act, as amended in 1989, effective on September 1, 1997; report on the reaction of NASBA to the board's position paper; etc.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: January 11, 1990, 2:45 p.m.

TRD-9000381

Wednesday, January 24, 1990, 9:30a.m. The Licensing Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the agenda, the committee will discuss ratification of approved applications for registration of partnerships and professional corporations; consider application for reinstatement of CPA certificates; ratification of previously approved applications under §§12, 13, and 14; consider non-routine applications under §§12, 13, and 14; informal conferences for individuals requesting an appearance before the committee; review of convictions reported by licensees on their 1990 renewal notices; review of information relating to Department of Public Safety criminal background investigation reports; review of request for surrender of CPA certificates under §12(a) of the Act; review of plans for the May, 1990 swearing-in ceremony; review of substantive rules 513.122, 513.123, and 513.124, experience requirements; and other.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241. Filed: January 11, 1990, 2:45 p.m.

TRD-9000390

Wednesday, January 24, 1990, 1 p.m. The Ad Hoc Examination Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the agenda, the committee will discuss the May, 1990 examination and other matters.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: January 11, 1990, 2:45 p.m.

TRD-9000389

Thursday, January 25, 1990, 9 a.m. The Executive Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the agenda, the committee will discuss: report on the status of the sunset report; review of the board's financial matters; review of personnel matters; discussion of substantive rules: 501.31, Confidential Client Communications; 513.47, Affidavit of Firm; 513.22, application for registration of a corporation; 513.61, general rule; 501.26, review of work product of licensees; review of NASBA matters; consideration of implementation of a sick leave pool; appointment of new board member to committee(s); appointment of search committee for executive director; review of status of GAO referrals; review of legal matters; discussion of registration of "KMPG Peat Marwick"; review of status of the computer conversion; request for reinstatement hearing-Jeffrey Mayper; other matters coming before the committee.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3891, (512) 451-0241.

Filed: January 17, 1990, 3:21 p.m.

TRD-9000606

Thursday-Friday, January 25-26, 1990, 1 p.m. and 9 a.m. respectively. The Full Board of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the agenda, the board will review minutes from November 10-11, 1989, board meeting; report of the executive committee (December and January); report of the behavioral enforcement committee; the technical standards review committee; the constructive enforcement committee; the report review committee; the constructive enforcement committee; the report review committee; licensee education committee; licensing committee; examination committee; nominations committee and election of officers; action on substantive rules; ratification of board orders; consent order and proposals for decision; ratification of name changes during 1989; approval of examination on the rules of professional conduct; review of certain board communications; and review of future meeting and hearing schedules.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3891, (512)

Suite 340, Austin, Texas 78752-3891, (512) 451-0241.

Filed: January 17, 1990, 3:21 p.m.

TRD-9000605

◆ ◆ ◆
Texas Department of Public Safety

Thursday, January 25, 1990, 11 a.m. The Public Safety Commission of the Texas Department of Public Safety will meet at DPS Headquarters (Commission Room), 5805 North Lamar Boulevard, Austin. According to the agenda, the commission will discuss approval of minutes; election of chairman; budget matters; personnel matters; real estate matters; pending and contemplated litigation; miscellaneous and other unfinished business.

Contact: Joe E. Milner, 5805 North Lamar, Austin, Texas 78773, (512) 465-2000, ext. 3700.

Filed: January 15, 1990, 2:40 p.m.

TRD-9000474

◆ ◆ ◆
Public Utility Commission of Texas

Tuesday, January 16, 1990, 9 a.m. The Public Utility Commission of Texas met at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the emergency revised agenda, the commission added the consideration of project number 9153: TU electric refund of fuel cost overrecovery. The emergency status was necessary because prompt commission action was necessary to make immediate refunds.

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

Filed: January 12, 1990, 2:48 p.m.

TRD-9000429

Thursday, January 25, 1990, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the division will hold a prehearing conference on Dockets Number 9251 and 9088: application of GTE Southwest, Inc. for approval of revisions to the Centranet service tariff and application of GTE Southwest, Inc. to establish Centranet rates for Exxon Chemical Company.

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

Filed: January 15, 1990, 3:23 p.m.

TRD-9000475

Thursday, February 8, 1990, 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 agenda, the division will conduct a rescheduled prehearing conference in Docket Number 9030: petition of general counsel for a fuel reconciliation for Southwestern Public Service Company.

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

Filed: January 15, 1990, 2 p.m.

TRD-9000463

Monday, February 26, 1990, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the division will conduct a hearing on the merits for Docket Number 8640: complaint of Compaq Computer Corporation against Southwestern Bell Telephone Company.

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

Filed: January 17, 1990, 8:51 a.m.

TRD-9000577

Monday, April 9, 1990, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the division will conduct a hearing on the merits on Docket Number 9186: application of Fort Bend Telephone Company for approval of revisions to the enhanced universal emergency number service tariff.

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

Filed: January 11, 1990, 3:35 p.m.

TRD-9000388

Tuesday, May 22, 1990, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the hearings division will conduct a hearing on the merits in Docket Number 8953: complaint of Trinity River Authority against Texas Utilities Electric Company.

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

Filed: January 12, 1990, 2:48 p.m.

TRD-9000430

◆ ◆ ◆
State Purchasing and General Services Commission

Tuesday, January 23, 1990, 9 a.m. The State Purchasing and General Services

Commission will meet at 1711 San Jacinto Street, Central Services Building, Conference Room 402, Austin. According to the agenda, the commission will consider final adoption of amendments to §§121.1, 121.2, 121.3, 121.4, 121.5, and 121.8 regarding the TEX-AN network; prospective bond issuance by TPFA; resolution of claims-Meyerson Construction; water damage in state buildings-emergency funds; RFI-engagement of a real estate consultant; ADP audit; report on "Project-Specific" A/E liability insurance; revisions to the UGC's; operating budget report; performance of Budget Rent a Car; 3.09 report; construction project report; division activity report; executive session regarding the potential purchase of real property; executive session regarding pending litigation.

Contact: John R. Neel, 1711 San Jacinto Street, Austin, Texas 78701, (512) 463-3446.

Filed: January 15, 1990, 8:17 a.m.

TRD-9000438

◆ ◆ ◆
Railroad Commission of Texas

Monday, January 15, 1990, 9 a.m. The Railroad Commission of Texas met at the William B. Travis Building, Room 12-126, 1701 North Congress Avenue, Austin. According to the emergency revised agenda, the commission discussed transportation docket numbers 029277ZZT, 029278ZZT, 029279ZZT and 029280ZZT; considered whether the commission should enter interim orders authorizing an increase of fuel adjustment charges or the establishment of fuel adjustment charge provisions, as requested by the Oil Field Haulers Association, Inc., North American Freight System, Inc., Mid-Way Transportation, Inc. and Transport Services, and E. W. Belcher Trucking, Inc., et al. The emergency status was necessary because an urgent public necessity existed due to the recent dramatic fuel cost increases experienced by the motor carriers. Such a reasonably unforeseeable situation required immediate action by the commission.

Contact: Harold Bartz, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-7104.

Filed: January 11, 1990, 4:58 p.m.

TRD-9000393

Monday, January 22, 1990, at 9 a.m. The Railroad Commission of Texas met at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room 12-126, Austin. Agendas follow.

The commission considered various matters within the jurisdiction of the commission. In addition the commission considered items previously posted for open meeting and at such meeting verbally postponed or

continued to this date. With regard to any item, the commission took 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 considered the procedural status of any contested case if 60 days or more elapsed from the date the hearing was closed or from the date the transcript was received. The commission met in executive session to receive legal advice regarding pending and/or contemplated litigation.

Contact: Cue D. Boykin, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

Filed: January 12, 1990, 10:33 a.m.

TRD-9000418

The commission considered and acted on the personnel division director's report on division administration, budget, procedures, and personnel matters. The commission met in executive session to consider the appointment, employment, evaluation, reassignment duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

Filed: January 12, 1990, 10:28 a.m.

TRD-9000417

The commission considered and acted on the administrative services division director's report on division administration, budget, procedures, and personnel matters. Discussion of the development of a natural gas clearinghouse that would match companies that need gas to fuel new plants with producers that have gas to sell.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7257.

Filed: January 12, 1990, 10:29 a.m.

TRD-9000416

The commission considered and acted on the investigation division director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6828.

Filed: January 12, 1990, 10:30 a.m.

TRD-9000415

The commission considered and acted on the OIS director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6710.

Filed: January 12, 1990, 10:30 a.m.

TRD-9000414

The commission considered and acted 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. Considered reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors. Consideration of reorganization of the well plugging program. The commission met in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel.

Contact: Cril Payne, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: January 12, 1990, 10:31 a.m.

TRD-9000413

The commission considered and acted on the automatic data processing division director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

Filed: January 12, 1990, 10:31 a.m.

TRD-9000412

The commission considered category determinations under §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: January 12, 1990, 10:32 a.m.

TRD-9000411

Texas Rehabilitation Commission

Thursday-Friday, February 8-9, 1990, 9:30 a.m. and 8:30 a.m. respectively. The Texas Planning Council for Developmental Disabilities (Planning and Evaluation Committee) of the Texas Rehabilitation Commission will meet at 4900 North Lamar Boulevard, DD Conference Room 4240, Austin. According to the agenda, on February 8, 1990, the committee will discuss: approval of summary report, August 21, 1989, approval of summary report, November 10, 1989; designation of nominating committee representative; university affiliated program report (UAP); review of fiscal year 1989 state plan year-end report; review of status of fiscal year 1990-1991 state plan and 1990 report and discussion of proposed state plan amendments; review of proposed annual project summary format. On February 9, 1990 the committee will discuss: approval of proposed fiscal year 1991 state plan amendments; proposed annual project summary report form; review of ethnic status report summary; update on fiscal year 1990 funding activities.

Contact: Roger A. Webb, 4900 North Lamar Boulevard, Austin, Texas 78751-2316, (512) 483-4081.

Filed: January 15, 1990, 1:52 p.m.

TRD-9000464

Rural Economic Development Commission

Thursday, January 25, 1990, 1 p.m. The Rural Economic Development Commission will meet in the Senate Reception Room, State Capitol Building, Austin. According to the agenda, the commission will discuss: chairman's remarks; overview of the duties of the commission; final product of the commission; work schedule; key issues to be addressed; task force structure and duties; appointment of commission members to task forces; and other business.

Contact: David Ellis, Special Services Building, Texas A&M University, College Station, Texas 77843, (409) 845-5332.

Filed: January 16, 1990, 3:51 p.m.

TRD-9000527

State Securities Board

Friday, January 19, 1990, 9:30 a.m. The Board of the State Securities Board met in the Employees Retirement System Auditorium, 1800 San Jacinto Street, Austin. According to the agenda, the board discussed minutes of the October 13, 1989 meeting; published proposal to amend §131.2; new rule proposals to amend §115.1, create a revised §121 to reflect current NASAA guidelines, and repealed §121 to allow for adoption of the current NASAA guidelines; new business items for subsequent board meetings; general update with reports from division directors and securities commissioner.

Contact: Richard D. Latham, 1800 San Jacinto Street, Austin, Texas 78711, (512) 474-2233.

Filed: January 11, 1990, 2:51 p.m.

TRD-9000374

State Seed and Plant Board

Monday, January 29, 1990, 9 a.m. The Seed and Grain Warehouse/Texas Department of Agriculture of the State Seed and Plant Board will meet at the Holiday Inn-Brookhollow, 7050 Stemmons Freeway, Dallas. According to the agenda, the board will consider minutes, review applications for license as certified seed growers, request for certification eligibility of new varieties, election of officers.

Contact: Dolores Alvarado Hibbs, P.O. Box 629, Giddings, Texas (409) 542-3691.

Filed: January 12, 1990, 10:43 a.m.

TRD-9000408

◆ ◆ ◆
Board for Lease of State-Owned Lands

Thursday, January 25, 1990, 2:30 p.m. The Board for Lease of Texas Parks and Wildlife Lands of the Board for Lease of State-Owned Lands will meet at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 833, Austin. According to the agenda, the board will discuss approval of the minutes of the previous board meeting; consideration of nominations; terms, conditions and procedures for the April 3, 1990 oil, gas and other minerals lease sale; power line easement application, Calhoun County; pipeline easement application, Freestone County.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78711, (512) 463-5016.

Filed: January 16, 1990, 9:58 a.m.

TRD-9000495

◆ ◆ ◆
**University of Texas System,
M.D. Anderson Cancer
Center**

Tuesday, January 16, 1990, 9 a.m. The Institutional Animal Care and Use Committee of the University of Texas System, M.D. Anderson Cancer Center met in the M.D. Anderson Cancer Center Conference Room AW7.707, Seventh Floor, 1515 Holcombe Boulevard, Houston. According to the agenda, the committee reviewed protocols for animal care and use and modifications thereof.

Contact: Anthony Mastromarino, 1515 Holcombe Boulevard, Houston, Texas 77030, (713) 792-3391.

Filed: January 11, 1990, 3:56 p.m.

TRD-9000385

◆ ◆ ◆
Texas Water Commission

Tuesday, January 16, 1990, 3 p.m. The Texas Water Commission met at 1700 North Congress, Stephen F. Austin Building, Room 123, Austin. According to the emergency revised agenda, the commission will consider various matters within the regulatory jurisdiction of the commission, as more fully stated on the attached agenda. In addition, the commission considered 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. The emergency status was necessary due to reasonably unforeseeable circumstances, an emergency addition to the agenda was necessary.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: January 15, 1990, 10:32 a.m.

TRD-9000453

Wednesday, January 17, 1990, 2 p.m. The Texas Water Commission met at 1700 North Congress, Stephen F. Austin Building, Room 118, Austin. According to the emergency revised agenda, the commission considered various matters within the regulatory jurisdiction of the commission. In addition, the commission considered 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. The emergency status was necessary due to the imminent threat to public health and safety posed by the presence of pesticides in certain Texas river systems, an emergency addition to the agenda was necessary.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: January 17, 1990, 8:33 a.m.

TRD-9000578

Wednesday, January 17, 1990, 2 p.m. The Texas Water Commission held an emergency meeting at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the agenda, the commission considered various matters within the regulatory jurisdiction of the commission. In addition, the commission considered 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. The emergency status was necessary because the necessity for adoption and implementation of these federally mandated regulations as well as the threats to public health and safety to which these regulations relate necessitated an emergency addition to the agenda.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: January 15, 1990, 10:32 a.m.

TRD-9000454

Wednesday, January 24, 1990, 9 a.m. The Texas Water Commission will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the revised agenda, 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 of time.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: January 16, 1990, 8:51 a.m.

TRD-9000497

Monday, February 5, 1990, 10 a.m. The Texas Water Commission will meet in Room 1149A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a hearing on rate increase of Cedar Hill Homeowners Association, Docket Number 8301-G.

Contact: Deborah Parker, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: January 16, 1990, 3:34 p.m.

TRD-9000528

Wednesday, February 28, 1990, 9 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will discuss application by Peter Grothaus and wife, Connie Fowler, application number 12-2947A, to amend certificate of adjudication number 12-2947 by increasing the annual appropriation from 11 acre-feet to 144 acre-feet of water per annum from Nolan Creek; and to increase the acreage authorized for irrigation each year from 35 acres to 60 acres of land in Bell County, approximately 8 1/2 miles west of Belton.

Contact: Lann Bookout, P.O. Box 13087, Austin, Texas 78711, (512) 371-6385.

Filed: January 11, 1990, 3:36 p.m.

TRD-9000384

Wednesday, February 28, 1990, 9 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will discuss application by Alliance Airport Limited, application number 5270, for a 11.121 water use permit to construct a dam and reservoir for irrigation of roadway medians and right-of-ways and in-place recreational use, approximately 17 miles north of downtown Fort Worth, and near the new Alliance Airport. The reservoir will be located on an unnamed tributary of Henrietta Creek, tributary of Denton Creek, tributary of Denton Creek, tributary of Elm Fork Trinity River, tributary of the Trinity River in the Trinity River Basin.

Contact: Rick Airey, P.O. Box 13087,

Austin, Texas 78711, (512) 371-6384.

Filed: January 11, 1990, 3:36 p.m.

TRD-9000387

Wednesday, February 28, 1990, 9 a.m.
The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will discuss application by Lexington Development Corporation, A Texas Limited Partnership, doing business as Provident Development Company, application number 5268, for an 11.121 permit to construct and maintain two dams (dams 1 and 2) and two reservoirs on an unnamed tributary of Decker Creek, tributary of Gilleland Creek, tributary of the Colorado River, Colorado River Basin for in-place recreational use, approximately 9 miles northeast of Austin.

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

Filed: January 11, 1990, 3:37 p.m.

TRD-9000382

Wednesday, February 28, 1990, 9 a.m.
The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will discuss application by Lexington Development Corporation, A Texas Limited Partnership doing business as Provident Development Company, application number 5269, for a 11.121 water use permit to construct and maintain a dam (dam number 3) and reservoir on an unnamed tributary of Harris Branch, tributary of Gilleland Creek, tributary of the Colorado River, Colorado River Basin for in-place recreational use, approximately 9.7 miles northeast of Austin.

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

Filed: January 11, 1990, 3:37 p.m.

TRD-9000383

Wednesday, March 7, 1990, 9 a.m.
The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will discuss application to amend water right permit number 5271 by Boyt Realty Company. Applicant seeks authorization to sever the rights now authorized for the company by Certificate of Adjudication Number 08-4248 from the certificate and to modify its authorization.

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

Filed: January 15, 1990, 3:07 p.m.

TRD-9000485

◆ ◆ ◆ ^

Regional Meetings

Meetings Filed January 11,
1990

The Burnet County Appraisal District Board of Directors met at 215 South Pierce, Burnet, January 18, 1990, at 6 p.m. Information may be obtained from Barbara Ratliff, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291.

The Eastland County Appraisal District Board of Directors will meet at the Commissioners' Courtroom of Eastland County Courthouse, Eastland, January 24, 1990, at 1 p.m. Information may be obtained from Steve Thomas, Box 914, Eastland, Texas 76448, (817) 629-8597.

The Education Service Center Region XI Board of Directors will meet at the Education Service Center, Region XI, 3001 North Freeway, Fort Worth, January 25, 1990, at noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311.

The Hays County Appraisal District Appraisal Review Board met at 632 "A" East Hopkins-Municipal Building, San Marcos, January 17, 1990, at 9 a.m. Information may be obtained from Lynnell Sedlar, 632 "A" East Hopkins, Municipal Building, San Marcos, Texas 78666, (512) 754-7400.

The Houston-Galveston Area Council Board of Directors Meeting was held at 3555 Timmons Lane, Fourth Floor Conference Room, Houston, January 16, 1990, at 10 a.m. Information may be obtained from Marjorie Baker, P.O. Box 22777, Houston, Texas 77227-2777, (713) 993-4596.

The Leon County Central Appraisal District Agricultural Advisory Board met at the Leon County Central District Office, Centerville, January 16, 1990, at 9 a.m. Information may be obtained from Robert M. Winn, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

The Mills County Appraisal District met at the Mills County Courthouse Commissioners Court, Goldthwaite, January 18, 1990, at 6:30 p.m. Information may be obtained from Doran E. Lemke, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253.

The North Central Texas Council of Governments for the Local Government Investment Fund for Texas met at 616 Six Flags Drive, Suite 200, Arlington, January 19, 1990, at noon. Information may be obtained from Charles Cason, III, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

The Scurry County Appraisal District Board of Directors met at 2612 College Avenue, Snyder, January 16, 1990, at 7 p.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

TRD-9000370

◆ ◆ ◆

Meetings Filed January 12,
1990

The Central Appraisal District of Johnson County Board of Directors met at 109 North Main, Suite 201, Room 202, Cleburne, January 18, 1990, at 4:30 p.m. Information may be obtained from Jackie Gunter, 109 North Main, Cleburne, Texas 76031, (817) 645-3987.

The Dallas Area Rapid Transit Budget and Finance Committee met at 601 Pacific Avenue, Dallas, January 16, 1990, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit Arts Committee met at 601 Pacific Avenue, Dallas, January 16, 1990, at 1:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit Planning and Development Committee met at 601 Pacific Avenue, Dallas, January 16, 1990, at 3 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Ellis County Appraisal District met at 406 Sycamore Street, Waxahachie, January 19, 1990, at 9 a.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Hale County Appraisal District Board of Directors met at 302 West Eighth Street, Plainview, January 18, 1990, at 7 p.m. Information may be obtained from Linda Jaynes, 302 West Eighth Street, Plainview, Texas 79072, (806) 293-4226.

The Hunt County Tax Appraisal District Board of Directors met at the Hunt County Tax Appraisal District Office Board Room, 4801 King Street, Greenville, January 18, 1990, at 6 p.m. Information may be obtained from Joe Pat Davis or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Hunt County Tax Appraisal District Board of Directors met at the Hunt County Tax Appraisal District Office Board Room, 4801 King Street, Greenville, January 18, 1990, at 7:30 p.m. Information may be obtained from Joe Pat Davis or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Lamb County Appraisal District Board of Directors met in the Board Meeting Room, 331 LFD Drive, Littlefield, January 18, 1990, at 7 p.m. Information may be obtained from Vaughn McKee, Box 552, Littlefield, Texas 79339-0552, (806) 385-6474.

The Lower Colorado River Authority Finance and Administration Committee met at 3700 Lake Austin Boulevard, Austin, January 17, 1990, at 9 a.m. Information may be

obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority Audit and Budget Committee met at 3700 Lake Austin Boulevard, Austin, January 17, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority Natural Resources Committee met at 3700 Lake Austin Boulevard, Austin, January 17, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3700 Lake Austin Boulevard, Austin, January 17, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority Energy Operations Committee met at 3700 Lake Austin Boulevard, Austin, January 17, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, Austin, January 18, 1990, at 8:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The Multimodal Transportation Planning Gulf Coast State Planning Region Transportation Planning Committee will meet at 3555 Timmons, Fourth Floor Conference Room, Houston, January 26, 1990, at 9:30 a.m. Information may be obtained from LaDawn Bush, P.O. Box 1386, Houston, Texas 77251, (713) 869-4571.

The Panhandle Ground Water Conservation District Number 3 Board of Directors Public Meeting was held at the Water District Office, 300 South Omohundro, White Deer, January 15, 1990, at 7 p.m. Information may be obtained from Gary L. Walker, P.O. Box 637, White Deer, Texas 79097, (806) 883-2501.

The Region V Education Service Center Board of Directors met at 2295 Delaware Street, Board Room, Beaumont, January 19, 1990, at 1:15 p.m. Information may be obtained from Fred J. Waddell, 2295 Delaware Street, Beaumont, Texas, (409) 835-5212.

The Rusk County Appraisal District Board of Directors will meet at the Administrative Offices, 107 North Van Buren, Henderson, January 25, 1990, at 1:30 p.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (214) 657-9697.

The Sulphur River Basin Authority Board of Directors met at 1604 North Jefferson, Mt. Pleasant, January 18, 1990, at 11:30 a.m. Information may be obtained

from C. B. Wheeler, P.O. Box 1838, Texarkana, Texas 75504, (214) 794-3121.

TRD-9000396

◆ ◆ ◆
**Meetings Filed January 15,
1990**

The Atascosa County Appraisal District Board of Directors held an emergency meeting at 1010 Zanderson, Jourdanton, January 18, 1990, at 1 p.m. The emergency status was necessary because the post office was closed for the holiday and would not deliver mail. Information may be obtained from Vernon A. Warren, 1010 Zanderson, Jourdanton, Texas 78026, (512) 769-2730.

The Austin-Travis County Mental Health Mental Retardation Center Operations and Planning Committee met at 1430 Collier Street, Conference Room #1, Austin, January 19, 1990, at 7:30 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Bastrop County Appraisal District Board of Directors met at the Bastrop County Appraisal District, 1200 Cedar Street, Bastrop, January 18, 1990, at 7:30 p.m. Information may be obtained from Lorraine Perry, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925.

The Bastrop County Appraisal District Appraisal Review Board will meet at the Bastrop County Appraisal District, 1200 Cedar Street, Bastrop, January 25, 1990, at 7 p.m. Information may be obtained from Lorraine Perry, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925.

The Bell County Tax Appraisal District Board of Directors met at the Tax Appraisal District Building, 411 East Central, Belton, January 17, 1990. The emergency status was necessary because an additional item was added: election of officers. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, ext. 29.

The Comal Appraisal District Board of Directors met at 430 West Mill Street, New Braunfels, January 22, 1990, at 7:30 p.m. Information may be obtained from R. Richard Rhodes, Jr. P.O. Box 311222, New Braunfels, Texas 78130, (512) 625-8597.

The Golden Crescent Service Delivery Area Private Industry Council, Inc. met at 700 Main Street, Suite 105, Victoria, January 17, 1990, at 6:30 p.m. Information may be obtained from Sandy Heiermann, P.O. Box 164, Victoria, Texas 77902, (512) 578-0341.

The Heart of Texas Council of Governments Private Industry Council met at the McLennan Community College, Student Center, 1400 College Drive, Waco, January 18, 1990, at 5:30 p.m. Information may be obtained from Mary McDow, 300 Franklin,

Waco, Texas 76701, (817) 756-7822.

The Heart of Texas Council of Governments Executive Committee will meet at 300 Franklin, Waco, January 26, 1990, at 10 a.m. Information may be obtained from Mary McDow, 300 Franklin, Waco, Texas 76701, (817) 756-7822.

The High Plains Underground Water Conservation District Number One Board of Directors will meet in the Conference Room located at 2930 Avenue Q, Lubbock, January 23, 1990, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

The West Central Texas Council of Governments Executive Committee will meet at 1025 E.N. 10th Street, Abilene, January 24, 1990, at 12:45 p.m. Information may be obtained from Brad Helbert, 1025 E.N. 10th Street, Abilene, Texas 79601, (915) 672-8544.

TRD-9000449

◆ ◆ ◆
**Meetings Filed January 16,
1990**

The Central Plains Mental Health Mental Retardation Center Board of Trustees will meet at 404 Floydada, Plainview, January 25, 1990, at 6:30 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636.

The Central Texas Council of Governments Transportation Planning Committee will meet at Temple City Hall, Temple, January 24, 1990, at 10 a.m. Information may be obtained from Gerald B. Bunker, P.O. Box 729, Belton, Texas 76513, (817) 939-1801.

The Dallas Central Appraisal District Appraisal Review Board will meet at 1420 West Mockingbird Lane, Suite 500, Dallas, January 26, 1990, at 10 a.m. Information may be obtained from Rick L. Kuehler, 1420 West Mockingbird Lane, Suite 500, Dallas, Texas 75247, (214) 631-0520.

The Gregg Appraisal District Board of Directors will meet at 2010 Gilmer Road, Longview, January 25, 1990, at 10 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

The North Central Texas Council of Governments for the Local Government Investment Fund for Texas met at 616 Six Flags Drive, Suite 200, Arlington, January 19, 1990, at noon. Information may be obtained from Charles Cason, III, P.O. Box COG, Arlington, Texas 76005-5888, (817) 640-3300.

The Northeast Texas Municipal Water District Board of Directors met at Highway 250, South, Hughes Springs, January 22, 1990, at 10 a.m. Information may be ob-

tained from J. W. Dean, Box 955, Hughes Springs, Texas 75656, (214) 639-7538.

The North Texas Municipal Water District Board of Directors will meet at the NTMWD Administrative Offices, 505 East Brown Street, Wylie, January 25, 1990, at 4 p.m. Information may be obtained from Carl W. Riehn, 505 East Brown Street, Wylie, Texas 75098, (214) 442-5405.

The Palo Pinto Appraisal District Appraisal Review Board will meet at the Palo Pinto County Courthouse, Palo Pinto, January 24, 1990, at 1:30 p.m. Information may be obtained from Jack F. Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-1234.

The San Antonio-Bexar County Metropolitan Planning Organization Steering Committee met at the San Antonio City Hall, Basement Conference Room, San Antonio, January 22, 1990, at 1:30 p.m. Information may be obtained from David Pearson, Room 101, Bexar County Courthouse, San Antonio, Texas 78205-3002, (512) 227-8651.

TRD-9000487



Meetings Filed January 17, 1990

The Hickory Underground Water Conservation District Number One Board and Advisors will meet at 2023 South Bridge, Brady, January 25, 1990, at 7 p.m. Information may be obtained from Vickie Roddie, Box 1214, Brady, Texas 76825, (915) 597-2785.

The Hood County Appraisal District Board of Directors will meet at the District Office, 1902 West Pearl, Granbury, January 23, 1990, at 7:30 p.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471.

The Lubbock Regional Mental Health Mental Retardation Center Board of Trustees met at 3801 Avenue J, Board Room, Lubbock, January 22, 1990, at noon. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 766-0202.

The Middle Rio Grande Development Council Board of Directors will meet at Fort Clark Springs Restaurant, Highway 90, Brackettville, January 24, 1990, at 1:30 p.m. Information may be obtained from Michael Patterson, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The Pecan Valley Mental Health Mental Retardation Region Board of Trustees will meet at the Pecan Valley MHMR Region Clinical Office, 104 Charles Street, Granbury, January 24, 1990, at 8 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

The Texas Municipal League Intergovernmental Risk Pool Board of Trustees will meet at the Four Seasons Hotel, Austin, January 20, 1990, at 9 a.m. The emergency status was necessary because rescheduling of meeting cancelled due to bad weather. Information may be obtained from Jackson B. Floyd, 211 East 7th Street, Suite 500, Austin, Texas 78701.

TRD-9000567



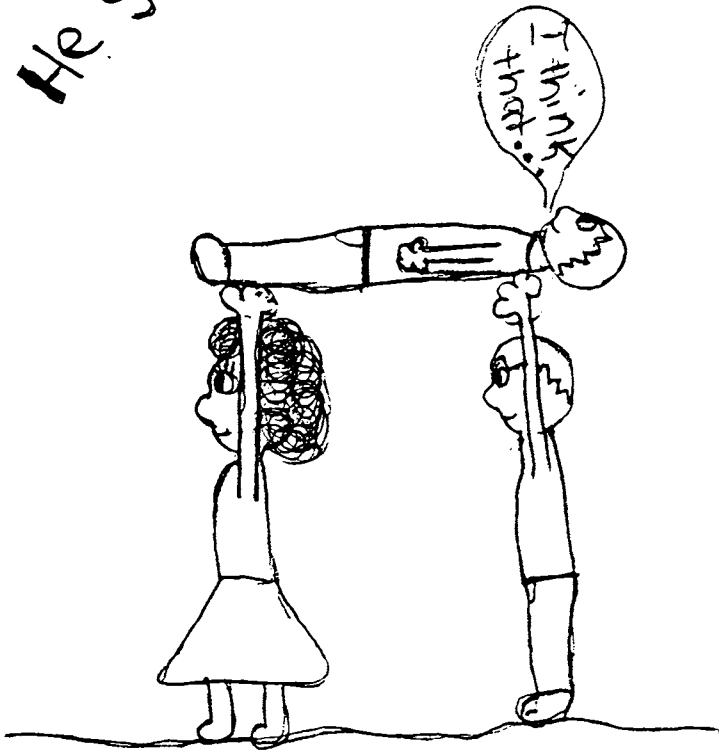
Meetings Filed January 18, 1990

The Upper Leon River Municipal Water District Board of Directors will meet in the General Office of the Filter Plant, Proctor Lake, Comanche County, January 25, 1990, at 6:30 p.m. Information may be obtained from Gary D. Lacy, Box 67, Comanche, Texas 76442, (817) 879-2258.

TRD-9000617



He gets so carried away!



Name: Karen Ramirez

Grade: 5

School: Forbes Elementary #124, San Antonio

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 Applications for Construction Permits

Notice is given by the Texas Air Control Board (TACB) of applications for construction permits received during the period of December 1, 1989, -December 31, 1989.

Information relative to the applications listed below including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the TACB at the address stated previously and at the regional office for the air quality control region within which the proposed facility will be located.

Hercules, Incorporated, Synthetic Pulp Plant, La Porte, Harris County; 19847, December 1, 1989.

Aviall of Texas, Inc., Chromic Acid Fume Scrubbers, Dallas, Dallas County; 19846, December 2, 1989.

Trinity Industries, Inc., Painting and Lining, Longview, Harrison County; 19848, December 2, 1989.

Texaco Chemical Company, Storage Tanks, Port Neches, Jefferson County; 19850, December 5, 1989.

Shell Oil Company/Shell Chemical Company, M PLT Debottlenecking Project, Deer Park, Harris County; 19849, December 5, 1989.

R.E. Hable Company, Asphalt Concrete Plant, Mabank, Kaufman County; 19853, December 5, 1989.

International Paint Company, Marine and Industrial Paint Manufacturing, Houston, Harris County; 19851, December 6, 1989.

Crane Plumbing, Acrylic Bathing Suites, Dallas, Dallas County; 19863, December 6, 1989.

Veterans Administration Medical Center—Big Spring, Infectious Waste Incinerator, Big Spring, Howard County; 19861, December 7, 1989.

Chevron, U.S.A., Soil Vent System, Fort Worth, Tarrant County; 19862, December 8, 1989.

International Paper Company, TRS Incinerator, Texarkana, Cass County; 19864, December 8, 1989.

Hereford Bi-Products, By Products Transfer Station, San Angelo, Tom Green County; 19865, December 8, 1989.

Amoco Chemical Company, Polypropylene Production, Alvin, Brazoria County; 19868, December 11, 1989.

Lone Star Industries, Cement Blending Facility, Houston, Harris County; 19874, December 11, 1989.

Edward A. Williams, Synthetic Marble Manufacturing, Sanger, Denton County; 17327A, December 11, 1989.

Rocky Hall, Fiberglass Church Products Factory, Henderson, Rusk County; 19870, December 12, 1989.

Superior Cabinet Services, Inc., Cabinet Building and Finishing Factory, El Campo, Wharton County; 19869, December 12, 1989.

Formosa Plastics Corporation Texas, Marine Loading Facility, Point Comfort, Calhoun County; 19871, December 13, 1989.

Jetco Chemicals, Jet Pride 90 Manufacturing, Corsicana, Navarro County; 19867, December 13, 1989.

Phillips 66 Company, Gasoline Terminal, Amarillo, Potter County; 19873, December 13, 1989.

Hanson Minerals Company, Gas Production Facility, Loma Alta, McMullen County; 19873, December 14, 1989.

All Saints Episcopal Hospital, Ethylene Oxide Sterilizer, Fort Worth, Tarrant County; 19900, December 18, 1989.

Sanden International (U.S.A.) Inc., Paint Booth, Parts Washer, Wylie, Collin County; 19876, December 18, 1989.

Conoco, Inc., Bulk Petro Terminal and Storage Tankage, Tye, Taylor County; 19875, December 19, 1989.

Chaparral Aviation, Inc., Aircraft Painting/Paint Strip, San Antonio, Bexar County; 19877, December 19, 1989.

Goodyear Tire and Rubber Company, The, Specialty Polymer-850 Unit, Beaumont, Jefferson County; 19879, December 19, 1989.

Amoco Chemical Company, Xylene Feed Storage, Texas City, Galveston County; 19879, December 20, 1989.

Occidental Chemical Corporation, Boiler, Gregory, San Patricio County; 19880, December 20, 1989.

Susan Crane, Inc., Flexographic Printing Press, Dallas, Dallas County; 19882, December 20, 1989.

Intratex Gas Company, Gas Fired Turbine, La Grange, Fayette County; 19881, December 20, 1989.

Texas Protein Corporation, Pet Food Processing Facility, Hondo, Medina County; 19884, December 20, 1989.

Helena Chemical Company, Dry Bulk Fertilizer Blend Factory, Holley Grove, Fannin County; 19899, December 20, 1989.

BASF Corporation, Polycaprolactam, Clute, Brazoria County; 19886, December 21, 1989.

Vencor Inc., doing business as South Texas Hospital, Incinerator, San Antonio, Bexar County; 19889, December 28, 1989.

Tonka Toys Corporation, Painting Processes, El Paso, El Paso County; 19888, December 28, 1989.

Tonka Toys Corporation, Painting Degreaser, El Paso, El Paso County; 19890, December 28, 1989.

Lowenco, Incorporated, Used Motor Oil Facility, League

City, Galveston County; 19891, December 28, 1989.

Better Bags, Incorporated, Plastic Bags, Houston, Harris County; 19892, December 28, 1989.

Pride Refining Incorporated, Naphtha HDS/Reformer, Abilene, Jones County; 19893, December 28, 1989.

Southwestern Refining Company, Cogeneration Unit, Corpus Christi, Nueces County; 19894, December 28, 1989.

Issued in Austin, Texas, on January 12, 1990.

TRD-9000513 Bill Ehret
Director of Hearings
Texas Air Control Board

Filed: January 16, 1990

For further information, please call (512) 451-5711, ext. 354.

◆ ◆ ◆

Texas Alcoholic Beverage Commission

Notice of Hearing

A public hearing on rules proposed by Texas for Responsible Alcohol Consumption will be conducted by a senior staff committee of the Texas Alcoholic Beverage Commission on January 31, 1990, at 8:30 a.m. in Room 320, Jefferson Building, 1600 West 38th Street, Austin.

The purpose of the hearing is to assist the staff in preparing a recommendation to the commission on the proposals.

All interested persons are invited to attend and present oral testimony. Written comments may be submitted in addition to, or in lieu of, oral testimony. Written comments will be accepted at any time through February 5, 1990. Written comments should be addressed to Joe Darnall, General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711.

For copies of the proposals and additional information please contact Joe Darnall at (512) 458-2500.

The following is the text of the proposals. Each permittee or licensee shall implement and maintain approved written management policies concerning service of alcoholic beverages to minors and intoxicated persons, prevention of intoxication, intervention with minors or intoxicated persons and such other items determined by the administrator to be necessary in proper management of a licensed location.

A sale of an alcoholic beverage occurs when an alcoholic beverage is served or delivered for a present or future benefit to the provider whether or not the provider is the holder of a permit or license authorized by the Texas Alcoholic Beverage Code. This rule shall not apply to service or delivery of alcoholic beverages under Chapter 32 of the Code or to private social service and delivery of alcoholic beverages.

Each on-premise permittee or licensee shall utilize a TABC-approved method of counting drinks served to each individual customer. For example; each customer shall have an individual tab. The tab shall indicate the size rating of the customer, type of drink, and time of service.

The Texas Alcoholic Beverage Commission shall adopt standardized penalty charts for violations related to the sale, service, delivery or provision of alcoholic beverages to minors and intoxicated persons. In implementing the standard penalty charts, the administrator may deviate from the standard number of days or penalty assessed by stating in writing the reason for the deviation. Such written reason shall be a part of the record of the permittee subject to public inspection.

On-premise permittees and licensees shall not advertise or promote any alcoholic beverage through promotions such as free drinks, drinking contests, discounted drinks, multiple drink purchases, or any other "happy hour" type of promotion which would tend to encourage drinking as a focus of the activity.

The licensee or permittee shall post conspicuously on or by each display of alcoholic beverages and at each premises exit door, a sign obtained from the Commission warning against the safety and legal hazards of drinking and driving; and the danger of alcohol-related birth defects.

It shall be apparent to a provider that an individual is obviously intoxicated if that individual is exhibiting visible signs of intoxication or has consumed an amount of alcohol that the provider knew or should have known would cause the individual's blood alcohol level to be 0.10 or more.

An individual is clearly a danger to himself or others when the individual exhibits visible signs of intoxication or his blood alcohol level is 0.10 or more.

An original or renewal license or permit shall not be issued for any location for one year following the third violation during any 12-month period at such location for selling or servicing an alcoholic beverage to a minor.

An original or renewal permit or license shall not be issued for any location for one year following the third violation during any 12-month period for selling any alcoholic beverage to an intoxicated person at that location.

No minor shall be allowed on the premises of the holder of an on-premise license or permit unless accompanied by an adult spouse, parent or guardian. This rule shall not apply to any permittee or licensee who receives 60% or more of its gross sales from items other than alcoholic beverages.

An original or renewal license or permit shall not be issued in any area certified as an area where the issuance of a license or permit would endanger the health, safety or general welfare of the public. This rule shall not apply to any location which receives 60% or more of its gross sales from items other than alcoholic beverages.

A license or permit shall be cancelled following the second administrative violation for the sale or negotiated sale of narcotics or controlled substances, as defined by the Texas Penal Code, by the permittee, licensee, or employees on or near the licensed premises and an original or renewal license or permit shall not be issued for that or transferred to that location for one year.

The administrator may prohibit the possession or consumption of alcoholic beverages in any area which a city or county having jurisdiction of the area certifies that the possession or consumption of alcoholic beverages will create or constitute a substantial danger to the health, safety, or general welfare to the public.

The administrator may not issue a permit or license to a location which he finds is unsuitable because of its proximity to and impact on a residential neighborhood or school.

Issued in Austin, Texas, on January 10, 1990.

TRD-9000329 Joe Darnall
General Counsel
Texas Alcoholic Beverage Commission

Filed: January 10, 1990

For further information, please call: (512) 458-2500

◆ ◆ ◆

State Banking Board

Notice of Hearing

The hearing officer of the State Banking Board will conduct a hearing on Thursday, March 1, 1990, at 2601 North Lamar Boulevard, Austin, on the charter application for a trust company for U.S. Trust Company of Texas, Dallas, Dallas County.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, State Banking Department, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on January 16, 1990.

TRD-9000516 William F. Aldridge
Director of Corporate Activities
State Banking Board

Filed: January 16, 1990

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



The hearing officer of the State Banking Board will conduct a hearing on Thursday, February 22, 1990, at 2601 North Lamar Boulevard, Austin, on the charter application for a trust company for Trust Company of the Southwest, Dallas, Dallas County.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, State Banking Department, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on January 16, 1990.

TRD-9000515 William F. Aldridge
Director of Corporate Activities
State Banking Board

Filed: January 16, 1990

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



Texas Education Agency

Consultant Contract Award

Description. This notice is filed pursuant to Texas Civil Statutes, Article 6252-11c. After publication of a request for proposals in the April 7, 1989, issue of the *Texas Register* (14 TexReg 1771), the Texas Education Agency on June 30, 1989, executed a contract with Anderson Consulting, 816 Congress Avenue, Suite 1500, Austin, Texas 78701, to automate the standard application system used to flow federal and some state funds to local education agencies.

Cost and Dates. The total amount of the contract is \$80,000. The beginning date of the contract is June 5, 1989, and the ending date is September 29, 1989.

Issued in Austin, Texas, on January 12, 1990.

TRD-9000446 W. N. Kirby
Commissioner of Education

Filed: January 12, 1990

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



Notice of Contract Award

Description. This notice is filed pursuant to Texas Civil Statutes, Article 6252-11c. After publication of a request

for contractor continuance in the October 17, 1989, issue of the *Texas Register* (14 TexReg 5572), the Texas Education Agency on December 15, 1989, executed a contract with National Computer Systems, Incorporated, 2510 North Dodge Street, Iowa City, Iowa 52240, for the continued administration for two years of the Texas Examination of Current Administrators and Teachers (TECAT) and the production of new registration and administration materials.

Cost and dates. The total amount of the contract is \$28,124. The beginning date of the contract is September 1, 1989, and the ending date is August 31, 1991.

Due dates of documents. Registration and administration materials were due from the contractor on or before January 15, 1990.

Issued in Austin, Texas, on January 16, 1990.

TRD-9000534 W. N. Kirby
Commissioner of Education

Filed: January 16, 1990

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



Public Hearing Announcement

(Filed in accordance with the Carl D. Perkins Vocational Education Act, Public Law 98-524, §113(a)(2)(B).)

The Texas Education Agency and the Texas Higher Education Coordinating Board will conduct four regional public hearings on the proposed State Plan for Federal Vocational Education Funding, Fiscal Years 1991-1992. The hearings will be conducted at the following times and locations: Wednesday, February 7, 1990, 1-3 p.m., District Office, Room 301, North Harris County College, 250 Sam Houston Parkway (E), Houston, Texas 77060, (713) 591-3522; Wednesday, February 7, 1990, 1-3 p.m., Region II Education Service Center, 209 North Water Street, Corpus Christi, Texas 78401, (512) 883-9288; Wednesday, February 7, 1990, 10 a.m. - Noon, Region X Education Service Center, 400 East Spring Valley Road, Richardson, Texas 75080, (214) 231-6301; and Wednesday, February 7, 1990, 1-3 p.m., Midland College, Health Science Lecture Hall, 3600 North Garfield, Midland, Texas 79705, (915) 685-4500.

Individuals who wish to speak at these hearings are requested to bring two copies of their written testimony. Draft copies of the administrative provisions of the proposed plan will be available for review by interested individuals after January 22, 1990, in the education service center in your region, the community college in your district, all Texas State Technical Institute (TSTI) campuses, and the three campuses of Lamar University.

Additional information can be obtained by contacting Paul Myers at (512) 463-9285.

Issued in Austin, Texas, on January 10, 1990.

TRD-9000447 W. N. Kirby
Commissioner of Education

Filed: January 12, 1990

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



Request for Proposals

RFP #701-90-036.

Description. The Texas Education Agency is requesting proposals to assist in the implementation of two studies.

The proposer will be required to address both studies in the proposal submitted. The studies are: the impact of educational reform on at-risk students; and an evaluation of prekindergarten programs in Texas.

The study of the impact of educational reform on at-risk students is designed to evaluate the effects of the TEAMS exist level examination, increased graduation requirements, attendance policies, and the no pass/no play rule upon at-risk high school students. The study began during the 1988-1989 school year in 50 school districts. During the spring of 1990, a data collection instrument will be distributed to all 2,000 students participating in the study and their high school counselors. In addition, a survey will be distributed to a sample of high school principals statewide to collect data regarding the impact of these policies upon at-risk students. The third component of this study will involve site visits to 10 high school campuses in education service center Regions IV and XX to collect detailed information about programs for a-risk students. Support requested of the selected contractor includes assistance in analysis and interpretation of data collected in the spring of 1989 and the spring of 1990 and assistance in site visits to the 10 high school campuses in the spring of 1990.

The second study for which assistance is requested is a statewide evaluation of prekindergarten education programs. Support requested of the selected contractor is preparation of a review of the literature in the area of prekindergarten education.

Date of project. The project will commence in March 1990 and will end November 30, 1990.

Project amount. Funding will not exceed \$20,000.

Selection criteria. Proposals will be evaluated on the basis of the quality of the technical component, the quality of the management component, the quality of the task/activity plan, and the quality of the evaluation component.

Further information. Those interested in submitting a proposal for this project should request RFP #701-90-036 either by telephone or in writing from the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304.

For clarifying information about this request, contact Dr. Donald Compton, Director of Programs, Division of Program Evaluation, Texas Education Agency, (512) 463-9524.

Deadline for submitting proposals. The deadline for submitting a proposal is 5 p.m., February 23, 1990.

Issued in Austin, Texas, on January 16, 1990.

TRD-9000535 W. N. Kirby
Commissioner of Education

Filed: January 16, 1990

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

Employees Retirement System of Texas Consultant Contract Renewal

The Employees Retirement System of Texas published a Request for Proposals in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4143) to obtain a private consultant to assist the Employees Retirement System of Texas with a flexible benefits program. The consultant services consist of the following: providing administrative services including record keeping, claims processing and

technical assistance to agency program administrators and participants.

The proposal selected was that of Lincoln National Administrative Services Corporation, 1700 Magnovox Way, Fort Wayne, Indiana 46804. The initial contract was effective from September 1, 1988-August 31, 1989, with a total cost not to exceed \$592,380. By its terms, this contract specifically provides that it shall be renewed automatically for the period from September 1, 1989-August 31, 1990, unless either of the parties notifies the other party of its intention not to renew the contract. Pursuant to that provision this contract between the Employees Retirement System of Texas and Lincoln National Administrative Services Corporation has been automatically renewed for the period from September 1, 1989-August 31, 1990, with a total cost not to exceed \$260,000 for said renewal period.

Issued in Austin, Texas, on January 10, 1990.

TRD-9000315 Clayton T. Garrison
Executive Director
Employees Retirement System of Texas

Filed: January 10, 1990

For further information, please call: (512) 476-6431, ext. 213

Office of the Governor Budget Execution Proposal

Pursuant to Texas Government Code, §317.002 relating to budget execution authority and in accordance with Article V, Section 128, Page V-102 and Article V, Section 90, Page V-84 of Senate Bill 222, 71st Legislature, I make the following budget execution proposal:

Midwestern State University has requested approval for expenditure of \$11,965 to correct deficiencies in the heating and cooling systems in the President's home. The work contemplated is as follows: \$3,561 to install two HVAC systems in the breezeways; \$1,200 for framing the breezeways; \$443 for electrical work; \$94 for painting; \$1,000 contingency costs; and \$500 in administrative costs. In addition to those repairs, the valice windows will be replaced with permanent double pane windows and the attic will have 12 inches of insulation installed. Those costs are \$4,300 and \$912 respectively. Midwestern State University has indicated that these expenditures will result in significant utility cost savings. The house serves as the President's official residence. Section 90 requires the Legislative Budget Board to approve expenditures exceeding \$10,000 for purchasing, remodeling, or repairing of personal residences or living quarters. Section 128 calls for the budget execution process whenever Legislative Budget Board approval is required. Accordingly, I am proposing that Midwestern State University be allowed to spend not more than \$12,000 from the Higher Education Assistance Fund, Item-1 Page III-38, Senate Bill Number 222, 71st Legislature, for renovation and repairs of the President's home.

Issued in Austin, Texas, on January 12, 1990.

TRD-9000511 William P. Clements, Jr.
Governor

Filed: January 16, 1990

For further information, please call: (512) 463-1788

Governor's Office of Budget and Planning

Consultant Proposal Request

This request for consulting services is filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

Notice of Invitation. The Energy Management Center (EMC) in the Governor's Office of Budget and Planning invites proposals from qualified agencies, institutions of higher education and individuals to serve as regional outreach coordinators to establish and monitor Watt Watcher and recycling programs in public schools in six regions across the state. The coordinator program is a service of the Energy Management Center for Texas Schools.

Through the Watt Watchers program, students form energy patrols to see that lights are turned off in unoccupied rooms, track school energy consumption and create a wide variety of original energy activities, all aimed at minimizing energy consumption and containing energy costs. The recycling program encourages students to initiate recycling programs in their schools and it provides assistance in program implementation.

Each coordinator will promote and facilitate the development of Watt Watchers and recycling programs, as well as create and promote new student-involved energy education projects for districts in the assigned region.

Individual coordinators will be selected to serve school districts in six areas of the state. The areas are comprised of the following Education Service Center (ESC) regions: Panhandle/High Plains, ESC Regions 9, 14, 16, and 17; Dallas/Northeast Texas, ESC Regions 7, 8, 10, and 11; Central Texas, ESC Regions 6, 12 and 13; Houston/Corpus Christi, ESC Regions 3, 4, and 5; South Texas/Rio Grande Valley, ESC Regions 1, 2, and 20; and El Paso/Far West Texas, ESC Regions 15, 18, and 19.

Services to be Performed. Each contractor will promote and facilitate the implementation of Watt Watchers and recycling programs in the public schools by performing the following services: distributing program materials to participating schools; developing and delivering presentations and workshops on these programs to teachers and students; responding to information requests; working closely with schools to assist them in planning and implementing Watt Watcher and recycling programs, as well as creating related student involved projects; and monitoring the progress and effectiveness of these programs.

Contact Person. To obtain a copy of the required proposal format and information packet contact Abba Anderson, Energy Management Center, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, (512) 463-1961. Proposal packets will be sent by regular first class mail. EMC will not fax proposal packets.

Closing Date. Six copies of the proposal should be sent to: Kim Munyon, Energy Management Center, Governor's Office of Budget and Planning, P.O. Box 12428 Austin, Texas 78711.

The Energy Management Center is located in Room 620 of the Sam Houston State Office Building, 201 East 14th Street, Austin, Texas 78701. Proposals should be sent by certified mail or delivered in person and must be received no later than 3 p.m. on Wednesday, February 28, 1990. Proposals received after that time and proposals submitted by fax will not be considered.

Selection Criteria. Proposals will be evaluated using the following criteria: proposer's demonstrated experience in developing, marketing and implementing student-involved

energy education projects; proposer's experience in working with and delivering services to the public school system, and specifically, to teachers and students; the quality of the proposer's work plan for implementing the programs in a specified region; the experience, qualifications and time commitment of the individual assigned to provide these services. The responsibilities require commitment to a full-time position; and the reasonableness of the proposed budget.

Proposals should address each of the stated criteria in the order listed. Selection will be based on the proposer's ability to satisfy the listed criteria.

Final selection of contractors will be based on the recommendations of a proposal review panel. The EMC reserves the right to reject any or all proposals and is under no legal requirement to execute a contract on the basis of this consultant proposal request. If two or more proposals are ranked so closely that a decision cannot be made, the review panel may request finalists to provide additional information or to meet with Energy Management Center staff in Austin prior to final selection. No respondent, however, will be reimbursed for any costs incurred in the preparation, submission, or clarification of a proposal.

Issued in Austin, Texas, on January 12, 1990.

TRD-9000489 Sheila W. Beckett
Director
Governor's Office of Budget and Planning

Filed: January 16, 1990

For further information, please call: (512) 463-1931



Criminal Justice Division, Office of the Governor

Public Information—Applications for Statewide Criminal Justice Programs

The Criminal Justice Division (CJD), Office of the Governor, is accepting applications for selected statewide criminal justice programs for the fiscal year beginning September 1, 1990.

The deadline for submission of applications is 5 p.m. on Friday, March 30, 1990. The CJD reserves the right to accept or reject any or all applications submitted and to negotiate modifications to improve the quality and cost-effectiveness of any proposed program.

Awards for statewide grant programs are contingent upon the availability of funds. At this time, available funds for statewide grants are limited, and applicants are encouraged to seek alternate funding sources. This announcement in no way obligates the CJD to award grant funds or to pay any costs incurred by applicants as a result of responding to this announcement.

Under the governor's "Goals and Strategies 1991, The Criminal Justice Plan for Texas," the following types of statewide programs may be considered for funding if funds are available: crime prevention; law enforcement training and education; child abuse prevention and intervention; continuing education programs on family violence for criminal justice professionals/statewide victim referral services; advanced and specialized law enforcement training; technical surveillance for control of narcotics and dangerous drugs; state agency juvenile services; juvenile corrections programs for serious and repeat offenders; prosecution and criminal defense training; statewide judicial administration; education training and staff development for juvenile personnel; training, education, and develop-

ment of correctional and related personnel; research and program evaluation; multi-agency crime suppression projects; state agency correctional projects; and statewide information systems.

Eligible applicants include state agencies (with or without appropriations), universities and colleges, and statewide private nonprofit organizations. All applications must comply with the program criteria and the requirements outlined in the "Goals and Strategies 1991, The Criminal Justice Plan for Texas."

Additional information may be obtained by contacting Knox Fitzpatrick, Associate Director, Criminal Justice Division, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

Issued in Austin, Texas, on January 9, 1990.

TRD-9000566 Rider Scott
Executive Director
Criminal Justice Division, Office of the
Governor

Filed: January 16, 1990

For further information, please call: (512) 463-1919

◆ ◆ ◆

Texas Department of Health

Correction of Errors

The Texas Department of Health submitted adopted amendments to §§115.2, 115.5, 115.8-115.10, and 115.12 which contained errors as submitted by the agency for publication in the December 26, 1989, issue of the *Texas Register* (14 TexReg 6885). The published adopted rules are not the rules approved by the Board of Health at its December meeting and therefore are invalid. To correct this error the department has requested that the amendments which the Board of Health approved for adoption be published in the Adopted Rules Section of this issue of the *Texas Register*. The department apologizes for any inconvenience this may have caused.

◆ ◆ ◆

The Texas Department of Health submitted emergency rules which contained an error as submitted by the agency in the December 22, 1989 issue of the *Texas Register* (14 TexReg 6706).

In the preamble to Chapter 325 concerning Solid Waste Management, both references to January 1, 1989 in the second paragraph should read January 1, 1990.

◆ ◆ ◆

Request For Proposals

Background. The Texas Department of Health (TDH) is responsible for implementation of the Omnibus Health Care Rescue Act, §30 House Bill 18, 71st Legislature, which requires TDH to develop a system of emergency medical services and trauma care in the State of Texas. During the first year, TDH intends to prepare a report for the 1991 Texas Legislature on injuries by causes, uncompensated costs, and patient outcomes.

Collection of certain trauma data is the initial step of developing that system. Data is needed on a broad range of trauma care from time of injury through death or discharge, including rehabilitation. The costs of indigent trauma care must also be identified. The availability of trauma data will enable both state agencies and the legislature to have a greater impact in their prevention efforts

while conserving scarce dollars.

TDH is accepting applications for the collection, analysis, and reporting of data on trauma patients in Texas. A representative sample of patient records, for use in making statewide projections, must be abstracted on trauma patients to provide statistics for analytical and report purposes. This data set to be collected, sample size, and sample hospitals must be submitted as part of the project application. The data set, sample size, and selected hospitals must be acceptable to TDH for the project application to be considered. Critical issues to be considered by TDH in reviewing proposals are provided in the application packet.

The data set to be collected should provide definitive statistics on uncompensated costs of trauma, average cost to treat a trauma patient, severity of trauma, and causes of trauma in Texas. Patient outcome data shall also be studied, but will not be considered a priority. The applicant shall provide in the project proposal submitted to TDH the approach to be used to determine uncompensated costs of trauma patients. The data shall be from the latest reporting period available and shall cover a duration of six to twelve months. The selected contractor shall be responsible for acquiring and negotiating the release of the data to be provided under the contract.

Upon completion of the data collection activity, the selected contractor is to analyze the data according to specifications to be included in the contract. The selected contractor then is to prepare a report citing its findings. The results will then be used by TDH in making a report to the Texas Legislature. The draft report is due to be submitted to TDH by October 1, 1990. The final report is due by November 1, 1990.

General information. Application packets will be available January 22, 1990. Completed proposals from eligible providers must be received by the Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756 not later than the close of business on March 16, 1990.

Length of funding. The funding period will be April 16, 1990, through November 30, 1990. The applicant whose project is approved for funding will be notified no later than March 30, 1990. After the award has been granted, a contract will be negotiated between TDH and the selected provider. Because the contract period overlaps two fiscal years, two contracts will be negotiated. The first contract will cover the period of April 16, 1990, through September 30, 1990. A total of \$155,709 is available for this period, with approximately the same amount available for the second contract. The second contract is contingent upon continued funding of the project and is to begin October 1, 1990, and continue through November 30, 1990.

Qualification of applicant. Potential contractors must provide assurances that they have the capability and all required special resources readily available to satisfactorily perform the services identified in their proposal. All contractors must provide documentation of ability to provide the specified trauma data, analyses, and reports.

Application procedure. More detailed information may be obtained from Gene Willard, Program Administrator, Emergency Medical Services Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7550.

Review of applicant's proposal. The Texas Department of Health reserves the right to accept or reject any or all proposals submitted. Each application will be evaluated independently. Evaluation criteria will be included in the information packet. Review of proposals will be completed by staff at the Texas Department of Health.

Issued in Austin, Texas, on January 17, 1990.

TRD-9000569 Robert A. MacLean, M.D.
Deputy Commissioner for Professional
Services
Texas Department of Health

Filed: January 17, 1990.

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

Texas Health and Human Services Coordinating Council Consultant Contract Request for Proposal

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Health and Human Services Coordinating Council (HHSCC) invites proposals for consulting services.

Description. The HHSCC is participating in a joint project with the Texas Planning Council for Developmental Disabilities and the Texas Early Childhood Intervention (ECI) Program to establish a state Information and Referral (I&R) Task Force which will develop a plan to establish a state I&R system for health and human services and is seeking a qualified consultant to assist with development of the plan.

Project Activities. The consultant will be responsible for a variety of activities. These include soliciting input from the public and service providers, coordinating meetings, compiling information on existing I&R systems and developing a written plan.

Limitations. The contract period will be from March 15, 1990-February 28, 1991. Funding, excluding travel expenses, will not exceed \$50,000.

Contact Person. An application package may be obtained after February 1, 1990 from: Carol Price, I&R Project Director, Texas Health and Human Services Coordinating Council, P.O. Box 13065, Austin, Texas 78711, (512) 463-2195.

Evaluation and Selection. The HHSCC, Developmental Disabilities Program and ECI Program will jointly select a consultant(s) based on applicant qualifications, project proposal and budget as further detailed in the application materials. When other considerations are equal, preference will be given to a private consultant whose principal place of business is within Texas or who will manage the consulting agreement wholly from one of its offices in the state.

Response Date. Written proposals must be received by Carol Price, Texas Health and Human Services Coordinating Council, 311A East 14th Street, Austin, on or before March 12, 1990. Funding of a project under this announcement is based on the availability of funds. The HHSCC reserves the right to reject any and all proposals.

Issued in Austin, Texas, on January 22, 1990.

TRD-9000483 Patrice Thomas
Executive Director
Texas Health and Human Services
Coordinating Council

Filed: January 15, 1990

For further information, please call: (512) 463-2195

Texas Higher Education Coordinating Board

Notices of Meetings

The Texas Academic Skills Council will meet on Friday,

February 23, 1990, from 10 a.m.-4 p.m. The meeting will be held in Room 255 at 200 East Riverside Drive in the Bevington Reed Building. For additional information contact the TASP Program office at the Coordinating Board at (512) 462-6485. The contact person is Dr. R. Michael Kerker.

NOTE: Open to the public

Issued in Austin, Texas, on January 11, 1990.

TRD-9000460 Suzanne Ortiz
Director for Special Projects
Texas Higher Education Coordinating Board

Filed: January 15, 1990

For further information, please call: (512) 462-6420

◆ ◆ ◆
The Implementation Committee will meet on Friday, February 2, 1990, from 10 a.m.-4 p.m. The meeting will be held in Room 255 at 200 East Riverside Drive in the Bevington Reed Building. For additional information contact the TASP Program at the Coordinating Board at (512) 462-6485. The contact person is Dr. Ron Swanson.

NOTE: Open to the public.

Issued in Austin, Texas, on January 11, 1990.

TRD-9000461 Suzanne Ortiz
Director for Special Projects
Texas Higher Education Coordinating Board

Filed: January 15, 1990

For further information, please call: (512) 462-6420

Texas Housing Agency Low Income Tax Credit Program-1989 Quarterly Report

◆ ◆ ◆
The Texas Housing Agency (the agency) was created and organized pursuant to and in accordance with provisions of the Texas Housing Agency Act, Article 12691-6, Texas Civil Statutes, for the purpose of providing a means of financing the costs of residential ownership, development, and rehabilitation that will provide decent, safe, and sanitary housing for eligible individuals and families at prices they can afford.

The Internal Revenue Code of 1986, §42, as amended, provides for credits against federal income taxes for owners of qualified low-income rental housing projects. Pursuant to Executive Order WPC-87-15 (August 4, 1987), the agency has been authorized to make housing credit allocations for the State of Texas (state). The agency's low-income rental housing tax credit rules, 10 TAC §§149.1-149.12, as amended (rules), establish procedures for applying for and obtaining an allocation of the low-income rental housing tax credit, and other procedural matters related thereto. Section 149.7(b) of the rules provides for the quarterly publishing in the *Texas Register* of the record of certain cumulative amounts of the state housing credit ceiling and the remaining unused portion thereof as provided in §149.7(a) of the rules. Such cumulative amounts and unused portion thereof for the quarter ending December 31, 1989 are as follows.

1. The cumulative amount of the 1989 state housing credit ceiling reserved pursuant to reservations letters through December 31, 1989, is \$19,704,232.

2. The cumulative amount of the 1989 state housing credit ceiling committed pursuant to commitment

letters through December 31, 1989, is \$19,704, 232.

3. The cumulative amount of the 1989 state housing credit ceiling committed pursuant to carryover allocation documents through December 31, 1989, is \$14,627,628.

4. The cumulative amount of the 1989 state housing credit allocations made through December 31, 1989, is \$5,076,604.

5. The remaining unused portion of the 1989 state housing credit ceiling as of December 31, 1989, is \$1,270,768.

Issued in Austin, Texas, on January 16, 1990.

TRD-9000526 Tish Gonzalez
Acting Executive Administrator
Texas Housing Agency

Filed: January 16, 1990

For further information, please call: (512) 474-2974

◆ ◆ ◆
Texas Department of Human Services
Consultant Proposal Request

In accordance with the Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (TDHS), Protective Services for Families and Children Branch is requesting proposals for consultant services.

Description. This is a request for proposals for a work measurement study of TDHS Child Protective Services (CPS) worker, administrative, and clerical staff. CPS services to be covered by the work measurement study include the full range of child welfare services from intake through adoptions. The study must account for 100% of each participant's time for the duration of the time study. The sampling process employed by the study must achieve a confidence interval of 85%, plus or minus 10%, or better, at the regional level. The work measurement data will be collected, tabulated, and compiled in regional and state reports which indicate the average time per staff type by unit of service, task, and task by unit of service. The work measurement data must be compatible with the needs of a management and budget model (resource outcome budget model). TDHS will specify the data format needed in electronic files and paper reports. The model will use the work measurement data and other data to determine the cost of each component of service delivered or to be delivered by various approaches, and to determine staffing needs. The consultant will also provide TDHS with technical consultation on refinement of the resource outcome budget model, and the design of the performance measures for service delivery, based on the work measurement study, other TDHS studies and the model.

Limitations. The contract period will be March 15, 1990 through June 31, 1990 for the work measurement, and March 15, 1990 through December 31, 1990 for the technical consultation. The funding will not exceed \$450,000.

Contact Person. To obtain a complete copy of the request for proposal packet, please contact: Susan Johnson, Contract Management Specialist, Texas Department of Human Services, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3289. Request for proposal packets will be available on or after January 25, 1990.

Evaluation and Selection. Criteria for selecting the consultant will include the selection of an organization which has national experience in providing consultation to child protective services agencies and/or organizations, and has experience in conducting scientific work measurement for

child protective services agencies and/or organizations. This is an expansion of a prior project performed by Deloitte & Touche, 919 Congress Avenue, Suite 700, Austin, Texas 78701-2421. Unless a substantially better offer is received an award will be made to this firm. Procedures to be used to evaluate will include evaluation of the following criteria: demonstrated effectiveness of the bidder and experience of key personnel; quality of proposed approach; and cost.

Closing Date. The last day to receive offers is February 20, 1990.

Issued in Austin, Texas, on January 10, 1990.

TRD-09000364 Cathy Rossberg
Agency Liaison, Policy Communication
Services
Texas Department of Human Services

Filed: January 10, 1990.

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

◆ ◆ ◆
State Board of Insurance
Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

1. Application for admission to do business in Texas of Kerr-McGee Insurance Company, a foreign casualty insurance company. The home office is in Oklahoma City, Oklahoma.

2. Application for admission to do business in Texas of Victore Insurance Company, a foreign casualty insurance company. The home office is in Oklahoma City, Oklahoma.

3. Application for incorporation in Texas of First American Dental Benefits, Inc., a domestic health maintenance organization. The home office is in Dallas.

4. Application for admission to do business in Texas of Randmark Management, Inc., a foreign third party administrator. The home office is in Wilmington, Delaware.

Issued in Austin, Texas on January 4, 1990.

TRD-9000424 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: January 12, 1990

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

◆ ◆ ◆
1. Application for incorporation in Texas of CitySavers Life Insurance Company, a domestic life insurance company. The home office is in San Antonio.

Issued in Austin, Texas, on January 9, 1990.

TRD-9000423 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: January 12, 1990

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

**Texas Department of Mental Health
and Mental Retardation
Consultant Proposal Request**

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Department of Mental Health and Mental Retardation (TDMHMR) is requesting offers from prospective consultants for the project described as follows.

This invitation for offers is for a continuation of services currently performed by RS Bella and Associates, specializing in Government Accounting, Colorado Springs, Colorado. The Texas Department of Mental Health and Mental Retardation intends to award the contract to the present contractor unless a substantially better offer is submitted.

It is expected that this project will result in the issuance of a request for proposal (RFP) for the detailed design and development of a final cost accounting solution. To avoid a conflict of interest, the firm awarded this contract will be precluded from submitting proposals in the response to that RFP.

The consultant will be responsible for providing the functional definition of TDMHMR cost accounting requirements for use in the development of a request for proposal. The Texas Legislature has mandated that the department develop a cost accounting solution. Funding was provided to accomplish this goal.

Major components of the initial tasks are as follows.

1. The consultant shall work with TDMHMR staff to understand service definitions, MH and MR organizational structures, management requirements, and external MHMR relationships. Other MHMR organizational units outside the State of Texas may be surveyed to assist in the development of comparative reporting requirements.
2. The consultant shall document the reporting requirements and establish project goals. Definitions will include external and internal requirements, other systems requirements, and comparative reporting requirements.
3. The consultant will assist the department in organizational development activities including the recruitment of a manager to manage the system ultimately developed by this project.
4. A more detailed work plan will be developed to control the documentation of functional requirements, select and schedule resources, identify data sources, map data flows, and further define report formats and content.
5. Requirements will be documented for inclusion in a RFP for detailed design and development services.
6. The RFP will be developed and published.

Following the submission of a RFP, the consultant will assist TDMHMR in the evaluation of responses and make its recommendation to the department regarding the award. It is expected the consultant would continue to provide project continuity and represent TDMHMR in a management advisory role throughout the development process.

The closing date for receipt of offers is February 12, 1990.

Prospective offerors should contact Leilani Rose, Director, Budget and Fiscal Services, or Debra Watson, Budget and Fiscal Services of the Texas Department of Mental Health and Mental Retardation, Box 12668, Austin, Texas 78711.

Issued in Austin, Texas, on January 16, 1990.

TRD-9000533 Dennis R. Jones
 Commissioner
 Texas Department of Mental Health and
 Mental Retardation

Filed: January 16, 1990

For further information, please call: (512) 465-4591

◆ ◆ ◆
**Texas State Board of Examiners of
Psychologists
Correction of Error**

The Texas State Board of Examiners of Psychologists submitted an adopted amendment to §465.20 which contained errors as published by the *Texas Register* in the January 2, 1990, issue (15 TexReg 28).

The section number in the heading and in the first paragraph of the preamble was incorrect. The section should read §465.20.

◆ ◆ ◆
**Public Utility Commission of Texas
Notices of Applications to Amend
Certificate of Convenience and
Necessity**

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on December 28, 1989, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: application of Contel of Texas Inc. to amend certificate of convenience and necessity within Newton County, Docket Number 9226 before the Public Utility Commission of Texas.

The Application: In Docket Number 9226, Contel of Texas, Inc. requests approval of its application to amend service area boundaries to serve two customers in Newton County.

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

Issued in Austin, Texas, on January 15, 1990.

TRD-9000531 Mary Ross McDonald
 Secretary of the Commission
 Public Utility Commission of Texas

Filed: January 16, 1990

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

◆ ◆ ◆
Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on January 5, 1990, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: application of Texas Utilities Electric Company for a certificate of convenience and necessity for a proposed transmission line within Tarrant County, Docket Number 9246 before the Public Utility Commission of Texas.

The Application: In Docket Number 9246, Texas Utilities Electric Company requests approval of its application to

construct approximately 1.7 miles of 138kV transmission line north of State Highway 26 in Tarrant County.

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

Issued in Austin, Texas, on January 15, 1990.

TRD-9000532 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: January 16, 1990

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

◆ ◆ ◆

Texas Tech University Health Sciences Center

Consulting Contract Award

Notice is hereby given, pursuant to Texas Civil Statutes, Article 6252-11c (Vernon's Supplement 1989), that Texas Tech University Health Sciences Center has entered a contractual agreement with the consulting firm of Heidrick and Struggles, Inc., 1999 Bryan Street, Suite 1919, Dallas, Texas 75201. The original consultant proposal request was published in the November 10, 1989, issue of the *Texas Register* (14 TexReg 5962).

The consulting firm will assist the institution in identifying and hiring an Associate Dean for the Amarillo Regional Academic Health Center. Total cost for this contract is \$46,000, with a start date of January 5, 1990. Reports and other documents will be provided, as requested or required, during the course of the search. The contract will terminate with the successful completion of the project.

Issued in Lubbock, Texas, on January 5, 1990.

TRD-9000398 Dr. Robert W. Lawless
President
Texas Tech University Health Sciences Center

Filed: January 12, 1990

For further information, please call: (806) 742-2121

◆ ◆ ◆

Veterans Land Board

Request for Proposal—Professional Accounting Services

The Texas Veterans Land Board ("TVLB") is extending invitations to submit proposals to perform arbitrage and rebate analysis on the Veterans Land Program. Specifically, the TVLB requires that an accounting firm or financial advisor provide the TVLB with the methodology needed to determine the allocation of commingled funds, transferred proceeds, verification of investment yield, and rebate requirements, where applicable, on all of the Veterans Land Bond issues other than the Veterans Land Bonds, Series 1989. For a copy of the request for proposal package, call or write Freeman B. Irby, III, 1700 North Congress Avenue, Room 620, Austin, Texas 78701-1496, (512) 463-5289.

Proposals should be sent by registered mail or by courier and be received no later than 5 p.m. Central Standard Time on Friday, February 9, 1990.

Each firm will be evaluated on experience in providing the services, expertise of participating personnel, approach to providing the services, and fairness and reasonableness of cost.

Issued in Austin, Texas, on January 16, 1990.

TRD-9000570 Garry Mauro
Chairman
Veterans Land Board

Filed: January 16, 1990

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

◆ ◆ ◆

Texas Water Commission

Enforcement Order

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 Standard Industries, Inc.; HW-50118, SWR 31653 on January 10, 1990, assessing \$150,000 in administrative penalties. (\$50, 000 deferred and waived pending full compliance).

Information concerning any aspect of this order may be obtained by contacting William W. Thompson, III, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on January 12, 1990.

TRD-9000425 Gloria A. Vasquez
Notices Coordinator
Texas Water Commission

Filed: January 12, 1990

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

◆ ◆ ◆

Meeting Notice

A meeting of the policy committee of the Galveston Bay National Estuary Program is scheduled for: Friday, January 26, 1990, 9 a.m., Ballroom B, Hobby Hilton Hotel, 8181 Airport Boulevard, Houston.

The committee will review the schedule of program activities proposed for calendar year 1990 and the specific projects currently in planning stages. The committee will consider recommendations from the management committee concerning a possible two-day program workshop to be scheduled for spring, 1990. The committee will consider for approval a possible contract for consensus-building training at the workshop (if approved) and possible video projects concerning coastal preserves for Christmas Bay and Armand Bayou. The committee will consider a policy resolution addressing the proposed deepening and widening of the Houston Ship Channel and other future similar projects. Finally, the committee will consider possible changes in program committee structure and function, and necessary bylaws changes.

Issued in Houston, Texas, on January 11, 1990.

TRD-9000496 Frank S. Shipley, Ph.D.
Program Manager
Galveston Bay National Estuary Program

Filed: January 16, 1990

For further information, please call: (713) 488-9495

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 January 8-12, 1990.

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

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

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

Bill Blue doing business as Bill Blue Dairy; Comanche; a dairy; on the north side of Highway 36, approximately 5.5 miles southeast of the intersection of Highway 36 and U.S. Highway 377 in Comanche County; 03131; new.

Champlin Refining and Chemicals, Inc.; Corpus Christi; a land treatment facility associated with a plant producing petrochemicals and refining petroleum; on a 21.9-acre tract of land west of the intersection of Corn Products Road and IH-37, approximately four miles north of Corpus Christi in Nueces County; a post-closure care permit HW-50179, EPA ID Number TXD-981157530; new; 45-day notice.

Dresser-Rand Power, Inc.; Houston; wastewater treatment plant; on St. Charles Street, approximately 3,000 feet northwest of the intersection of Highway 290 and Highway 529 (Spencer Road), northwest of Houston within the ETJ of Jersey Village in Harris County; 13497-01; new.

Maxey Road Water Supply Corporation; Houston; Maxey Road Wastewater Treatment facility; on the east side of Gregdale Road, approximately 300 feet south of the intersection of Gregdale Road and U.S. Highway 90 in Harris County; 13503-01; new.

Daniel Miksch; Schulenburg; a dairy; approximately two miles south of the Schulenburg city limits on the west side of State Highway 77 in Fayette County; 03114; new.

Newell Cooper doing business as Cooper Milky Way Dairy; Dublin; a dairy; approximately 4.5 miles southwest of the intersection of F.M. Road 847 and F.M. Road 914 in Erath County; 03094; new.

NSSI/Recovery Services, Inc.; Houston; existing Class I commercial hazardous industrial solid waste storage and processing facility; on 18 city lots in a mixed commercial, residential and industrial area at 5711 Etheridge, Houston, Harris County; HW-50269, EPA I.D. No. TXD-982560924; new; 45-day notice.

Popham Dairies, Inc.; Floresville; a dairy; approximately 1.5 miles south of the City of Fairview on F.M. Road 2505, in the western portion of Wilson County in Wilson County; 03144; new.

Proler International Corporation; Houston, Jacintoport Wastewater Treatment Facility; approximately 1,500 feet south of the intersection of Sheldon Road and Jacintoport Boulevard in Harris County; 13498-01; new.

Quanex Corporation, Gulf States Tube Division; Rosenberg; Class I hazardous and non-hazardous industrial solid waste storage, treatment, and disposal facility; located on an 82.3-acre tract of land on Scott Road near Rosenberg, Fort Bend County; HW-50129, EPA I.D. Number TXD-000449397; amendment; 45-day notice.

URI, Inc.; Dallas; non-hazardous underground injection well; approximately 11 miles northwest of San Diego near State Highway 44, approximately 2,222 feet from the southeast line and 704.5 feet from the southwest line of the H & GN Survey, Abstract 314, in northern Duval County; WDW-250; amendment.

U.S. Department of the Army, Fort Hood-West Wash Rack; Fort Hood; vehicle and aircraft washwater facility; within the boundaries of Fort Hood in Bell County; 02230; amendment.

Veribest Cattle Feeders, Inc.; cattle feedlot; approximately two miles west of the intersection of FM Road 380 and FM Road 2334, at a point approximately one mile north of FM Road 380; further described as being approximately 1.5 miles west of Veribest in Tom Green County; 01294; amendment.

Issued in Austin, Texas, on January 15, 1990.

TRD-9000478
Brenda W. Foster
Chief Clerk
Texas Water Commission

Filed: January 15, 1990

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



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.

Red River Authority of Texas, 520 Hamilton Building, Wichita Falls, Texas, 76301, received December 14, 1989, request for regional planning grant assistance in the amount of \$60,000 from the Research and Planning Fund.

Sabine River Authority of Texas, P.O. Box 579, Orange, Texas 77630, received November 20, 1989, request for regional planning grant assistance in the amount of \$50,000 from the Research and Planning Fund.

Nueces River Authority, P.O. Box 349, Uvalde, Texas 78801, received December 15, 1989, request for regional planning grant assistance in the amount of \$50,000 from the Research and Planning Fund.

Gastonia-Scurry Water Supply Corporation, P.O. Box 65, Scurry, Texas 75158, received December 22, 1989, request for additional \$100,000 of financial assistance from the Water Development Account of the Texas Water Development Fund.

Fort Bend Flood Control Water Supply Corporation, 3417 Avenue F, Rosenberg, Texas 77471, received November 2, 1989, request for financial assistance in the amount of

\$10,765,000 from the Flood Control Account of the Texas Water Development Fund.

City of Brady, P.O. Box 351, Brady, Texas 76825, received January 31, 1989, request for financial assistance in the amount of \$1,655,000 from the State Water Pollution Control Revolving Fund.

Additional information concerning this matter may be obtained from G. E. Kretschmar, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

Issued in Austin, Texas, on January 9, 1990.

TRD-9000312 G. E. Kretschmar
 Executive Administrator
 Texas Water Development Board

Filed: January 10, 1990

For further information, please call: (512) 463-7855

◆ ◆ ◆

profiles

A Guide to Texas State Agencies

Texas Forest Service

During the early 1900's, commercial exploitation and uncontrolled wildfires began to pose a serious threat to Texas' once vast forest resources. The Legislature created the Texas Forest Service in 1915 to assume direction of "all forest interests and all matters pertaining to forestry within the jurisdiction of this state."

By authority of the Weeks Law, enacted by Congress in 1911, an agreement was signed between the U.S. Department of Agriculture-Forest Service and the Texas Forest Service in 1916, making \$2500 available to the state for protection of privately owned forests against forest fires. This amount was matched by state funds.

Later that year, the agency hired six forest patrolmen. Stationed throughout East Texas in Longview, Tenaha, Linden, Lufkin, Livingston and Jasper, each traveled by horseback and was assigned to cover about 1.5 million acres. Patrolmen were instructed to ride 15-25 miles daily, informing citizens of the damage done by forest fires and urging them to help reduce the losses.

The Division of Forest Protection was formed in 1922 and relocated two years later from Forest Service headquarters on the Texas A&M University campus to Lufkin. By 1928, field personnel included 70 patrolmen, six fire protection inspectors and a motion picture lecturer. Two of the patrolmen

began using state of the art transportation — Model-T Fords, equipped with a full supply of fire fighting tools.

Throughout its 75 year history, the responsibilities of the Forest Service have remained unchanged: "to take any action deemed necessary to prevent and extinguish forest fires" and "to develop plans for improving the state system of forest protection, management and replacement." While maintaining lead programs in the commercially valuable forests of East Texas, the agency has steadily expanded its operations throughout the state. Recent initiatives include: urban forestry in metropolitan centers; windbreak seedling production for West Texas' high plains and rolling plains; palm research in South Texas; oak wilt disease research, detection and control in Central Texas; and rural fire fighting, training and equipment cost-sharing across the state.

From six mounted forest patrolmen in East Texas, the Forest Service has grown to 350 full time employees. The agency is led by 70 graduate foresters, including specialists in the areas of entomology, genetics, wood technology, silviculture and communications. Today, the state's forest resources contribute \$6 billion annually to the economy, while directly providing more than 60,000 jobs.

The Texas Forest Service is located in College Station and may be contacted at (409) 845-2641.



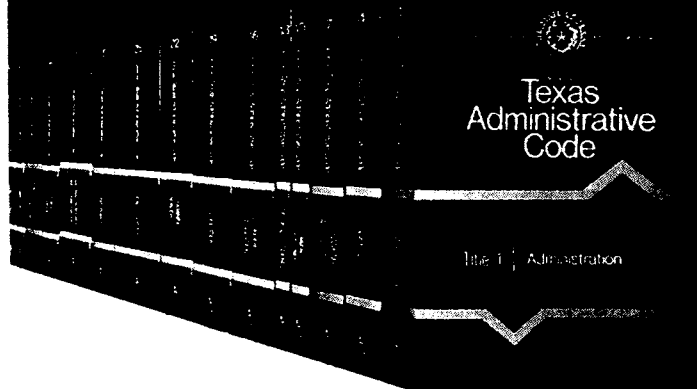
I'll take some People Wax, Mr. Smi

Name: Teresa Riojas

Grade: 5

School: Forbes Elementary #124, San Anton.

The only **COMPLETE, OFFICIAL** and
UP-TO-DATE
source of administrative rules for Texas!



★ **SAVE 40%**

WEST'S® TEXAS ADMINISTRATIVE CODE

West Publishing Company, official publisher of the *Texas Administrative Code* for 1989, is proud to announce that the complete TAC is now ready—and is being offered to you right now at a full set savings of 40%! Or, choose only those volumes essential to your daily practice.

COMPLETE, FOR RESEARCH CONVENIENCE!

The TAC is your convenient access to the rules and regulations of Texas state agencies. Each title is divided into parts, and each part corresponds to a state agency. The chapters and sections within each part thus contain all permanent rules and regulations for that particular agency in one convenient publication.

DEPENDABLE SUPPLEMENTATION TO KEEP YOU UP-TO-DATE!

West's TAC includes rules and regulations soon after their adoption into

Texas law. You'll find the exact currency dates of the provisions contained within the preface of each volume.

Timely Supplementation! Semi-annual supplements bring subscribers current within 120 days of the adoption of new rules and changes in existing rules. The supplementation will be softbound, cumulative, companion volumes to the 16-volume TAC set. This eliminates the time-consuming need for complicated collation and substitution of pages that was required by the looseleaf format of the previous publisher.

OFFICIAL, FOR YOUR ASSURANCE OF CONFIDENCE!

Only with West's *Texas Administrative Code* do you get absolute assurance that all code provisions appear as finally reviewed and corrected by the Secretary of State's Office.

TITLES INCLUDED IN THIS COMPLETE AND OFFICIAL SET:

1. Administration
 4. Agriculture
 7. Banking and Securities
 10. Community Development
 13. Cultural Resources
 16. Economic Regulation
 19. Education
 22. Examining Boards
 25. Health Services
 28. Insurance
 31. Natural Resources and Conservation
 34. Public Finance
 37. Public Safety and Corrections
 40. Social Services and Assistance
 43. Transportation
- All New General Index

SAVE 40% ON YOUR FULL SET PURCHASE!

Get complete details from your West representative, or call toll free **1-800-328-9352**. (In MN call collect 0-612-688-3600.)



WEST PUBLISHING COMPANY
50 W. Kellogg Blvd.
P.O. Box 64526
St. Paul, MN 55164-0526

Second Class Postage

PAID

Austin, Texas
and additional entry offices

To order a new subscription, or to indicate a change of address, please use this form. When notifying us of an address change, please attach the mailing label from the back of a current issue. Questions concerning existing subscriptions should also include the subscription number from the mailing label.

For information concerning the Texas Register, please call (512) 463-5561, or write to P.O. Box 13824, Austin, Texas 78711-3824.

You may also use this form to request back issues of the Texas Register. Please specify the exact dates and quantities of the issues requested. Each copy of a back issue is \$4.

Change of Address
(Please attach mailing label)

Back Issues Requested
(Please specify dates)

Please enter my subscription to the Texas Register as indicated below. (I will look for my first issue in about two weeks.)

1 year (100 issues) \$90

Payment enclosed

6 months (50 issues) \$70

Bill me

Name

Organization

Occupation

Telephone

Address

City

State

Zip Code

Please make checks payable to the Secretary of State. Subscription fees are not refundable.

For office use only