

Texas Register

Volume 15, Number 31, April 24, 1990

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Quarterly Index

This index represents the first quarter compilation of 1990 and is inclusive of state agency activities for January-March 1990.

Regular publication of state agency activities will resume with the next issue, April 20, 1990.

How to Use the Quarterly Index

The Quarterly 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 March. 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 this 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subchapter title affected in that chapter is alphabetized under the applicable type of action (emergency, proposed, withdrawn adopted).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.



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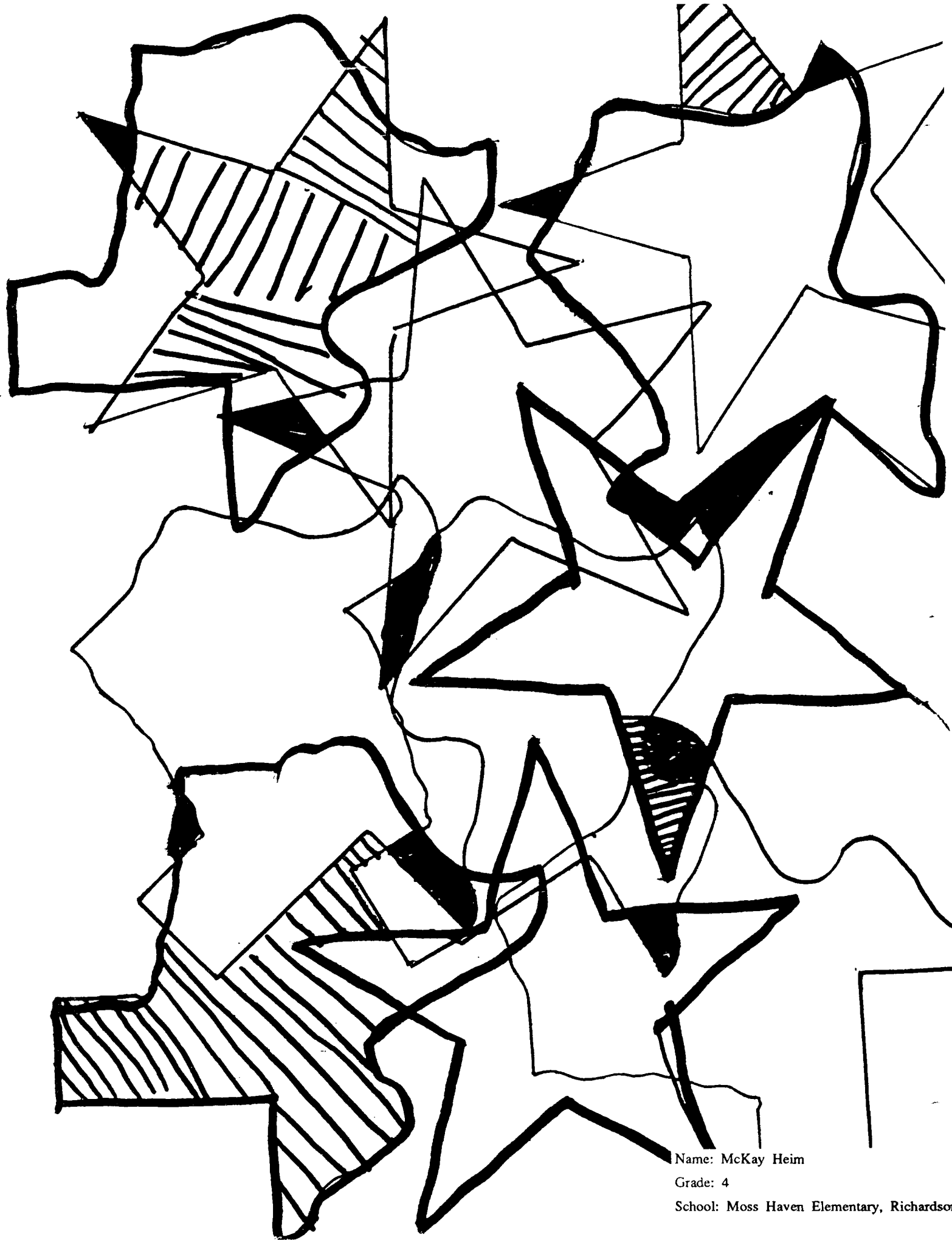
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TAC Titles Affected

TAC Titles Affected—April

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

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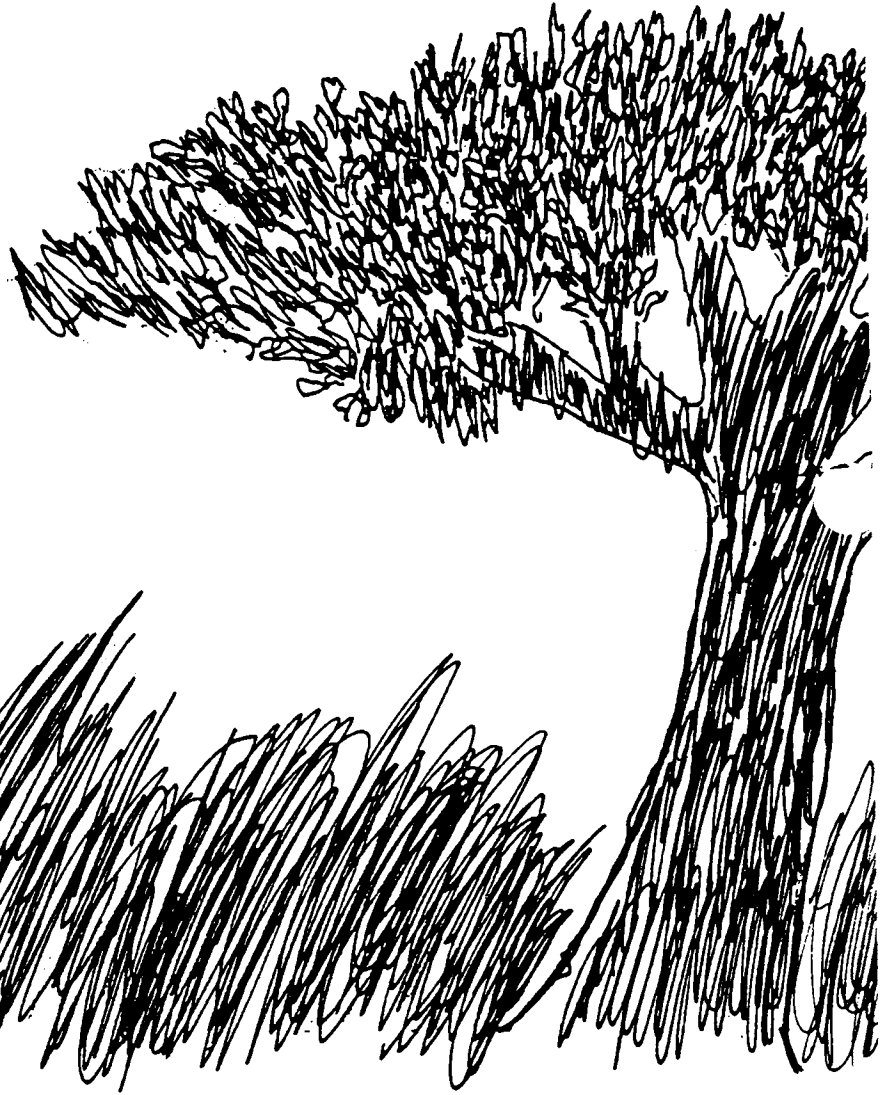
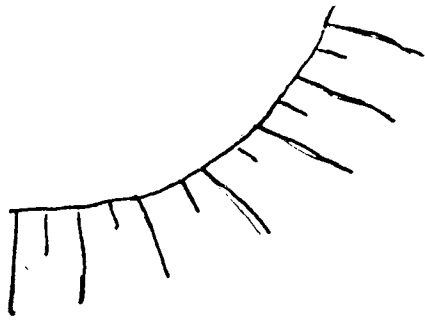
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Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

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

TITLE 1.

ADMINISTRATION

Part XIII. Texas Incentive and Productivity Commission

Chapter 289. Productivity Bonus Program Definitions

• 1 TAC §289.1

The Texas Incentive and Productivity Commission proposes new §289.1, concerning definitions for terms necessary for interpretation of the rules pertaining to the Productivity Bonus Program. Several terms not defined in the enabling legislation were added in order to facilitate program implementation. Terms not previously defined in relation to the program are act, application, certification, commission, executive director, implementation year, productivity plan, productivity bonus account, verification year.

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

Ms. Manford 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 cost savings and increased efficiency, improvement in employee morale, and availability of funds for state projects without increasing revenues through other means. 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 Mary Jane Manford, Chairman, Texas Incentive and Productivity Commission, P.O. Box 12482, Austin, Texas 78711.

The new section is proposed under Annotated Civil Statutes, Article 6252-29a, §1 and §3, which define specific terms applicable to the Productivity Bonus Program and authorize the Texas Incentive and Productivity Commission to promulgate rules for the program.

§289.1. Definitions for the Productivity Bonus Program. The following words and terms, when used in Chapters 289-297 of this part, shall pertain only to the Productivity Bonus Program and shall have the following meanings, unless the context clearly indicates otherwise.

Act—Vernon's Annotated Civil Statutes, Article 6252-29a, Incentive and Productivity Act and Text of Conference Committee Report, Senate Bill Number 222, and Governor's Veto Proclamation, 71st Legislature.

Application—The form submitted by an agency director to the commission to request a productivity bonus award after monitoring the progress of the agency or division in implementing its productivity bonus plan.

Certification—The process by which the executive director of an agency ascertains the amount of savings realized by the agency or division to the comptroller of public accounts.

Commission—The Texas Incentive and Productivity Commission (TIPC).

Division—A unit of a state agency that: has an identifiable self-contained budget; or maintains its financial records under an accounting system approved by the state auditor that permits the accurate identification of the expenditures and receipts of the unit.

Executive director—The appointed or elected executive administrator of a state agency.

Implementation year—The fiscal year during which the agency or division puts the concepts outlined in the agency's or division's productivity plan into effect.

Productivity plan—A proposal detailing planned cost reductions and changes in operations that an agency or division intends to make in the next fiscal year, with the goal of improving efficiency while maintaining service levels.

Productivity bonus account—An account created by the state treasurer for each state agency or division participating in the productivity bonus program.

Productivity bonus award—A cash bonus awarded to an eligible state agency, division of that agency, or employees thereof after a productivity plan has been successfully implemented and proven to save money in recognition of increased productivity.

State agency—A department, commission, board, office, or other agency in the executive or judicial branch of government. The term does not include the office of the governor or any institution of higher education as defined by the Education Code, §61.0003.

Verification period—The 90-day period following the implementation year,

during which the commission verifies the amount of the savings certified by the executive director of an agency and decides whether or not to grant a productivity bonus award.

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

Issued in Austin, Texas, on April 16, 1990.

TRD-9003932

Mary Jane Manford
Chairman
Texas Incentive and
Productivity
Commission

Earliest possible date of adoption: May 25, 1990

For further information, please call: (512) 475-2393

Chapter 291. Plan Submission and Approval Process

• 1 TAC §§291.1, 291.3, 291.5

The Texas Incentive and Productivity Commission proposes new §§291.1, 291.3, and 291.5, concerning plan submission and approval process. Section 291.1 provides a deadline and format for submitting a productivity plan for commission consideration. Section 291.3 describes the productivity plan approval process, setting a timeline for commission review and agency implementation. Section 291.5 states the agency's rights to make reasonable revisions and adjustments to the approved productivity plan during the implementation year.

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

Ms. Manford 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 section will be cost savings and increased efficiency, improvement in employee morale, and availability of funds for state projects without increasing revenues through other means. 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 Mary Jane Manford, Chairman, Texas In-

centive and Productivity Commission, P.O. Box 12482, Austin, Texas 78711.

The new sections are proposed under Annotated Civil Statutes, Article 6252-29a, §1 and §3, which authorize the Texas Incentive and Productivity Commission to promulgate rules for the program.

§291.1. Submission of Productivity Plans.

(a) Submission. Not later than July 1 of a fiscal year, the executive director of a state agency may submit a productivity plan to the commission that, if implemented, would cause the agency or division to qualify for a productivity bonus award as outlined in §293.3 of this title (relating to Qualifications for Award).

(b) Form. The productivity plan shall be submitted in a form prescribed by the commission.

§291.3. Approval by Commission.

(a) Approval Required. The commission must approve an agency's productivity plan before the agency may implement the plan and apply for a productivity bonus award.

(b) Additional information. The commission may return any productivity plan to an agency executive director to request additional information or to clarify details relating to the plan.

(c) Commission review. Within 30 days of receipt of the productivity plan, the commission shall review the plan and inform the executive director in writing that the plan is approved or rejected.

(d) Plan implementation. An agency may implement the productivity plan upon approval.

§291.5. Plan Revisions.

(a) An agency may make reasonable revisions or adjustments to its approved productivity plan during the implementation year.

(b) The agency shall inform the commission in writing of any revisions or adjustments to its approved productivity plan at least quarterly.

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

Issued in Austin, Texas, on April 16, 1990.

TRD-9003931

Mary Jane Manford
Chairman
Texas Incentive and
Productivity
Commission

Earliest possible date of adoption: May 25, 1990

For further information, please call: (512) 475-2393



Chapter 293. Application for Award and Savings Transfer

• 1 TAC §§293.1, 293.3, 293.5

The Texas Incentive and Productivity Commission proposes new §§293.1, 293.3, and 293.5, concerning application for award and savings transfer. Section 293.1 states the deadline and components of the application. Section 293.3 spells out the rules for qualifying for a Productivity Bonus Program award, defining legitimate savings and means of savings which will not qualify. Section 293.5 sets a deadline for certification of savings and transfer of funds to an agency's or division's productivity bonus account.

Mary Jane Manford, chairman, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Manford also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be cost savings and increased efficiency, improvement in employee morale, and availability of funds for state projects without increasing revenues through other means. 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 Mary Jane Manford, Chairman, Texas Incentive and Productivity Commission, P.O. Box 12482, Austin, Texas 78711.

The new sections are proposed under Annotated Civil Statutes, Article 6252-29a, §1 and §3, which authorize the Texas Incentive and Productivity Commission to promulgate rules for the program.

§293.1. Application.

(a) Timing. No later than August 1 of the implementation year, the executive director may apply for a productivity bonus award.

(b) Form. The application must be made in the form prescribed by the commission.

(c) Evaluation components. In the application, the executive director must provide the commission with evaluation components developed by the agency or division that establish a quantitative measure of the agency's or division's productivity and performance.

§293.3. Qualifications for Award.

(a) Biennium appropriation divided. To qualify for a productivity bonus award, a state agency or division whose appropriation was specifically divided between fiscal years, must demonstrate to the commission that the agency or division operated at less cost during the

implementation year than the amount appropriated to that agency or division for that fiscal year with no decrease in the agency's or division's required level of services.

(b) Biennium appropriation not divided. If the appropriation for the agency's or division's fiscal biennium was not specifically divided between fiscal years, the amount reasonably attributable to the implementation year from the total appropriation shall be the basis of evaluation as to whether or not the agency or division operated for less cost with no decrease in the required level of service.

(c) Legitimate savings. The commission shall consider as a legitimate savings a reduction in expenditures made possible by:

- (1) reductions in overtime for eligible employees;
- (2) elimination of consultant fees;
- (3) elimination of budgeted positions;
- (4) elimination of unnecessary travel;
- (5) elimination of unnecessary printing and mailing;
- (6) elimination of payments for unnecessary advertising, membership dues, subscriptions, and other nonessential outlays of state agency or division funds;
- (7) increased efficiency in use of energy;
- (8) improved office procedures and systems; and
- (9) any other practice or device that the commission determines has resulted in verifiable savings.

(d) Cost of operation. A agency's or division's claimed cost of operation shall not be in whole or part the result of:

- (1) a lowering of the quality of the services rendered;
- (2) reduced pass-through or transfer expenditures;
- (3) receipts realized in excess of budgeted amounts;
- (4) failure to implement merited promotions, reclassifications, or authorized salary increases;
- (5) postponement of scheduled purchases, repairs, or payments of accounts payable to a future fiscal year;
- (6) stockpiling of inventory in the preceding fiscal year in order to reduce requirements during the fiscal year;
- (7) substitution of nonstate funds for state appropriations; or
- (8) any other practice, event, or device that the commission determines has caused a distortion that results in inaccurate claimed cost of operation.

§293.5. Savings transfer.

(a) Timing. No later than August 1 of the implementation year, the executive director shall certify the amount of savings realized by the agency's or division's productivity plan to the comptroller for public accounts.

(b) Productivity bonus account transfer. The comptroller for public accounts shall transfer that amount from the appropriation of the state agency to the agency's or division's productivity bonus account.

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

Issued in Austin, Texas, on April 16, 1990.

TRD-9003930 Mary Jane Manford
Chairman
Texas Incentive and
Productivity
Commission

Earliest possible date of adoption: May 25, 1990

For further information, please call: (512) 475-2393



Chapter 295. Award Approval

• 1 TAC §295.1

The Texas Incentive and Productivity Commission proposes new §295.1, concerning award approval, which provides a timeline and process for the review and approval of a productivity bonus plan.

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

Ms. Manford also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be cost savings and increased efficiency, improvement in employee morale, and availability of funds for state projects without increasing revenues through other means. 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 Mary Jane Manford, Chairman, Texas Incentive and Productivity Commission, P.O. Box 12482, Austin, Texas 78711.

The new section is proposed under Annotated Civil Statutes, Article 6252-29a, §1 and §3, which authorize the Texas Incentive and Productivity Commission to promulgate rules for the program.

§295.1. Application Review.

(a) Timing. Within 60 days after the end of the implementation year, the

commission shall review the application of the state agency.

(b) Determination of costs. The commission shall compare the expenditures of the state agency or division with the agency's or division's total appropriation, if appropriate, and shall determine the amount by which the agency or division has reduced its cost of operations during the implementation year.

(c) Additional information. The agency or division shall provide the commission with any additional information which may be required by the commission in its review of the agency's or division's application.

(d) Adjustments. The commission shall make any adjustments it determines are necessary to eliminate distortions. These adjustments may include consideration of legislative increases in employee compensation and inflationary increases in the cost of services, materials, and supplies.

(e) Notification to agency. If the commission determines that a state agency or division qualifies for a productivity bonus, the commission shall notify the executive director of the agency no later than 90 days after the end of the implementation year.

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

Issued in Austin, Texas, on April 16, 1990.

TRD-9003929 Mary Jane Manford
Chairman
Texas Incentive and
Productivity
Commission

Earliest possible date of adoption: May 25, 1990

For further information, please call: (512) 475-2393



Chapter 297. Award Eligibility and Distribution

• 1 TAC §§297.1, 297.3, 297.5

The Texas Incentive and Productivity Commission proposes new §§297.1, 297.3, and 297.5, concerning award eligibility and distribution. Section 297.1 defines productivity bonus award amounts and limits for employees as well as employee eligibility for award. Section 297.3 details the distribution and appropriation of funds left in a division's productivity bonus account after award to employees. Section 297.5 details the distribution and appropriation of funds left in an agency's productivity bonus account after award to employees.

Mary Jane Manford, chairman, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Manford 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 cost savings and increased efficiency, improvement in employee morale, and availability of funds for state projects without increasing revenues through other means. 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 Mary Jane Manford, Chairman, Texas Incentive and Productivity Commission, P.O. Box 12482, Austin, Texas 78711.

The new sections are proposed under Annotated Civil Statutes, Article 6252-29a, §1 and §3, which authorize the Texas Incentive and Productivity Commission to promulgate rules for the program.

§297.1. Awards to Employees.

(a) Amount. If the commission approves an agency or division for a productivity bonus award, the commission shall award to the employees of the agency or division an amount not to exceed 25% of the amount in the agency's or division's productivity bonus account.

(b) Employee eligibility. To be considered eligible for an award, an employee must be a classified employee under the Position Classification Act of 1961 (Texas Civil Statutes, Article 6252-11) and must be an employee of the agency or division at the time the award is approved by the commission.

(c) New employees. A current employee who has worked for the agency or division for less than the full implementation year is entitled to a pro rata share based on the fraction of the implementation year that the employee worked in the agency or division.

(d) Distribution. The awarded amount shall be distributed in equal shares to the eligible current employees of the agency or division.

(e) Bonus limit. A bonus made to any individual employee may not exceed \$5,000.

§297.3. Awards to a Division.

(a) Distribution. If the commission approves a productivity bonus award for a division of a state agency, the balance of the amount in the division's productivity bonus account remaining after the award to employees, shall be distributed between the state agency to which the division belongs and the fund from which the original division appropriation was made.

(b) Appropriation to agency. One-third of the balance after award to employees shall be appropriated to that agency to be used by the administration of

the agency during the subsequent fiscal year to further agency productivity. The remainder shall be credited to the appropriate fund.

§297.5. Awards to Agencies.

(a) Distribution. If the commission approves a productivity bonus award for an entire agency, the balance of the amount in the agency's productivity bonus account remaining after the award to employees, shall be distributed between the state agency and the fund from which the agency's original appropriation was made.

(b) Appropriation. One-third of the balance after award to employees shall be appropriated to that agency to be used by the administration of the agency during the subsequent fiscal year to further agency productivity. The remainder shall be credited to the appropriate fund.

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

Issued in Austin, Texas, on April 16, 1990.

TRD-9003928

Mary Jane Manford
Chairman
Texas Incentive and
Productivity
Commission

Earliest possible date of adoption: May 25, 1990

For further information, please call: (512) 475-2393

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TITLE 4. AGRICULTURE
Part I. Texas Department
of Agriculture

Chapter 17. Marketing
Division

• 4 TAC §17.32, §17.33

The Texas Department of Agriculture proposes new §17.32, and §17.33, concerning operation of Texas Department of Agriculture livestock export facilities. New sections 17.32 and 17.33 are proposed in order to formalize operating times and procedures for operation of the department's export livestock facilities. New section 17.32 provides for regular and non-business hours. New section 17.33 provides general provisions for access to the livestock export facilities.

Paul Lewis, director, international marketing, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the section is in effect will be an estimated increase of \$2,500 for fiscal years 1990-1994. There will be no fiscal implications for local government as a result of enforcing or administering the sections.

Mr. Lewis 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 establish regular working hours and to also give exporters/importers the flexibility of shipping animals at times other than regular hours if necessary. The effect on small businesses as a result of enforcing the sections will be dependent on the number of after hour shipments, a \$50 per shipment fee and a \$10 per hour staff charge for handling of livestock during other than business hours. The cost of compliance will be the same for small and large businesses. The anticipated economic cost to persons who are required to comply with the sections will be dependent upon the number of after hour shipments, a \$50 per shipment fee and \$10 per hour staff charge.

Comments on the proposal may be submitted to Dolores Alvarado Hibbs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

The new sections are proposed under the Texas Agriculture Code, §146.021, which provides the Texas Department of Agriculture with the authority to receive the hold for processing animals transported in international trade, and establish and collect fees for such holding and other expenses; and the Appropriations Act, Senate Bill Number 222, 71st Legislative Session, which encourages the department to set fees for yardage at the department's livestock export facilities at a level that will produce sufficient revenues to equal costs of operation of the facilities.

§17.32. Hours of Operation of Livestock Facilities. The Texas Department of Agriculture (TDA) livestock export facilities located in Brownsville, Laredo, Eagle Pass, Del Rio, El Paso, and Houston shall be operated in accordance with the following rules and regulations.

(1) Business hours. Business hours for the facilities shall be from 8 a.m. until 5 p.m. Monday-Friday, except for official state holidays. For those facilities located along the Texas-Mexico border, official Mexican holidays may be substituted for official state holidays as deemed necessary by the department.

(2) Operations during non-business hours. Exporters or importers who use the facilities at times other than the business hours provided in paragraph (1) of this subsection shall be charged a late operations fee of \$50 per shipment. In addition to the \$50 late operations fee, after hours shippers will also be charged an overtime staff charge of \$10 per hour, or fraction thereof, per TDA employee that is working during the non-business hours. Requests for operation of facilities during non-business hours shall be made to facility personnel at least 24 hours in advance.

§17.33. Access to Livestock Facilities.

(a) General public. Livestock importers and exporters using the livestock facilities are permitted to operate their motor vehicles and livestock trailers in the facility parking and loading/unloading areas. These persons may also use facility

office waiting areas and rest rooms. The general public, including livestock importers and exporters, is strictly forbidden from entering all other areas of the livestock facilities, including livestock holding pens, lanes, and chutes as well as all inside office and storage areas, except for the waiting room and rest rooms.

(b) Government employees. Government employees, including those of the Texas Department of Agriculture, the United States Department of Agriculture, and the Mexican secretariat for agriculture and water resources, may have full access to the facilities as is required to carry out their responsibilities for the inspection and handling of livestock.

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

Issued in Austin, Texas, on April 16, 1990.

TRD-9003894

Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Earliest possible date of adoption: May 25, 1990

For further information, please call: (512) 463-7583

◆ ◆ ◆
TITLE 22. EXAMINING
BOARDS

Part XXII. Texas State
Board of Public
Accountancy

Chapter 513. Registration
Registration of Corporations
• 22 TAC §513.42

The Texas State Board of Public Accountancy proposes an amendment to §513.42, concerning application for registration of a corporation. The amendment expands the information required on the application for corporation registration to include certain litigation disclosures.

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 the assurance that shareholders of registered corporations hold a valid license to practice public accounting. 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 amendment 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 to regulate registration of corporations.

§513.42. Application for Registration of a Corporation.

(a) Application for registration of a corporation must be made upon a form prescribed by the board and must be submitted to the executive director. Application must be made upon the affidavit of an officer of the corporation and must set out:

(1)-(8) (No change.)

(9) whether or not the firm has had an application for license denied, suspended, or revoked by any state or federal agency; [or] whether the firm or any officer, director, or shareholder within the firm [partner] has been convicted of any felony or misdemeanor involving fraud or deceit not previously reported to the board; or whether the firm or any individual within the firm has been a party to legal proceedings as described in §513.47 of this title (relating to Affidavit of Firm);

(10)-(13) (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 April 16, 1990.

TRD-9003940

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

Earliest possible date of adoption: May 25, 1990

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

◆ ◆ ◆
Registration of Offices

◆ ◆ ◆
• 22 TAC §513.61

The Texas State Board of Public Accountancy proposes an amendment to §513.61, concerning general rule of registration of offices. The amendment expands the information required on the practice unit registration form to include certain litigation disclosures.

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 the assurance that members of practice hold a valid license to practice public accounting. 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 amendment 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 to regulate registration of practice units (offices) in the practice of public accountancy.

§513.61. General Rule.

(a) (No change.)

(b) Application must be made on a form prescribed by the board and submitted with the requisite fee. The application must indicate the practice unit (office) address and phone number, as well as the following:

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

(4) whether the firm or any sold proprietor, partner, officer, director, or shareholder within the firm has been a party to legal proceedings as described in §513.47 of this title (relating to Affidavit of Firm).

(c) (No change.)

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

Issued in Austin, Texas, on April 16, 1990.

TRD-9003941

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

Earliest possible date of adoption: May 25, 1990

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

◆ ◆ ◆
**TITLE 31. NATURAL
RESOURCES AND CON-
SERVATION**

**Part III. Texas Air
Control Board**

Chapter 101. General Rules

◆ ◆ ◆
• 31 TAC §101.1

The Texas Air Control Board (TACB) proposes an amendment to §101.1, concerning definitions. The proposed amendment will define various terms related to incineration and solid waste. The definitions are being proposed in order to establish consistency with Texas Department of Health (TDH) definitions of the same terms. Specifically, the TACB proposes to delete definitions of commercial incinerator, fomites, and infectious waste, since the terms are made unnecessary by or are in conflict with the consistency effort. The TACB also proposes to replace the term "infectious" in the definition of commercial infectious waste

incinerator with "medical." Finally, the TACB proposes to and definitions of industrial solid waste, medical waste, and special waste from health care-related facilities.

Bennie Engelke, director of management and staff services, 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.

Les Montgomery, deputy director of program development, 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 sections will be improved understanding and more consistent application of TACB regulations. 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 is proposed.

Public hearings on this proposal are scheduled for the following times and places: May 17, 1990, 10 a.m., Texas Air Control Board, Auditorium, 6330 Highway 290 East, Austin; and May 17, 1990, 7 p.m., City of Houston Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston.

Copies of the proposed section is available at the Central Office of the TACB, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearings. The TACB would appreciate receiving five copies of testimony prior to or at the hearings. Written testimony received by the Regulation Development Section by 4 p.m. on May 18, 1990, at the TACB Central Office will be included in the hearing record.

The amendment is proposed under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules consistent with the policy and purposes of the TCAA.

§101.1. Definitions. Unless specifically defined in the Act or in the rules of the board, the terms used by the board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the Texas Clean Air Act, the following words and terms, when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

Commercial medical [infectious] waste incinerator—A facility that accepts for incineration **medical [infectious] waste** generate outside the property boundaries of the facility [(see also: Incinerator, Infectious waste)].

[Fomites—Substances, such as clothing, capable of absorbing and transmitting the contagion of disease (see also: Infectious waste)] .

[Infectious waste—Equipment, instruments, utensils, and fomites of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must, therefore, be isolated as required by public health agencies;

laboratory wastes such as pathological specimens and disposable fomites attendant thereto; and surgical operating room pathologic specimens and disposable fomites attendant thereto and similar disposable materials from outpatient areas and emergency rooms (see also: Fomites)].

Industrial solid waste—Waste resulting from or incidental to a process of industry or manufacturing, or mining or agricultural operations.

Medical waste—Waste materials identified by the Texas Department of Health as "special waste from health care-related facilities" and those waste materials commingled and discarded with special waste from health care-related facilities.

Municipal solid waste—Solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste except industrial solid waste.

Special waste from health care-related activities—A solid waste which if improperly treated or handled may serve to transmit infectious disease(s) and which is comprised of the following: animal waste, bulk blood and blood products, microbiological waste, pathological waste, and sharps.

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

Issued in Austin, Texas, on April 13, 1990.

TRD-9003854 Steve Spaw, P.E.
Executive Director
Texas Air Control Board

Earliest possible date of adoption: May 25, 1990

For further information, please call: (512) 451-5711, ext. 215

◆ ◆ ◆
**Chapter 111. Control of Air
Pollution from Visible
Emissions and Particulate
Matter**

Visible Emissions

• **31 TAC §111.111**

The Texas Air Control Board (TACB) propose an amendment to §111.111, concerning visible emissions. The proposed amendment adds test methods for opacity compliance determinations for railroad locomotives and ships, and other sources to the amended section.

Bennie Engelke, director of management and staff services, 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.

Les Montgomery, deputy director of program development, 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 enforcement of opacity standards. There will be no effect on small businesses as a result of enforcing the section. There is no economic cost for persons who are required to comply with the section as proposed.

Public hearings on this proposal are scheduled for the following times and places: May 17, 1990, 10 a.m., Texas Air Control Board, Auditorium, 6330 Highway 290 East, Austin; and May 17, 1990, 7 p.m., City of Houston Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston.

Copies of the proposed sections are available at the Central Office of the TACB, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearings. The TACB would appreciate receiving five copies of testimony prior to or at the hearings. Written testimony received by the Regulation Development Section by 4 p.m. on May 18, 1990, at the TACB Central Office will be included in the hearing record.

The amendment is proposed under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules consistent with the policy and purposes of the TCAA.

§111.111. Requirements for Specified Sources.

(a) Visible emissions. No person may cause, suffer, allow, or permit visible emissions from any source, except as follows.

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

(4) Railroad locomotives or ships.

(A) Visible emissions shall not be permitted from any railroad locomotive, ship, or any other vessel to exceed an opacity of 30% for any five-minute period, except during reasonable periods of engine start-up.

(B) Compliance with paragraph (4)(A) of this subsection shall be determined by applying the following test methods, as appropriate:

(i) Test Method 9 (40 Code of Federal Regulations 60, Appendix A); or

(ii) equivalent test method approved by the executive director.

(5) Structures.

(A) Visible emissions shall not be permitted to exceed an opacity of 30% for any six-minute period from any building, enclosed facility, or other structure.

(B) Compliance with paragraph (5)(A) of this subsection shall be determined by applying the following test methods, as appropriate:

(i) Test Method 9 (40 Code of Federal Regulations 60, Appendix A); or

(ii) equivalent test method approved by the executive director.

(6) Other sources.

(A) Visible emissions shall not be permitted to exceed an opacity of 30% for any six-minute period from all other sources not specified in this section.

(B)[(A)] Compliance with paragraph (6)(A) [(5)] of this subsection shall be determined by applying the following test methods, as appropriate:

(i) Test Method 9 (40 Code of Federal Regulations 60, Appendix A); or

(ii) equivalent test method approved by the executive director.

(b) (No change.)

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

Issued in Austin, Texas, on April 13, 1990.

TRD-9003853 Steve Spaw, P.E.
Executive Director
Texas Air Control Board

Earliest possible date of adoption: May 25, 1990

For further information, please call: (512) 451-5711, ext. 215

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Incineration

• **31 TAC §§111.121, 111.123,
111.125, 111.127, 111.129**

The Texas Air Control Board (TACB) proposes an amendment to §§111.121, 111.123, 111.125, 111.127, and 111.129, concerning incineration. The proposed revision of §111.121, concerning single-chamber incinerators, deletes the reference to hospital/pathological incinerators, replaces the term "publicly-owned" with "institutional," and adds a reference to industrial incinerators. Also, a compliance date is added for industrial solid waste incinerators. The proposed revisions to §111.123, concerning dual- or multiple-chamber incinerators, adds a reference for industrial incinerators, deletes the term "hospital/pathological waste," and replaces "publicly-owned" with "institutional." Further, clarification is added that medical waste is not included in §111.123(a). Additional changes to §111.123: make hydrogen chloride, oxygen content, and opacity requirements consistent throughout both subsections; replace combustion efficiency measurements with carbon monoxide limits;

add a compliance date for industrial solid waste incinerators; require the same controls for both commercial and on-site medical waste incinerators; and add a compliance date for on-site medical waste incinerators. The proposed revision of §111.125, concerning testing requirements, replaces a testing requirement for combustion efficiency with one for carbon monoxide, and adds a notation regarding required frequency of testing. The proposed revision of §111.127, concerning monitoring and recordkeeping requirements, requires measurement of the oxygen content of the exhaust gas, and requires that medical waste incinerators be equipped with certified continuous carbon monoxide emissions monitors. The proposed revision also requires the maintenance of written records of all operating procedures. The proposed new §111.129, concerning operating requirements, adds requirements for posting operating guidelines and limits operating hours for incinerators not equipped with automatic feed mechanisms.

Bennie Engelke, director of management and staff services, has determined that for the first five-year period the proposed sections are in effect there will be the fiscal implications for state and local government and small businesses as a result of enforcing or administering the sections. There would be increased regulation of incinerators to ensure that they meet new recordkeeping, operating, and time requirements. The fiscal implications for small businesses would involve meeting increased regulatory requirements for owners of such incinerators, particularly for medical waste incinerators operated by private hospitals. The staff estimates that the capital costs of meeting the requirements in the proposed sections would be \$30,000-350,000 per facility, depending on whether ancillary control equipment is necessary. Annual costs could range from \$6,000-90,000 for each of the first five years the sections are in effect, again depending on whether control equipment would be needed. The staff notes that, in the case of small hospitals, it may be more economical to install sterilizers for

medical waste and bury the sterilized waste at authorized sanitary landfills than to purchase new incinerators.

Les Montgomery, deputy director of program development, 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 enforcement associated with incineration and more consistent regulation of medical waste incinerators. The anticipated economic cost to persons who are required to comply with the sections as proposed is outlined in the previous paragraph.

Public hearings on this proposal are scheduled for the following times and places: May 17, 1990, 10 a.m., Texas Air Control Board Auditorium, 6330 Highway 290 East, Austin; and May 17, 1990, 7 p.m., City of Houston Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston.

Copies of the proposed sections are available at the Central Office of the TACB, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearings. The TACB would appreciate receiving five copies of testimony prior to or at the hearings. Written testimony received by the Regulation Development Section by 4 p.m. on May 18, 1990, at the TACB Central Office will be included in the hearing record.

The amendments are proposed under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules consistent with the policy and purposes of the TCAA.

§111.121. Single-Chamber Incinerators. No person shall cause, suffer, allow, or permit the burning of domestic or municipal solid waste as defined in §101.1 of this title (relating to Definitions) in a single-chamber residential, institutional [publicly-owned], industrial [hospital/pathological waste], or commercial incinerator unless the incinerator has been demonstrated to

provide equivalent performance to multiple-chamber incinerators as specified in §111.123(a) of this title (relating to Dual- or Multiple-Chamber Incinerators) and is approved by the executive director. Single-chamber incineration of any other material is prohibited. Compliance with the requirements of this section shall be as soon as practical but no later than July 31, 1990, except in the case of industrial solid waste incinerators, which shall be in compliance as soon as practicable, but no later than May 31, 1991.

§111.123. Dual- or Multiple-Chamber Incinerators.

(a) No person shall cause, suffer, allow, or permit a dual- or multiple-chamber residential, industrial, institutional [publicly-owned [, hospital/pathological waste], or commercial incinerator burning domestic, industrial or municipal solid waste, but not including medical waste, as defined in §101.1 of this title (relating to Definitions) to discharge into the atmosphere unless the following requirements are met:

(1) (No change.)

(2) Hydrogen chloride (HCl) emissions greater than 1.8 kilograms (four pounds) per hour require a control device with a removal efficiency of 95% [averaged over a three-hour period].

(3) Carbon monoxide (CO) emissions shall not exceed 120 parts per million by volume dry basis, when corrected to 7.0% oxygen (O₂) in the stack gas as specified in subsection (a)(1) of this section. CO and O₂ shall be measured at the same location.

[(3) Combustion efficiency (CE) shall be at least 99% on an hourly basis, computed as follows:

$$\frac{CO_2}{CO_2 + CO + THCE}$$

where CO₂ = concentration of carbon dioxide

CO = concentration of carbon monoxide

THCE = concentration of total hydrocarbon equivalents]

(4) Oxygen content shall be maintained at greater than 4.0% by volume of the emissions of the secondary chamber, measured at the exit of the secondary chamber.

(5)[(4)] Visible emissions shall not exceed an opacity of 5.0% averaged over any six-minute period.

(6)[(5)] Compliance with the requirements of this section shall be as soon as practicable, but no later than July

31, 1990, except in the case of industrial solid waste incinerators, which shall be in compliance as soon as practicable, but no later than May 31, 1991.

(b) No person shall cause, suffer, allow, or permit the burning of medical

[infectious] waste, as defined in §101.1 of this title (relating to Definitions), [in a facility that accepts for incineration infectious waste generated outside the property boundaries of the facility] unless such burning [the facility] meets the following requirements.

(1) The incinerator must be equipped with a secondary chamber which retains all combustion gases for one second

or longer at a temperature of 1,800 degrees Fahrenheit or higher, measured at the exit of the secondary chamber.

(2) (No change.)

(3) Hydrogen chloride emissions greater than 1.8 kilograms (four pounds) per hour require a control device with a [A] removal efficiency of 95% [is required for HCl emissions].

(4) Carbon monoxide emissions shall not exceed 100 parts per million by volume dry basis, when corrected to 7.0% oxygen in the stack gas as specified in subsection (a)(1) of this section. CO and O2 shall be measured at the same location.

[(4) Combustion efficiency (CE) shall be at least 99.9% on an hourly basis, computed as follows:

$$\frac{CO_2}{CO_2 + CO + THCE}$$

where CO_2 = concentration of carbon dioxide

CO = concentration of carbon monoxide

THCE = concentration of total hydrocarbon equivalents]

(5) Oxygen content shall be maintained at greater than 4.0% by volume of the emissions of the secondary chamber, measured at the exit of the secondary chamber.

(6)[(5)] Visible emissions shall not exceed an opacity of 5.0% averaged over [for] any six-minute period [from any commercial infectious waste incinerator except for emissions during the cleaning of a firebox or the building of a new fire, soot-blowing, equipment changes, ash removal, and rapping of precipitators. During those periods, the visible emissions may not exceed 20% for a period of six minutes in any 60 consecutive minutes. This exemption shall not apply to the emissions mass rate standard as outlined in §111.151 of this title (relating to Allowable Emissions Limits)].

[(6) Compliance with the requirements of this section shall be as soon as practicable but no later than July 31, 1990.]

(7) Commercial medical waste incinerators, as defined in §101.1 of this title (relating to Definitions), shall be in compliance with the requirements of this section as soon as practicable, but no later than July 31, 1990.

(8) All other incinerators burning medical waste, as defined in §101.1 of this title (relating to Definitions) shall be in compliance with the requirements of this section as soon as practicable, but no later than May 31, 1991.

§111.125. *Testing Requirements.* Compliance with §111.121 of this title (relating to Single-Chamber In-

cinerators) and §111.123 of this title (relating to Dual- or Multiple-chamber Incinerators) shall be determined by applying the following test methods, as appropriate:

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

(3) Carbon monoxide. Test Method 10, 10A, or 10B. (40 Code of Federal Regulations 60, Appendix A);

[(3) Combustion efficiency. Combustion efficiency, measuring carbon dioxide (CO₂), carbon monoxide (CO), and hydrocarbons (HC), using the following test methods: CO₂: Reference Method 3 or 3A (40 Code of Federal Regulations Part 60, Appendix A); CO: Method 10 (40 Code of Federal Regulations Part 60 Appendix A); HC: Method 25A (40 Code of Federal Regulations Part 60, Appendix A);]

(4) opacity. Test Method 9 (40 Code of Federal Regulations Part 60, Appendix A);

(5) (No change.)

(6) Testing. To be conducted only when required by a representative of the TACB or the local air pollution control agency.

§111.127. Monitoring and Recordkeeping Requirements.

(a) The owner or operator of facilities [Facilities] subject to the requirements of §§111.121, 111.123, and 111.125 of this title (relating to Single-chamber Incinerators, Dual- or Multiple-chamber Incinerators; and Testing Requirements) shall install, calibrate, maintain, and operate a monitoring device that continuously measures and records the oxygen content of the stack and the oxygen

content and temperature of the exhaust gas of the secondary chamber of the incinerator. The monitoring device for incinerators equipped with a wet scrubbing device shall continuously measure and record the pressure drop of the gas flow through the wet scrubbing device. Facilities subject to the requirements of §111.123(b) of this title (relating to Dual- or Multiple-chamber Incinerators) shall be equipped with continuous emissions monitors which measure and record in-stack carbon monoxide concentrations, in addition to the other requirements of this section. The oxygen and carbon monoxide monitoring devices described in this section must be certified for use following procedures outlined in 40 Code of Federal Regulations 60, Appendix B, Performance Specifications 3 and 4, respectively. All [such] monitoring equipment described in this section must be approved by the executive director of the Texas Air Control Board.

(b) The owner or operator of the facility shall maintain written records of all monitoring and testing results, hours of operation, and quantity of waste burned for a period of not less than two years. Such records shall be made available upon request by authorized representatives of the Texas Air Control Board, United States Environmental Protection Agency, or local air pollution control agencies.

§111.129. *Operating Requirements.* The owner or operator of facilities subject to the requirements of §§111.121, 111.123, 111.125 and 111.127 of this title (relating to Single-chamber Incinerators, Dual- or Multiple-chamber Incinerators, Testing

Requirements; and Monitoring Requirements) shall meet the following operating requirements.

(1) Except in the case of incinerators with automatic feed mechanisms, the facility shall be limited in hours of operation from one hour after sunrise to one hour before sunset.

(2) Manufacturer's operating procedures shall be posted on or near each incinerator, and the incinerator shall be operated in accordance with the procedures.

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

Issued in Austin, Texas, on April 13, 1990.

TRD-9003856 Steve Spaw, P.E.
Executive Director
Texas Air Control Board

Earliest possible date of adoption: May 25, 1990

For further information, please call: (512) 451-5711, ext. 215

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• 31 TAC §111.129

(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 Air Control Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Air Control Board (TACB) proposes the repeal of §111.129, concerning exemptions, from the undesignated head concerning incineration. The repeal is being proposed because staff research indicates that unqualified exemptions for incinerators are not justifiable, regardless of the amount and type of material incinerated.

Bennie Engelke, director of management and staff services, has determined that for the first five-year period the repeal is in effect there will be fiscal implications for state or local government and small businesses as a result of enforcing or administering the repeal. The fiscal implications for state or local government will be increased enforcement of previously exempted facilities. The fiscal implications for small businesses will be the need to operate more efficiently and possibly install control equipment to ensure compliance with the existing rules. These costs could range from \$6,000 to \$75,000 per year for each of the first five years the repeal is in effect, depending on whether control equipment purchases would be required. The staff estimates that capital costs could range from \$30,000-350,000, again depending on whether control equipment is needed.

Les Montgomery, deputy director of program development, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to improve air quality by applying incinerator requirements to all incinerators. Previously exempted small incinerators will be required to operate efficiently and/or install control equipment. The anticipated economic cost to persons who are required to comply with the sections as

proposed is outlined in the previous paragraph.

Public hearings on this proposal are scheduled for the following times and places: May 17, 1990, 10 a.m., Texas Air Control Board, Auditorium, 6330 Highway 290 East, Austin; and May 17, 1990, 7 p.m., City of Houston Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston.

Copies of the proposed sections are available at the Central Office of the TACB, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearings. The TACB would appreciate receiving five copies of testimony prior to or at the hearings. Written testimony received by the Regulation Development Section by 4 p.m. on May 18, 1990 at the TACB Central Office will be included in the hearing record.

The repeal is proposed under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules consistent with the policy and purposes of the TCAA.

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

Issued in Austin, Texas, on April 13, 1990.

TRD-9003855 Steve Spaw, P.E.
Executive Director
Texas Air Control Board

Earliest possible date of adoption: May 25, 1990

For further information, please call: (512) 451-5711, ext. 215

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Part IX. Texas Water Commission

Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter P. Warning Signs for Contaminated Areas

• 31 TAC §§335.441-335.449

The Texas Water Commission (TWC) proposes new §§335.441-335.449, concerning placement of warning signs on contaminated property. These sections are proposed to establish guidelines and procedures for the placement of warning signs on contaminated property.

The placement of warning signs is necessary to protect the health and welfare of the people as required by the Texas Solid Waste Disposal Act, §1, the Texas Health and Safety Code, Chapter 361 (Vernon's Supplement 1990). Rules regarding the placement of warning signs are necessary to give owners of contaminated property notice that signs may be placed and to establish under what circumstances this may happen. The sections require that no warning signs may be placed until a determination is made that there exists a potential threat to human health which will be alleviated by the placement of the warning

signs and a list of factors to be considered in making this determination is documented. The sections also establish the right to an evidentiary hearing if the determination is contested and steps to be taken to have the warning signs removed.

Roger G. Bourdeau, chief fiscal officer, has determined that for the first five-year period the sections are in effect, there will be fiscal implications for state government as a result of enforcing or administering the sections. The estimated additional cost for state government for the first five years the sections are in effect will be \$39,298 in 1990; and \$29,430 during each year from 1991-1994. There will be no fiscal implications for local government as a result of enforcing or administering the sections.

Mr. Bourdeau 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 protection from potential health threats resulting from an unknowing exposure to hazardous materials from contaminated property.

The effect on small businesses as a result of enforcing the sections will not include most small businesses. For those affected, the only costs are the minimal costs of showing property ownership for consent to placing the sign on the cost of attending commission hearings if protesting of sign placement. There is no anticipated economic cost to persons who are required to comply with the sections as proposed other than the cost of preparing a consent document (e.g. cost of notary service) or the cost of attending a hearing if protesting sign placement.

Comments on the proposal may be submitted to Michelle A. McFaddin, Senior Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711. The deadline for submission of written comments is 30 days following the date of this publication.

The new sections are proposed under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. These sections are also proposed under the Texas Solid Waste Disposal Act, §361.024, the Texas Health and Safety Code, Chapter 361 (Vernon Supplement 1990), which provides the Texas Water Commission with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Texas Solid Waste Disposal Act, §361.017, the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to implement the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the

powers and duties prescribed under the Act and other existing legislation. Section 361.017 also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.441. Purpose, Scope, and Applicability. The purpose of this subchapter is to provide standards and procedures for the placement of warning signs on property contaminated with hazardous waste when such contamination creates a potential health hazard.

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

Contaminated property—Property on which hazardous substances in known or potentially harmful quantities have been released, spilled, leaked, pumped, poured, emitted, entered, or dumped.

Emergency—Any situation in which a threat to public health exists from releases or threatened releases of hazardous substances on contaminated property which requires immediate action to protect the public health.

Property owner—The person or persons who own contaminated property.

Remedial action—Shall have the same meaning as in 31 Texas Administrative Code Chapter 335, Subchapter K of this title (relating to Hazardous Waste Facilities Assessment and Remediation).

Warning sign—A sign which provides public notice that a particular property is contaminated with hazardous substances and that entry on the property may present a potential hazard to human health. The sign may either be placed by the commission or made and placed in accordance with commission specifications.

Written consent form—A document signed by the property owner which states that the property owner agrees to the placement of warning signs on his property. The document shall be signed as follows.

(A) If the property owner is an individual, the written consent form shall be signed by the property owner or the property owner's approved agent. An agent shall provide written evidence of his or her authority to represent the property owner. If the property owner is an individual doing business under an assumed name, an assumed name certificate must be obtained from the county clerk of the county in which the principle place of business or the contaminated property is located.

(B) If the property is jointly owned, the written consent form shall be signed by each property owner or each property owner's duly authorized agent,

with written evidence of such agency relationship to be submitted with the written consent form. If land is owned by both husband and wife, each shall sign the written consent form. If the joint owners are doing business under an assumed name, an assumed name certificate must be obtained from the county clerk of the county in which the principle place of business or the contaminated property is located.

(C) If the property is owned by a partnership, the written consent form shall be signed by one of the general partners. If the partnership is doing business under an assumed name, an assumed name certificate must be obtained from the county clerk of the county in which the principle place of business or the contaminated property is located

(D) If the property is part of an estate or guardianship, the written consent form shall be signed by the duly appointed guardian or representative of the estate and a current copy of any and all document(s) issued by the court appointing the guardian or the representative of the estate shall be attached to the written consent form.

(E) If the property owner is a corporation, public district, county, municipality, or other corporate entity or political subdivision, the written consent form shall be signed by a duly authorized official. Written evidence in the form of by-laws, charters, or resolutions which specify the authority of the official to take such action shall be submitted. A corporation may file a corporate affidavit as evidence of the official's authority to sign.

(F) If the signatory is acting as trustee for another person, the signatory shall sign as trustee, and in the written consent form shall disclose the nature of the trust agreement and give the name and current address of each trust beneficiary. Each signatory shall subscribe and swear to the written consent form before a person entitled to administer oaths, who shall also sign his or her name and affix his or her seal of office to the consent.

§335.443. Determination of Potential Hazard to Public Health.

(a) Prior to placing warning signs on contaminated property, a determination must be made by the executive director of the Texas Water Commission that there exists a potential hazard to human health which will be eliminated or reduced by placing a warning sign on the contaminated property. During the initial site investigation, if there is sufficient information the following factors should be considered in determining whether a potential hazard to human health exists:

(1) character of the contaminants, based on labelling, type of container, if any, the presence of any marking or labelling indicates the contents of any container present, laboratory analysis of the contaminant(s) or media containing the contaminant(s) or other relevant factors;

(2) amount and/or suspected concentration of the contaminant(s);

(3) accessibility of the contaminated area to the public;

(4) routes of exposure;

(5) proximity of schools, hospitals, residential areas; and

(6) potential for wind dispersal or other potential pathway for migration.

(b) It is presumed by the Texas Water Commission that a hazard to human health exists if at any point during the site investigation:

(1) illnesses are observed or alleged to be related to an incident;

(2) known or suspected toxic or carcinogenic materials are detected;

(3) mutagenic, teratogenic, or other materials which can be detrimental to reproduction are found; or

(4) hazardous substances are found in an area accessible to the public. A hazardous substance may include, but is not limited to, any substance listed in Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act, 42 United States Code, §9601 (14) (1986).

§335.444. Property Owner Consents to the Placement of Warning Signs. Whenever possible, written consent should be obtained from the owner of the contaminated property on which the warning signs are placed. The commission may place warning signs on contaminated property if prior written consent is obtained from the property owner for such placement.

§335.445. Placement of Warning Signs Without Property Owner's Consent. The commission shall issue an order to authorize the placement of warning signs on contaminated property if no written consent has been received for such placement from the property owner. In non-emergency situations, a hearing on the placement of warning signs shall be held before the commission in accordance with the contested case provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13A, §13 (Vernon).

§335.446. Emergency Placement of Signs. If an emergency exists which requires the immediate placement of warn-

ing signs on contaminated property to protect the public health and safety and the property owner has not provided written consent to the placement of warning signs on the contaminated property, an emergency order authorizing the placement of the warning signs may be issued without notice and hearing by the commission or with such notice and hearing as is practicable. If an emergency order is issued by the commission pursuant to this section, the commission shall fix a time and place for a hearing to be held to affirm, modify, or set aside the emergency order. Notice of the hearing to affirm, modify, or set aside shall be in accordance with provisions set forth in 31 Texas Administrative Code Chapter 305, Subchapter B.

§335.447. Reporting of Placement of Warning Signs. Any commission employee who places or requests the placement of a warning sign on contaminated property must file a report with the commission's central office in Austin within 10 days of such request or placement. The report must include the following information, if known:

- (1) the name and office telephone number of the reporting individual;
- (2) the name and telephone number of the commission personnel investigating the contamination;
- (3) the location of the contaminated area;
- (4) the name of the contaminant(s);
- (5) the physical and chemical properties of the contaminant(s);
- (6) the source of the contamination;
- (7) the extent of the area impacted by the contamination;
- (8) conditions affecting migration of the contamination including: surface water runoff, release(s) to the air, releases to the groundwater, prevailing weather, and/or any fire(s) involved;
- (9) the extent of actual and potential exposure to the contamination including exposure by emergency personnel, occupational exposure, and real or potential exposure by the public, where this information is available;
- (10) a description of the procedures used or proposed to be used to determine that warning signs are necessary and to determine the appropriate placement of the signs;
- (12) when and where warning signs were placed or are proposed to be placed;
- (13) whether written consent was obtained from the property owner; and

(14) a copy of any written consent obtained from the property owner.

§335.448. Removal of Warning Signs. Warning signs shall be removed from contaminated property at the property owner's request after either:

(1) the property owner has provided documentation that remedial action on the contaminated property is complete and no further hazard to human health exists and the commission has independently verified the information provided; or

(2) the commission independently determines that remedial action on the contaminated property is complete and no further hazard to human health exists. Warning signs may not be removed prior to approval by the executive director or 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 April 18, 1990.

TRD-9003946 Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: May 25, 1990

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 10. Family Self-support Services

Child Care Management Services Field Test

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• **40 TAC §10. 3507**

The Texas Department of Human Services (DHS) proposes new §10.3507, concerning child care management services field test, in its Family Self-support chapter. The purpose of the new section is to require child care centers and homes that apply to become vendors under the child care management services (CCMS) system to have liability insurance coverage.

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. There will be no fiscal implications for small businesses except child care centers and homes that do not presently have liability insurance coverage and that apply to become vendors under the child care management services system. The

Government Accounting Office furnished a report to the Committee on Labor and Human Resources in July 1989 entitled, "Information on Costs and Services at High-Quality Centers." On page four the report states that the average cost of providing liability insurance is \$82 per child per year.

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 an additional safeguard for families using CCMS vendor child care. 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 Marian Monroe at (512) 450-4167 in DHS's Client Self-support Services Division. Comments on the proposal may be submitted to Cathy Rossberg, Policy Communication Services-241, Texas Department of Human Services 454-W, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*. DHS will hold a public hearing to accept comments on the proposal. The hearing will be held at 1 p.m. on April 26, 1990, in the public hearing room, 701 West 51st Street, Austin.

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

§10.3507. Liability Insurance Requirement. Child care centers and homes that apply to become vendors under the child care management system contract must be covered by a minimum of \$300,000 liability insurance.

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

Issued in Austin, Texas, on April 18, 1990.

TRD-9003955 Cathy Rossberg
Agency liaison, Policy
Communication
Services
Texas Department of
Human Services

Proposed date of adoption: July 1, 1990

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

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Chapter 16. Intermediate Care Facilities/Skilled Nursing Facilities (ICF/SNF)

Compliance with State and Local Laws

The Texas Department of Human Services (DHS) proposes amendments to §§16.1502, 16.1503, 16.1902, 16. 1905, 16.1908, and 16.1909, and proposes new §16.1601, concerning a rural hospital swing bed program, in its Intermediate Care Facilities/Skilled Nursing Facilities (ICF/SNF) chapter.

The purpose of the amendments and new section is to establish a Medicaid Swing Bed Program for rural hospitals located in counties with populations of 100,000 or less. The program will permit participating rural hospitals to use their beds interchangeably to furnish both acute hospital care and long-term nursing facility care to Medicaid recipients when no long-term nursing-facility beds are available in ICFs or SNFs in the area. The department's requirements for participation in this program conform to the requirements of the Social Security Act, §1913; the Omnibus Budget Reconciliation Act of 1987, §4005(b) (2); and the Human Resources Code, §32.024. The proposal includes revisions to an earlier draft of the amendments and new section published in the November 10, 1989, issue of the *Texas Register* (14 TexReg 5925), which the department withdrew from consideration effective April 2, 1990, in response to comments received during the 30-day comment period.

During the 30-day comment period, the department received six comments on the proposed amendments. The commenters included representatives of the following organizations: Texas Health Care Association, Texas Association of Homes for the Aging, Texas Board of Licensure for Nursing Home Administrators, Stebbins Five Companies Nursing Homes, Beverly Enterprises, and Texas Health Enterprises, Inc. A summary of the comments and the department's responses follow.

Comment: six commenters stated that requiring Medicaid Swing Bed Program providers to meet the Medicare swing bed requirements does not assure that the provider will meet all of the minimum licensing standards and certification requirements for nursing facilities as required by the Human Resources Code, §32.024, enacted by the 71st session of the Texas State Legislature (House Bill (HB) 18). The Human Resources Code, §32.024, states: "If the swing beds are used for more than one 30-day length of stay per year, per patient, the hospital must comply with the Minimum Licensing Standards as mandated by Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4442 (c), Vernon's Texas Civil Statutes), and the Medicaid standards for nursing home certification, as promulgated by the Texas Department of Human Services."

The six commenters stated that the Human Resources Code §32.024 requires a hospital to comply with the minimum licensing standards and the Medicaid standards for participation if the hospital keeps a patient for more than one 30-day length of stay per year. By implication, this means that the rural hospital must have a full-time nursing home administrator, licensed by the Texas Board of Licensure for Nursing Home Administrators, and must meet all continuing education and training requirements, if the hospital keeps a patient for more than one 30-day length of stay per year.

The Texas Hospital Association (THA) gave verbal comments noting that many rural hospitals would not participate in the Medicaid Swing Bed Program with the licensing restrictions in the Medicaid rules. A projected average of two to three swing beds in each rural hospital was not sufficient to warrant such licensing requirements.

Response: the department is reproposing the sections with changes to include references found in the Human Resources Code, §32.024, and in the Health and Safety Code sections. The Human Resources Code section requires swing bed facilities to meet nursing facility minimum licensing standards when swing beds are used for more than one 30-day length of stay per year, per patient. The Health and Safety Code sections prohibit duplication of health care facility inspections and licensing. With these modifications, rural hospitals participating in the Medicaid Swing Bed Program will still be required to comply with parts of the ICF/SNF standards for participation on day one of a patient's stay, but not required to meet the minimum licensing standards and the remainder of the ICF/SNF standards for participation until day 31 of a patient's stay per year.

As a result of these comments, the department has changed the section on licensure, §16.1502(b), to include references to the Health and Safety Code and the Human Resources Code, §32.024. The following sections are also changed as a result of comments to include the reference to the Human Resources Code, §32.024: Swing Bed Program for Rural Hospitals, §16.1601(c)(2), (e), and (f) (1); governing body, §16.1902(b); administration, §16.1905(a); and staff development, §16.1908(d).

Comment: one of the six commenters stated that §16.1502(a) should include the statement that the facility must be in a county with a population of 100,000 or less, and facilities in a county with a larger population are not eligible to participate in the Medicaid Swing Bed Program.

Response: the department has not changed this section because a similar statement is already in §16.1601(a), Medicaid Swing Bed Program for Rural Hospitals.

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 to provide nursing facility care to Medicaid recipients through hospitals in rural areas where recipients cannot easily obtain such care from nursing facilities. 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.

Questions about the content of this proposal may be directed to Rick Vasser at (512) 450-3750 in DHS's Institutional Care Section. Comments on the proposal may be submitted to Cathy Rossberg, Agency Liaison, Policy Communication Services-363, Texas Department of Human Services 454-W, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

• 40 TAC §16.1502, §16.1503

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22

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

§16.1502. Licensure.

(a) The facility must meet the following conditions to [may] be approved by the Texas Department of Human Services (DHS) for participation in the Title XIX Texas Medical Assistance Program and receive [be eligible for] state and federal reimbursement for services to Title XIX recipients.[recipient-patients] if the following conditions are met.]

(1) the facility is currently licensed by the Texas Department of Health (TDH) as a nursing facility;

(2) the facility has filed an application with DHS [the Texas Department of Human Services] for participation as a nursing facility in the Title XIX Texas Medical Assistance Program;

(3) TDH has furnished DHS with [The Texas Department of Human Services has been furnished] a valid certification for the facility;[by the Texas Department of Health.]

(4) the facility's owner or authorized representative has a written contract with DHS [the Texas Department of Human Services] to participate as a provider of services to eligible recipients[recipient-patients].

(b) Pursuant to the Health and Safety Code, §§222.021, 222.024, and 222.025, relating to duplication of health care inspections and licensing, a rural hospital participating in the Medicaid Swing Bed Program as specified in §16.1601 of this title (relating to Medicaid Swing Bed Program for Rural Hospitals) satisfies the TDH licensure and certification requirements in subsection (a) of this section when it is currently licensed and certified as a hospital by TDH. However, in accordance with the Human Resources Code, §32.024, which states that if the rural hospital's swing beds are used for more than one 30-day length of stay per year, per patient, the hospital must comply with the minimum licensing standards promulgated by TDH pursuant to the Health and Safety Code, Chapter 242 (formerly cited as Texas Civil Statutes, Article 4442 (c) and the full ICF/SNF standards for participation for nursing facilities, as promulgated by DHS.

§16.1503. Participation Requirements.

(a) (No change.)

(b) Each Medicaid skilled nursing facility (SNF) must maintain Medicare certification for a number of its beds that equals or exceeds 25% of the facility's Medicaid contracted SNF beds. A rural

hospital participating in the Medicaid Swing Bed Program as specified in §16.1601 of this title (relating to Medicaid Swing Bed Program for Rural Hospitals) satisfies this requirement when it is Medicare-certified by the Texas Department of Health (TDH) as a swing bed hospital in the Medicare Swing Bed Program.

(c)-(o) (No change.)

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

Issued in Austin, Texas, on April 18, 1990.

TRD-9003952

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

Proposed date of adoption: July 1, 1990

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

Special Programs

• 40 TAC §16.1601

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

§16.1601. Medicaid Swing Bed Program for Rural Hospitals.

(a) Program description. The Texas Department of Human Services (DHS) operates a Medicaid Swing Bed Program for rural hospitals located in counties with populations of 100,000 or less. The Medicaid Swing Bed Program is modelled on Medicare's Swing Bed Program. The Medicaid Swing Bed Program permits participating rural hospitals to use their beds interchangeably to furnish both acute hospital care and nursing-facility care to Medicaid recipients when no beds are available in intermediate care facilities (ICFs) or skilled nursing facilities (SNFs) in the area. When a participating rural hospital furnishes ICF or SNF nursing care to Medicaid recipients, DHS makes payment to the hospital using the same procedures, the same case-mix methodology, and the same Texas index for level of effort (TILE) rates that the Texas Board of Human Services authorizes for reimbursing ICFs and SNFs participating in the Texas Medicaid Nursing Home Program.

(b) Application to participate. Rural hospitals apply to DHS to participate in the Medicaid Swing Bed Program. Each applicant must be located in a county with a population of 100,000 or less and must meet the qualifying requirements of the Medicare Swing Bed Program. Hospitals approved for participation enter into swing bed provider agreements with DHS.

(c) Parallel participation in Medicare. Each participating rural hospital must:

(1) have a Medicare hospital provider agreement, and

(2) be Medicare-certified by the Texas Department of Health (TDH) as a swing bed hospital in the Medicare Swing Bed Program.

(d) Applicability of Medicare requirements. Each participating rural hospital must satisfy all the requirements of the Medicare Swing Bed Program, except that Medicare's five-weekday transfer requirement and 15% payment limitation do not apply for Medicaid reimbursement purposes.

(e) Applicability of ICF/SNF standards for participation. From day one of the recipient's stay, participating rural hospitals must meet the requirements for ICFs and SNFs set forth in §16.1101 of this title (relating to Definitions); §§16.1301-16.1305 of this title (relating to Compliance with Federal Laws); §§16.1501-16.1510 of this title (relating to Compliance with State and Local Laws); §§16.1901-16.1919 of this title (relating to Governing Body and Management); §§16.3801-16.3807 of this title (relating to Services and Supplies Included in the Vendor Payment); §§16.7101-16.7104 of this title (relating to Medical Review and Re-evaluation); §§16.9801-16.9802 of this title (relating to Support Documents); and Appendix A, general reimbursement methodology, of DHS's ICF/SNF standards for participation. Specific licensure and participation requirements relating to the Omnibus Health Care Rescue Act of 1989 (House Bill 18) are found in §16.1502(b) of this title (relating to Licensure), §16.1503(b) of this title (relating to Participation Requirements), §16.1902(b) of this title (relating to Governing Body), §16.1905(a) of this title (relating to Administration), §16.1908(d) of this title (relating to Staff Development), and §16.1909(c) of this title (relating to Transfer Agreement with Hospitals). Requirements relating to the Health and Safety Code (duplication of health care inspections and licensing) are found in §16.1502(b) of this title (relating to Licensure).

(f) Transfer requirement.

(1) When an ICF or an SNF located in a participating rural hospital's geographic region has a bed available for a Medicaid recipient residing in the hospital, the hospital with 50 to 99 beds must transfer the recipient to the ICF or SNF within five working-days of the bed's availability, unless the recipient's physician certifies within the five-day period that the transfer is not medically appropriate. In order to ensure that recipients are transferred to available beds in ICFs or SNFs whenever medically appropriate, each participating

hospital must identify all the ICFs and SNFs in its geographic region and enter into agreements with them for the transfer of recipients. Each ICF and SNF in the region must notify the hospital whenever a bed becomes available for a recipient. The notification must specify the date of the bed's availability.

(2) In this subsection, the phrase "a participating rural hospital's geographic region" refers to an area that includes both the ICFs and SNFs with which the hospital normally arranges transfers and all other ICFs and SNFs in similar proximity to the hospital. If a hospital has no previous transfer practices on which to base a determination, the phrase "geographic region" refers to an area that includes all ICFs and SNFs within 50 miles of the hospital except for facilities that the hospital demonstrates to be inaccessible to its patients.

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

Issued in Austin, Texas, on April 18, 1990.

TRD-9003953

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

Proposed date of adoption: July 1, 1990

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

Governing Body and Management

• 40 TAC §§16. 1902, 16.1905, 16.1908, 16.1909

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

§16.1902. Governing Body.

(a) The governing body must have written policies and procedures that are formally adopted[,] and dated, periodically updated, [periodically,] and available to all of its members, staff, recipients [recipient-patients], family or legal representatives of recipients [recipient-patients], and the public. These [The] policies and procedures must govern all services [provided] and specify [include] the types of services offered.

(b) The governing body must appoint a qualified full-time nursing home [facility] administrator as its [the] official representative, [of the governing body,] and designate the administrator's responsibilities and authority. The governing body of a rural hospital participating in the Medicaid Swing Bed Program as

specified in §16.1601 of this title (relating to Medicaid Swing Bed Program for Rural Hospitals) satisfies this requirement when it appoints a hospital administrator as its official representative and designates the administrator's responsibilities and authority, subject to the following exception. If the swing beds are used for more than one 30-day length of stay per year, per patient, the hospital's governing body must appoint a full-time licensed nursing home administrator.

§16.1905. Administration.

(a) The facility must operate [be operated] under the supervision of a full-time nursing home [facility] administrator licensed by the Texas Board of Licensure for Nursing Home Administrators. A rural hospital participating in the Medicaid Swing Bed Program as specified in §16.1601 of this title (relating to Medicaid Swing Bed Program for Rural Hospitals) satisfies this requirement when it operates under the supervision of a hospital administrator subject to the following exception. If the swing beds are used for more than one 30-day length of stay per year, per patient, these hospital swing beds must be under the supervision of a full-time licensed nursing home administrator. The administrator, as a professional, must work at least 40 hours per week on administrative duties. The administrator must be accountable to the governing body for overall management of the nursing facility. The administrator's authority and responsibilities must be clearly outlined to include:

(1) (No change.)

(2) adopting and enforcing rules and regulations for the health care and safety of recipients [recipient-patients] and others, and for the protection of their personal property and civil rights;

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

(6) naming a responsible employee to act in the administrator's ab-

sence so the facility has continuous administrative direction; and

(7) ensuring that all [any] volunteer programs [program] are planned and supervised by a designated employee.

(b) (No change.)

§16.1908. Staff Development.

(a) (No change.)

(b) The facility must provide continuing education and training to develop the skills of its staff. A staff development program must be developed and maintained as required by the Texas Department of Health (TDH) minimum licensing standards for nursing homes.

(c) (No change.)

(d) The requirements of subsections (a)-(c) of this section are satisfied if the swing beds are used for no more than one 30-day length of stay per year, per patient, and a rural hospital is participating in the Medicaid Swing Bed Program as specified in §16.1601 of this title (relating to Medicaid Swing Bed Program for Rural Hospitals).

§16.1909. Transfer Agreement with Hospitals.

(a) To ensure continuity of care, the facility must have a written transfer agreement with one or more participating hospitals. The transfer agreement must [which]:

(1) (No change.)

(2) ensures accountability for the recipient's [a recipient-patient's] personal effects at the time of transfer;

(3) specifies the steps needed to transfer the recipient [a recipient-patient] in a prompt, safe, and efficient manner;

(4) [(5)] ensures that provisions of Title VI of the Civil Rights Act of 1964 are met; and[.]

(5) provide [(4) Provides] for supplying, at the time of transfer, a summary of administrative, social, medical, and nursing information to the facility to which the recipient [recipient-patient] is transferred. [(c) This summary must either be a transcript of the recipient's medical record, an interagency referral form, or a copy of the admission sheet and discharge summary (c)] . [(c)]

(b) (No change.)

(c) A rural hospital participating in the Medicaid Swing Bed Program as specified in §16.1601 of this title (relating to Medicaid Swing Bed Program for Rural Hospitals) is not required to enter into a transfer agreement with another hospital. However, the hospital's transfer agreements with intermediate care facilities (ICFs) and skilled nursing facilities (SNFs) in its geographic region required in §16.1601(f) of this title (relating to Medicaid Swing Bed Program for Rural Hospitals) must conform to the requirements of this section.

(d)[(c)] The facility is considered to have met this section if the state survey agency determines that the facility tried to enter into an agreement but could not, and if it is in the public interest not to enforce this requirement. The facility must document in writing its good faith effort to enter into an agreement.

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

Issued in Austin, Texas, on April 18, 1990.

TRD-9003954

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

Proposed date of adoption: July 1, 1990

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



Withdrawn Sections

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

TITLE 37. PUBLIC SAFETY AND CORREC- TION

Part VII. Texas Commission on Law Enforcement Officer Standards and Education

Chapter 211. Administrative Division

Substantive Rules

• 37 TAC §211.1

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §211.1, submitted by the Texas Commission on Law Enforcement Officer Standards and Education has been automatically withdrawn, effective April 18, 1990. The amendment as proposed appeared in the October 17, 1989 issue of the *Texas Register* (14 TexReg 5539).

TRD-9003945



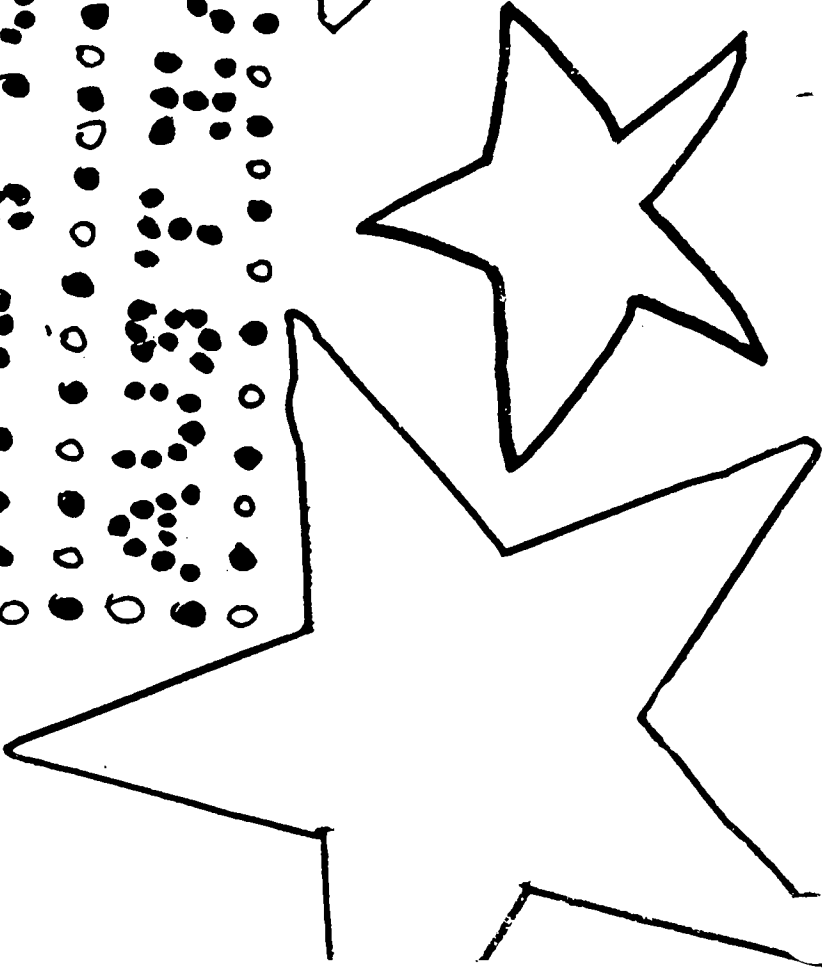
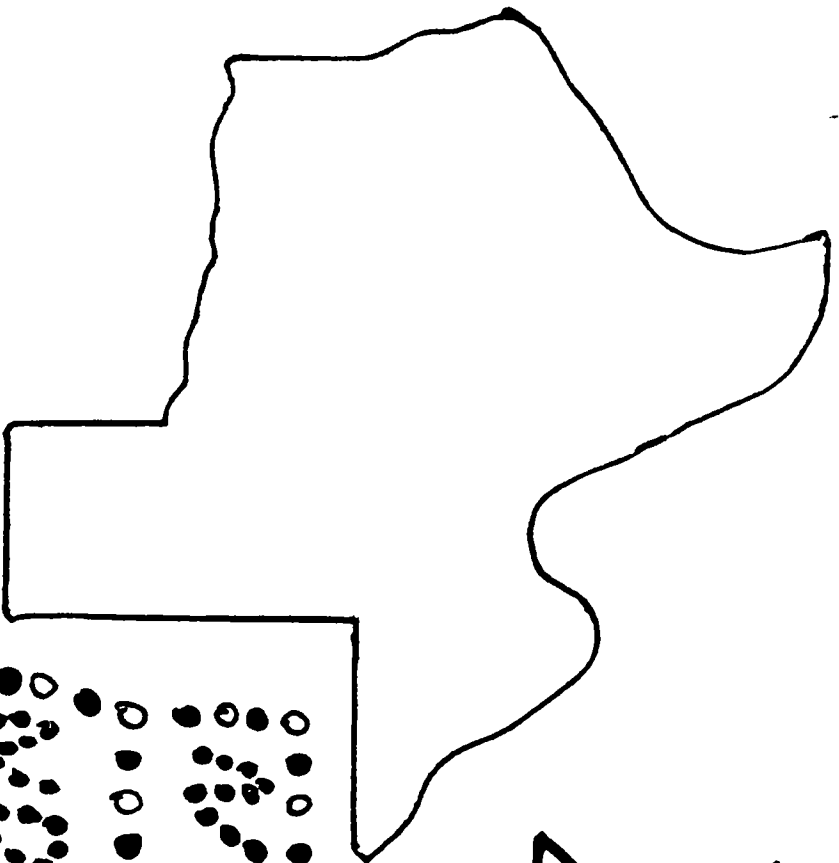
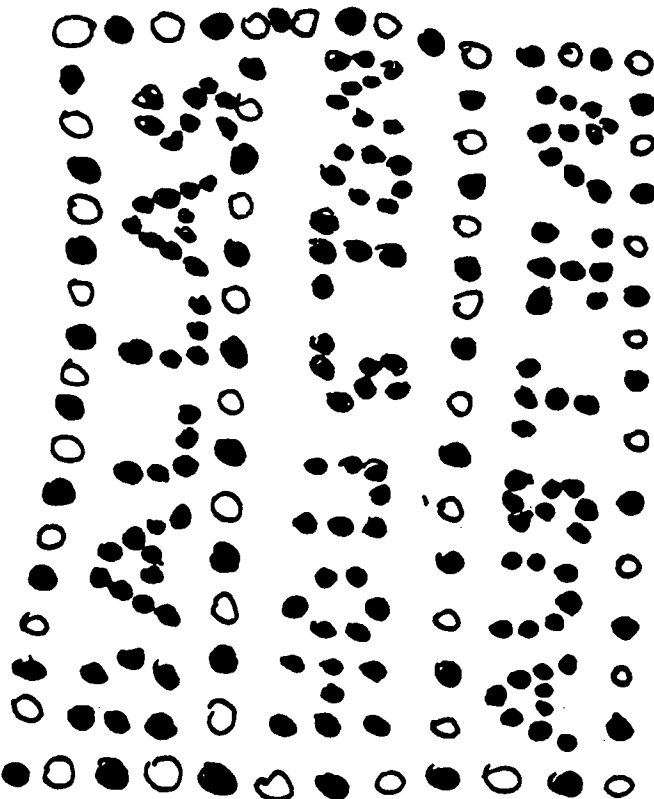
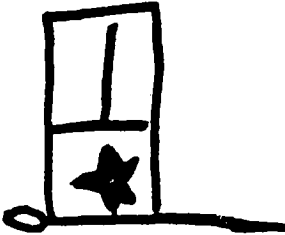
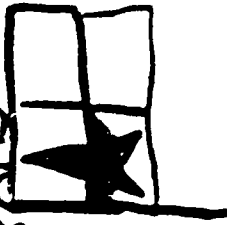
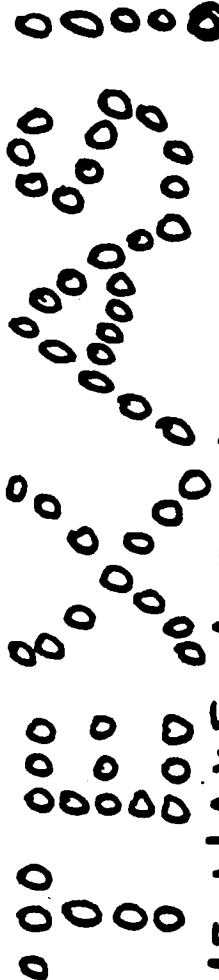
• 37 TAC §211.109

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed new §211.109, submitted by the Texas Commission on Law Enforcement Officer Standards and Education has been automatically withdrawn, effective April 18, 1990. The new section as proposed appeared in the October 17, 1990, issue of the *Texas Register* (14 TexReg 5540).

TRD-9003944



WE HAVE A REASON TO CELEBRATE



Name: Andrew Bell
Grade: 4
School: Moss Haven Elementary, Richardson

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 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 331. Underground Injection Control

Subchapter A. General Provisions

• 31 TAC §331.9

The Texas Water Commission (TWC) adopts an amendment to §331.9, without changes to the proposed text as published in the March 2, 1990, issue of *Texas Register* (15 TexReg 1145).

The section is amended in order to clarify TWC underground injection control permit terms relative to the federal underground injection control program terminology in 40 Code of Federal Regulations, §148.2.

The section is amended so that the definitions of injection zone and injection interval in 31 TAC §331.2 conform to the federal definition of injection interval, as stated in 40 Code of Federal Regulations, §148.2.

The TWC received oral and written comments on the proposed regulation. The comment submitted by the Texas Chemical Council (TCC) supported the substantive content of the proposed amendment but stated that the amendment should be to 31 TAC §331.66 as subsection (c), rather than to this section. The TCC contends that placement in §331.66 is appropriate because this section relates to the requirements and conditions of the permit and is a provision more likely to be reviewed by a permittee. The TCC believes that an amendment to this section may be potentially confusing as this section was originally intended to provide a form of interim status authorization for injection wells when the federal injection well program was developed.

The law firm of Brown Maroney and Oak Hartline, and the GNI Group concurred with the comment of the TCC.

The commission agrees with the preceding comment; however, due to time constraints the commission intends to implement this comment at a later date.

The amendment is adopted under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the

State of Texas, and to establish and approve all general policy of the commission. In addition, the Texas Water Code, §27.019, authorizes the TWC to adopt rules and procedures reasonably required for the performance of its powers and duties under Chapter 27. The TWC is designated the state agency which manages injection wells which are not within the jurisdiction of the Railroad Commission. As such, TWC is required to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare, the operation of existing industries and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

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

Issued in Austin, Texas on April 18, 1990.

TRD-9003947 Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: May 9, 1990

Proposal publication date: March 2, 1990

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 5. Funds Management (Fiscal Affairs)

Deferred Compensation-Vendor Participation

• 34 TAC §§5.111-5.115

The Comptroller of Public Accounts adopts the repeal of §§5.111-5.115, without changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1377).

These sections are being repealed so that substantially revised sections dealing with the same subject matter may be adopted.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the State's Deferred Compensation Program.

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

Issued in Austin, Texas, on April 9, 1990.

TRD-9003887 Bob Bullock
Comptroller of Public
Accounts

Effective date: May 7, 1990

Proposal publication date: March 13, 1990

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

Deferred Compensation-Internal Revenue Code, §457 Plan

• 34 TAC §5.111

The Comptroller of Public Accounts adopts new §5.111, without changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1377).

The new section defines certain important terms that are used in §§5.111-5.122.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to adopt and enforce rules concerning the State's Deferred Compensation Program.

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

Issued in Austin, Texas, on April 9, 1990.

TRD-9003886 Bob Bullock
Comptroller of Public
Accounts

Effective date: May 7, 1990

Proposal publication date: March 13, 1990

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

Deferred Compensation-Internal Revenue Code, §457 Plan

• 34 TAC §5.112

The Comptroller of Public Accounts adopts new §5.112, without changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1379).

The new section covers the responsibilities of the plan administrator, participation by state agencies in the Deferred Compensation Program, and certain miscellaneous matters.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to adopt and enforce rules concerning the State's Deferred Compensation Program.

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

Issued in Austin, Texas, on April 9, 1990.

TRD-9003885 Bob Bullock
 Comptroller of Public
 Accounts

Effective date: May 7, 1990

Proposal publication date: March 13, 1990

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

◆ ◆ ◆
• 34 TAC §5.113

The Comptroller of Public Accounts adopts new §5.113, without changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1380).

The new section covers state employee participation in the Deferred Compensation Program, including the procedures for starting and ending participation, the maximum amount of compensation an employee may defer, procedures for making changes in an employee's participation, and certain other matters.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to adopt and enforce rules concerning the State's Deferred Compensation Program.

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

Issued in Austin, Texas, on April 9, 1990.

TRD-9003884 Bob Bullock
 Comptroller of Public
 Accounts

Effective date: May 7, 1990

Proposal publication date: March 13, 1990

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

◆ ◆ ◆
• 34 TAC §5.114

The Comptroller of Public Accounts adopts new §5.114, with changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1382).

The new section covers vendor participation in the Deferred Compensation Program, including eligibility for participation, the procedures for starting and ending participation, collateralization requirements, audits of vendors, and certain other matters.

Subsection (c)(5) was changed by adding a new subparagraph (B), causing the remaining subparagraph to be relettered. The new subparagraph outlines an additional requirement for vendors of mutual funds.

The following comment was received. The State Securities Board suggested that subsection (c)(5) be changed to take into account Senate Bill 785, which was passed during the 71st Legislature, 1989. See Act of April 13, 1989, Chapter 40, 1989, Texas General Laws 326. The Act, among other things, exempts from the Securities Act the securities that have been designated or approved for designation on notice of issuance on the National Association of Securities Dealers Automated Quotation National Market System. The comptroller agrees with the suggestion and, as a result, has proposed the changes discussed earlier in this adoption notice.

The new section is adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to adopt and enforce rules concerning the State's Deferred Compensation Program.

§5.114. *Vendor Participation.*

(a) Prohibited activities. A vendor may not solicit business from employees or participants or otherwise participate in the plan until the vendor and the plan administrator have signed a vendor contract.

(b) New qualified vendors.

(1) Notwithstanding anything to the contrary in the sections in this undesignated head other than paragraph (2) of this subsection, the plan administrator may not:

(A) approve a vendor as a qualified vendor; or

(B) sign a vendor contract.

(2) Paragraph (1)(B) of this subsection does not apply to a qualified vendor that the plan administrator approved for participation in the plan before the effective date of the sections in this undesignated head. If the plan administrator has not executed a vendor contract with a qualified vendor, the plan administrator and the qualified vendor shall execute a vendor contract no later than the 90th day after the effective date of the sections in this undesignated head. If a vendor contract is not executed, the plan administrator shall terminate the qualified vendor's participation in the plan.

(3) This subsection expires January 1, 1991.

(c) Eligibility to become a qualified vendor.

(1) Banks. The plan administrator shall disapprove a bank's application to become a qualified vendor if:

(A) the bank is not domiciled in the State of Texas;

(B) the FDIC does not insure deposits with the bank; or

(C) the bank is not a state depository under the Government Code, Chapter 404.

(2) Credit unions. The plan administrator shall disapprove a credit union's application to become a qualified vendor if:

(A) the credit union is not authorized to do business in the State of Texas under either the Texas Credit Union Act (Article 2461-1.01 et seq., Texas Civil Statutes) or the Federal Credit Union Act (12 United States Code, §1751);

(B) the National Credit Union Administration or the Texas Share Guaranty Credit Union does not insure deposits with the credit union; or

(C) the credit union does not agree to collateralize deferrals and investment income to the extent that:

(i) they exceed the amounts insured by the National Credit Union Administration or the Texas Share Guaranty Credit Union; and

(ii) collateralization is required by the sections in this undesignated head.

(3) Insurance companies.

(A) Upon receiving an application from an insurance company to become a qualified vendor, the plan administrator shall file a written request with the State Board of Insurance for information about the company.

(B) The plan administrator shall disapprove an insurance company's application to become a qualified vendor if the State Board of Insurance notifies the plan administrator that the insurance company:

(i) does not have a certificate of authority to transact business in the State of Texas;

(ii) is not a member of the Life, Accident, Health, and Hospital Service Insurance Guaranty Association; or

(iii) is an impaired or insolvent insurer as defined in the Life, Accident, Health, and Hospital Service

Insurance Guaranty Association Act
(Insurance Code, Article 21.28-D).

(C) The plan administrator shall disapprove an insurance company's application to become a qualified vendor if the company uses the sex of the person insured or of the recipient to calculate premiums, payments, or benefits for any of its investment products.

(4) Savings and loan associations. The plan administrator shall disapprove a savings and loan association's application to become a qualified vendor if:

(A) the savings and loan association is a foreign association without a certificate of authority to transact business in the State of Texas as defined and required by the Texas Savings and Loan Act (Texas Civil Statutes, Article 852a);

(B) the FSLIC does not insure deposits with the savings and loan association; or

(C) the savings and loan association is not a state depository under the Government Code, Chapter 404.

(5) Vendors of mutual funds. The plan administrator shall disapprove a vendor's application to become a qualified vendor if the vendor proposes to offer a mutual fund as a qualified investment product and the mutual fund is not:

(A) listed on the American Stock Exchange, Boston Stock Exchange, Midwest Stock Exchange, New York Stock Exchange, or a stock exchange approved by the securities commissioner of the State Securities Board in accordance with the Securities Act (Article 581-1 et seq., Texas Civil Statutes);

(B) designated or approved for designation on notice of issuance on the National Association of Securities Dealers Automated Quotation National Market System; or

(C) registered with the securities commissioner.

(d) Procedure for approving a vendor as a qualified vendor.

(1) The home office of each vendor seeking participation in the plan must request an application package from the plan administrator. The plan administrator shall ensure that the application package contains a list of documents and other items that must be submitted to the plan administrator with the application.

(2) The plan administrator may not approve a vendor for participation in the plan unless:

(A) the plan administrator and the vendor sign a product contract concerning at least one of the vendor's investment products;

(B) the vendor has a federal employers identification number; and

(C) the vendor agrees to accept both transfers to and the investment of deferrals in its qualified investment products.

(3) As a prerequisite to approving an application, the plan administrator shall require a vendor to:

(A) execute an employer appointment of agent form so that the vendor may file reports directly with the Internal Revenue Service; and

(B) prove to the plan administrator's satisfaction that the vendor is capable of filing quarterly reports as required by —5.120 of this title (relating to Reporting and Record Keeping by Qualified Vendors).

(4) If the plan administrator approves an application, the plan administrator shall sign and send to the vendor a vendor contract that complies with the sections in this undesignated head and applicable law.

(5) If the plan administrator disapproves an application, the plan administrator shall send written notice of the disapproval to the vendor. The notice must contain the reasons for the disapproval.

(e) Contacts.

(1) In the application package, a vendor shall designate the individuals who will be:

(A) receiving deferrals and investment income;

(B) answering questions about the balances of deferrals and investment income; and

(C) serving as liaison between the plan administrator and vendor management concerning matters of administration and vendor reporting.

(2) In addition to the requirements of paragraph (1) of this subsection, an out-of-state vendor shall designate a responsible and knowledgeable individual in Texas who the plan administrator may contact for information about the vendor's activities in the plan.

(3) Each qualified vendor shall update the designations and information

required by this subsection no later than the 30th day after a change.

(4) A qualified vendor shall ensure that the plan administrator receives a new and complete list of contact persons no later than February 1 of each year. The list is required even if no changes have been made from the previous list.

(5) The designations and updates required by this subsection must contain the names, addresses, and business telephone numbers of the individuals designated.

(f) Change of name or legal status by a qualified vendor.

(1) If a qualified vendor's name or legal status changes through merger, sale, dissolution, or any other means, the qualified vendor must notify the plan administrator in writing no later than the 30th day after the change. The notice must contain a detailed description of the transaction that causes the change.

(2) If a change in legal status results in the qualified vendor's participation in the plan being conducted by a different legal entity, the new entity must apply no later than the 90th day after the change for approval as a qualified vendor before the entity may participate in the plan.

(g) Voluntary termination of participation in the plan.

(1) A qualified vendor may voluntarily terminate its participation in the plan after notifying, in writing, the plan administrator and all participants whose deferrals and investment income are invested in the vendor's qualified investment products. The vendor must ensure that the plan administrator and the participants receive the written notice no later than the 60th day before the effective date of the termination.

(2) A qualified vendor may establish the effective date of its termination from the plan. The vendor must clearly state the effective date in the written notice required by paragraph (1) of this subsection.

(3) Notwithstanding paragraph (2) of this subsection, if the terminating qualified vendor sponsors qualified investment products that have specific terms, such as a three-year certificate of deposit or a 30-day passbook account, the effective date of the vendor's termination may not be before the terms of all those products have expired for every participant.

(4) After receiving notice of termination, the plan administrator shall request each affected participant to submit a change agreement for the disposition of his deferrals and investment income. For each participant from whom the plan administrator has not received a change agreement by the effective date of the termination, the plan administrator shall ini-

tiating a transfer of all deferrals and investment income from the terminating vendor's qualified investment products to other qualified investment products or to the deferred compensation fund.

(5) When a qualified vendor voluntarily terminates its participation in the plan, the vendor may not charge a fee for the transfers made as a result of the termination.

(6) When a qualified vendor that is an insurance company voluntarily terminates its participation in the plan, this paragraph applies in addition to the preceding paragraphs of this subsection.

(A) In this paragraph, the term "terminated life insurance product" means a life insurance product that is no longer a qualified investment product because the life insurance company offering the product has voluntarily terminated the company's participation in the plan.

(B) A participant whose deferrals and investment income have been invested in a terminated life insurance product may continue his life insurance coverage with the insurance company offering the product.

(C) An insurance company that voluntarily terminates its participation in the plan must offer continuing life insurance coverage to each participant whose deferrals and investment income were invested in a terminated life insurance product offered by the company. The insurance company must offer continuing coverage in a life insurance product that is equivalent to the terminated life insurance product in which the participant's deferrals and investment income were invested.

(D) The premiums for continuing life insurance coverage must be paid by the participant directly to the insurance company and may not be paid with deferrals or investment income.

(E) A participant may exercise his right to continue his life insurance coverage only if the participant mails to the insurance company written notice of his intention to continue the coverage. The written notice must be postmarked no later than the 60th day after the effective date of the company's termination of participation in the plan. However, an insurance company may increase the 60-day time limit for a participant or for all participants.

(F) When a participant elects to continue his life insurance coverage, the insurance company with which coverage is continuing may not:

(i) refuse to continue the life insurance;

(ii) require a postponement or an interruption in coverage for any length of time;

(iii) require the participant to provide evidence of insurability;

(iv) require the participant to apply for coverage;

(v) require the participant to select a different life insurance product from the product in which the participant's deferrals and investment income were invested before the company's participation in the plan terminated;

(vi) discriminate in any manner against the participant because of the company's termination of its participation in the plan;

(vii) treat the participant differently than the company would treat a non-participant with the same life insurance coverage, or

(viii) increase the premiums charged to the participant solely because the company terminated its participation in the plan or because the participant elected to continue coverage.

(G) A qualified vendor must inform the participant in the written notice required by paragraph (1) of this subsection that the participant has the rights specified in this paragraph.

(H) If a vendor does not comply with subparagraph (G) of this paragraph, then a participant may exercise his right to continue his insurance up to the 120th day after the vendor actually mails written notice to the participant containing a full explanation of the participant's rights.

(h) Inactive qualified vendors. The plan administrator shall terminate the participation in the plan of an inactive qualified vendor.

(i) Refusal to accept additional deferrals.

(1) A qualified vendor may not refuse to accept additional deferrals to any or all its qualified investment products, even if the refusal would be temporary.

(2) If a qualified vendor refuses to accept additional deferrals to all its qualified investment products, the plan administrator shall terminate the vendor's participation in the plan.

(3) If a qualified vendor refuses to accept additional deferrals to fewer than all its qualified investment products, the plan administrator shall terminate the participation in the plan of the qualified investment products that are not accepting additional deferrals.

(j) Collateralization by banks.

(1) This subsection applies only

to qualified vendors that are banks.

(2) In this subsection, the term "deferred compensation information" means the cumulative total of all deferrals on deposit with the qualified vendor as of the end of the previous month.

(3) Once each month, a qualified vendor shall report deferred compensation information to the data collection center no later than 1 p.m., central time, on a call-in day.

(4) A qualified vendor must collateralize deferrals in accordance with the Government Code, Chapter 404. If a monthly report indicates that a qualified vendor is under-collateralized, the vendor shall immediately pledge additional collateral and comply with the directives of the State Treasury Department and the plan administrator. The plan administrator may suspend or expel an under-collateralized qualified vendor in accordance with §5.121(a)(7) of this title (relating to Remedies).

(5) A qualified vendor may not require a participant to withdraw some or all of the participant's deferrals so that the vendor may avoid the collateralization requirements in the Government Code, Chapter 404. A qualified vendor may not establish a maximum amount of deferrals that a participant may invest in the vendor's qualified investment products.

(6) Notwithstanding a qualified vendor's reinvestment of deferrals and investment income in investment products offered by the vendor's trust department or by other vendors, the deferrals and investment income are deemed invested in the vendor's qualified investment products for the purpose of this subsection.

(k) Collateralization by savings and loan associations.

(1) This subsection applies only to a qualified vendor that is a savings and loan association.

(2) In this subsection, the term "deferred compensation information" means:

(A) the amount by which the balance of each account as of the end of the previous month exceeds the amount insured by the FSLIC; and

(B) the number of accounts whose balances exceed the amount insured by the FSLIC.

(3) Once each month, a qualified vendor shall report deferred compensation information to the data collection center no later than 1 p.m., central time, on a call-in day. If a qualified vendor has no accounts that exceed the amount insured by the FSLIC, the vendor must report that fact to the data collection center.

(4) A qualified vendor must collateralize deferrals in accordance with the Government Code, Chapter 404. If a monthly report indicates that a qualified vendor is under-collateralized, the vendor shall immediately pledge additional collateral and comply with the directives of the State Treasury Department and the plan administrator. The plan administrator may suspend or expel an under-collateralized qualified vendor in accordance with §5.121(a)(7) of this title (relating to Remedies).

(5) A qualified vendor may not require a participant to withdraw some or all of the participant's deferrals so that the vendor may avoid the collateralization requirements in the Government Code, Chapter 404. A qualified vendor may not establish a maximum amount of deferrals that a participant may invest in the vendor's qualified investment products.

(6) Notwithstanding a qualified vendor's reinvestment of deferrals and investment income in investment products offered by the vendor's trust department or by other vendors, the deferrals and investment income are deemed invested in the vendor's qualified investment products for the purpose of this subsection.

(l) Limits on account balances in credit unions.

(1) This subsection applies only to a qualified vendor that is a credit union.

(2) A qualified vendor may not accept deferrals to an account if the deferrals would cause the balance of the account to exceed \$95,000.

(3) In this subsection, the term "deferred compensation information" means:

(A) the amount by which the balance of each account as of the end of the previous month exceeds \$95,000;

(B) identifying information concerning each account reported under subparagraph (A) of this paragraph; and

(C) the total amount by which the balances of all reported accounts exceed \$95,000.

(4) Once each month, a qualified vendor shall report deferred compensation information to the plan administrator no later than 1 p.m., central time, on a call-in day. If a qualified vendor has no accounts that exceed \$95,000, the vendor must report that fact to the plan administrator.

(5) The plan administrator shall notify the agency administrator for each participant whose account exceeds \$95,000. Upon receiving the notice, the agency administrator shall request the participant to specify in a change agreement:

(A) the qualified investment product to which at least the amount in the account in excess of \$95,000 will be moved; and

(B) the qualified investment product in which the participant's future deferrals will be invested, in lieu of investing them in the credit union's qualified investment products.

(6) If a participant does not submit a change agreement to the agency administrator by the 30th day after receiving a request from his agency administrator in accordance with paragraph (5) of this subsection, the agency administrator shall notify the plan administrator. Upon receiving the notification, the plan administrator shall:

(A) initiate a transfer of the amount in the account in excess of \$95,000 in accordance with §5.118(e)(1) of this title (relating to Transfers); and

(B) prohibit the participant from deferring additional amounts to the qualified vendor's qualified investment products.

(m) Audits.

(1) The plan administrator may audit or cause an audit to be performed of a qualified vendor concerning the vendor's participation in the plan.

(2) The plan administrator may audit or cause an audit to be performed of a vendor that was a qualified vendor at one time but has since lost its qualified status. The audit may cover the vendor's participation in the plan.

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

Issued in Austin, Texas, on April 9, 1990.

TRD-9003883 Bob Bullock
Comptroller of Public
Accounts

Effective date: May 7, 1990

Proposal publication date: March 13, 1990

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

◆ ◆ ◆
• 34 TAC §5.115

The Comptroller of Public Accounts adopts new §5.115, without changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1386).

The new section covers the types of investment products a participating vendor may offer in the Deferred Compensation Program, procedures for obtaining the plan administrator's approval of new investment

products, procedures and eligibility for withdrawing investment products, and certain other matters.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to adopt and enforce rules concerning the State's Deferred Compensation Program.

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.

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Proposal publication date: March 13, 1990

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

◆ ◆ ◆
• 34 TAC §5.116

The Comptroller of Public Accounts adopts new §5.116, without changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1387).

The new section regulates the advertising material participating vendors may use when selling their investment products to state employees, sales tactics and solicitation methods by participating vendors and their representatives, and certain other matters.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to adopt and enforce rules concerning the State's Deferred Compensation Program.

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.

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

◆ ◆ ◆
• 34 TAC §5.117

The Comptroller of Public Accounts adopts new §5.117, without changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1388).

The new section requires vendors that are participating in the Deferred Compensation Program to use certain disclosure forms, methods, and procedures when soliciting investments from state employees

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to adopt and enforce rules concerning the State's Deferred Compensation Program.

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.

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

◆ ◆ ◆
• 34 TAC §5.118

The Comptroller of Public Accounts adopts new §5.118, concerning transfers, with changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1389).

The changes occur in subsection (g)(1)(F) where the word "policy" replaces the word "product."

The new section contains detailed procedures and requirements when the plan administrator or an employee participating in the Deferred Compensation Program initiates a transfer of the employee's deferrals and investment income from one investment product to another. In addition, the new section covers transfers initiated by the plan administrator because vendors are inactive or have violated the deferred compensation rules and certain other matters.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to adopt and enforce rules concerning the State's Deferred Compensation Program.

§5.118. *Transfers.*

(a) Transfers initiated by participants. A participant may initiate a transfer of all or part of the participant's deferrals and investment income at any time. The number of transfers that a participant may initiate per year is unlimited.

(b) Transfers initiated by the plan administrator.

(1) Generally.

(A) The plan administrator may initiate a transfer of all or part of a participant's deferrals and investment income if the plan administrator determines that the transfer would be in the best interest of the plan or the participant.

(B) Without limiting the plan administrator's authority to initiate a transfer as specified elsewhere in the sections in this undesignated head, the plan administrator shall initiate a transfer of all deferrals and investment income that are invested in:

(i) the qualified investment products of inactive qualified vendors;

(ii) the qualified investment products of qualified vendors whose participation in the plan has terminated; and

(iii) qualified investment products whose participation in the plan has terminated.

(2) Transfers from credit unions.

(A) The plan administrator shall initiate a transfer of a participant's deferrals and investment income from a credit union's qualified investment product in accordance with §5.114(1)(6) of this title (relating to Vendor Participation).

(B) The authority to initiate a transfer under this paragraph is in addition to the authority under paragraph (1) of this subsection.

(c) Value of amounts involved in a transfer initiated by the plan administrator.

(1) This subsection applies only when the plan administrator initiates a transfer from a qualified investment product because the vendor sponsoring the product:

(A) has become an inactive vendor; or

(B) has violated a section in this undesignated head.

(2) The qualified vendor who offers the qualified investment product from which the transfer is being made may not charge a fee.

(3) The amount involved in a transfer must be equal to the total amount of deferrals and investment income that was invested in the qualified investment product as of the date on which the plan administrator initiates the transfer.

(4) Notwithstanding paragraph (3) of this subsection:

(A) an insurance company may deduct from the amount involved in a transfer the actual cost of insuring the participant whose deferrals and investment income are being moved. The period of insurance coverage that may be considered while calculating the actual cost of insuring the participant:

(i) starts on the day on which the deferrals and investment income were invested in the product; and

(ii) ends on the day on which the plan administrator initiates the transfer; and

(B) the amount involved in a transfer from a mutual fund must be equal to the current market value of the deferrals and investment income as defined in §5.120(a)(2) of this title (relating to Reporting and Record Keeping by Qualified Vendors) without considering the deduction of any fees.

(5) This subsection prevails over a conflicting provision in a vendor contract, product contract, disclosure agreement, or any other document.

(d) Procedures for making a transfer of all deferrals and investment income from a qualified investment product.

(1) This subsection applies when the plan administrator initiates a transfer of all deferrals and investment income of every participant from a qualified investment product.

(2) The plan administrator shall send a written notice to the qualified vendor who is sponsoring the qualified investment product. The notice must require the vendor to:

(A) immediately issue a check or cause a wire-transfer to be made in a lump-sum amount equal to the deferrals and investment income being moved; and

(B) promptly send a list to the plan administrator containing:

(i) the name of each participant whose deferrals and investment income were moved;

(ii) the amount of the deferrals and investment income that was moved, on a participant-by-participant basis;

(iii) the social security number of each affected participant; and

(iv) the name of the employing state agency of each affected participant.

(3) If a check is used to make a transfer, this paragraph applies.

(A) The qualified vendor must make the check payable to the State of Texas and promptly send the check to the plan administrator.

(B) Upon receiving the check, the plan administrator must endorse the check and deposit the check in the deferred compensation fund.

(C) After depositing the check in the deferred compensation fund

and receiving a list of affected participants from the qualified vendor, the plan administrator shall direct the agency administrators for the participants to:

(i) notify each affected participant concerning the transfers; and

(ii) request that each affected participant submit a change agreement to his agency administrator for the purpose of designating the qualified investment product that will receive the participant's deferrals and investment income.

(D) Promptly after receiving the requested change agreements and determining that the agreements have been properly executed, an agency administrator shall send the change agreements to the plan administrator.

(E) After receiving a completed change agreement, the plan administrator shall initiate a transfer of the participant's deferrals and investment income in accordance with the agreement.

(4) If a wire-transfer is used to make a transfer, this paragraph applies.

(A) The qualified vendor must ensure that the State Treasury Department receives the wire-transfer.

(B) The State Treasury Department shall promptly deposit the wire-transfer into the deferred compensation fund and notify the plan administrator concerning the deposit.

(C) After the plan administrator receives notice that the State Treasury Department has deposited the wire-transfer and after the plan administrator has received a list of affected participants from the vendor, the plan administrator shall direct the agency administrators for the participants to:

(i) notify each affected participant concerning the transfers; and

(ii) request that each affected participant submit a change agreement to his agency administrator for the purpose of designating the qualified investment product that will receive the participant's deferrals and investment income.

(D) Promptly after receiving the requested change agreements and determining that the agreements have been properly executed, an agency administrator shall send the change agreements to the plan administrator.

(E) After receiving a completed change agreement, the plan administrator shall initiate a transfer of the participant's deferrals and investment income in accordance with the agreement.

(e) Procedures for making a transfer of less than all deferrals and investment income from a qualified investment product.

(1) This subsection applies only when subsection (d) of this section does not apply.

(2) If the plan administrator initiates a transfer, this paragraph applies.

(A) The plan administrator shall send a written notice to the qualified vendor that is sponsoring the qualified investment product. The notice must require the vendor to issue a check in an amount equal to the deferrals and investment income being moved. The notice may be sent with or without prior notice to the participant whose deferrals and investment income are being moved.

(B) The qualified vendor must make the check payable to the State of Texas and promptly send the check to the plan administrator.

(C) Upon receiving the check, the plan administrator shall endorse and deposit the check in:

(i) the deferred compensation fund; or

(ii) a qualified investment product specifically designated to receive transfers initiated by the plan administrator.

(D) After depositing the check, the plan administrator must notify the agency administrator for the participant whose deferrals and investment income were moved. The notification must:

(i) state the reason for the transfer;

(ii) direct the agency administrator to request that the participant complete a change agreement to designate the qualified investment product that will receive the participant's deferrals and investment income; and

(iii) for a transfer from a credit union under subsection (b)(2) of this section, direct the agency administrator to inform the participant that the participant may require the reinvestment of the transferred amounts in the credit union, unless the plan administrator determines that reinvestment in the credit union would not be in the best interests of the plan.

(E) After receiving a participant's completed change agreement, the plan administrator shall send the deferrals and investment income to the qualified vendor designated in the change agreement for investment in accordance with the agreement.

(F) The receiving qualified vendor shall acknowledge receipt of the deferrals and investment income in the manner required by the plan administrator.

(3) If a participant initiates a transfer, this paragraph applies.

(A) A participant may initiate a transfer of the participant's deferrals and investment income only through the execution of a change agreement and a disclosure form in accordance with §5.113(h) of this title (relating to Participation by Employees). A transfer is voidable at the instance of the plan administrator or the participant making the transfer if both a change agreement and a disclosure form are not properly executed and filed. However, a disclosure form is not required when a participant initiates a transfer to an existing account for the same participant, regardless of whether the account is with another qualified vendor.

(B) After receiving a completed change agreement and disclosure form, the plan administrator shall notify the qualified vendor from whose qualified investment product the transfer has been requested.

(C) After receiving notification of a transfer from the plan administrator, a qualified vendor shall issue a check payable to the State of Texas in an amount equal to the transfer. The vendor shall ensure that the plan administrator receives the check no later than the 30th day after the vendor receives notification of the transfer.

(D) After receiving the check from the qualified vendor, the plan administrator shall:

(i) endorse the check in favor of the qualified vendor that will be receiving the transfer; and

(ii) mail to the qualified vendor that will be receiving the transfer the endorsed check and written instructions concerning the investment of the amounts transferred.

(E) The qualified vendor must send written confirmation to the plan administrator concerning the vendor's receipt of the endorsed check and written instructions. The qualified vendor must ensure that the plan administrator receives the written confirmation no later than the 20th day after the plan administrator mails the check and instructions.

(f) Resolving transfer-related problems. A qualified vendor shall exercise good faith and reasonable diligence in resolving all transfer-related administrative

problems with the plan administrator within a reasonable length of time, not to exceed 30 days, after receiving a transfer notification.

(g) Transfers into life insurance products.

(1) A transfer into a life insurance product is voidable, without loss to the participant or the plan, at the instance of the plan administrator or the participant making the transfer unless the following procedures are followed in sequence:

(A) a participant applies for coverage from a qualified vendor;

(B) the qualified vendor determines the insurability of the participant;

(C) if the participant is insurable, the vendor issues a letter of intent to insure to the participant;

(D) the vendor issues a duplicate copy of the product to the participant upon the participant's request;

(E) the participant submits an executed participation agreement, change agreement, disclosure form, as applicable, and the letter of intent to the participant's agency administrator; and

(F) the vendor sends the original policy to the agency administrator.

(2) When a participant chooses to transfer his deferrals and investment income to a life insurance product, the State of Texas:

(A) retains all of the incidents of ownership of the life insurance product;

(B) is the sole beneficiary of the life insurance product;

(C) is not required to transfer the life insurance product to the participant or his beneficiary; and

(D) is not required to pass through the proceeds of the product to the participant or his beneficiary.

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.

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Bob Bullock
Comptroller of Public
Accounts

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◆ ◆ ◆
• 34 TAC §5.119

The Comptroller of Public Accounts adopts new §5.119, with changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1392).

The first change adds subsection (e)(7) and is necessary to make it clear that a participant who has not separated from state service is not required to file a distribution agreement when he reaches age 70.5 unless he wants distributions to begin.

The second change adds subsection (m)(15) and is necessary to make it clear that the recalculation of life expectancies for distributions to beneficiaries is not allowed.

The new section contains detailed procedures and requirements for distributions to state employees who are participating in the Deferred Compensation Program and to their beneficiaries. More specifically, the section includes provisions concerning eligibility for distributions; procedures for initiating distributions; the timing of distributions; the minimum amount of distributions; emergency withdrawals; distributions to minors, missing persons, and incompetents; loans to employees participating in the program; federal income tax withholding and reporting; and, certain other matters.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to adopt and enforce rules concerning the State's Deferred Compensation Program.

§5.119. *Distributions.*

(a) In general. Upon request, the plan administrator shall authorize the distribution of a participant's deferrals and investment income in accordance with the applicable distribution agreement so long as:

(1) the participant has attained age 70.5;

(2) the participant has died; or

(3) the participant's employment with the State of Texas has terminated other than through death.

(b) *Definitions.*

(1) In subsections (m)-(o) of this section, the term "participant's deferrals and investment income" means the cash value of the participant's deferrals and investment income after considering all surrender charges, costs of insurance, forfeitures, and other similar charges.

(2) In this section, a beneficiary or secondary beneficiary "survives" another person only if the beneficiary or secondary beneficiary is alive on the day after the person's death.

(c) Content of a distribution agreement.

(1) A distribution agreement must contain:

(A) identifying information concerning the participant, including the age of the participant;

(B) the name of the qualified vendor covered by the agreement;

(C) the type of qualified investment product from which distributions will be made;

(D) the date on which the participant separated from service, attained age 70.5, or died, whichever is applicable;

(E) the balance of the participant's deferrals in the qualified investment product from which distributions will be made;

(F) the beginning date of the distributions;

(G) the frequency of distribution;

(H) the amount to be distributed during each time period or the method for calculating the amount to be distributed during each time period; and

(I) beneficiary information, at the option of the person filing the distribution agreement.

(2) The person filing the distribution agreement must attach a properly executed W-4 Form to the agreement.

(3) A distribution agreement must be consistent with the distribution options available for the qualified investment product covered by the agreement.

(d) Commencement of distributions. Notwithstanding anything in a distribution agreement.

(1) The earliest a participant or beneficiary may begin receiving a distribution is the 31st day after the occurrence that entitles the participant or beneficiary to the distribution, except this paragraph does not apply to an emergency withdrawal.

(2) The latest a participant may begin receiving a distribution is the later of:

(A) April 1st of the calendar year following the calendar year in which the employee attains age 70.5; and

(B) April 1st of the calendar year following the calendar year in which the employee's employment with the State of Texas terminates.

(e) Filing of distribution agreements by participants.

(1) This subsection applies when a participant becomes entitled to a distribution because:

(A) the participant has attained age 70.5; or

(B) the participant's employment with the State of Texas has terminated other than through death.

(2) A participant must file a distribution agreement for each qualified investment product in which the participant's deferrals are invested.

(3) A distribution agreement must be filed:

(A) with the participant's agency administrator; and

(B) no later than the 28th day after the occurrence that entitles the participant to the distribution.

(4) If a participant complies with paragraphs (2) and (3) of this subsection, the relevant agency administrator shall review the distribution agreement for compliance with the sections in this undesignated head.

(5) If the distribution agreement complies with the sections in this undesignated head, the agency administrator shall sign and send the agreement to the plan administrator. The agency administrator shall ensure that the plan administrator receives the signed distribution agreement no later than the 30th day after the occurrence of the event that entitles the participant to the distribution.

(6) If a participant does not comply with paragraphs (2) and (3) of this subsection, the relevant agency administrator shall submit a written request to the plan administrator for an immediate lump-sum distribution to the participant of all the participant's deferrals and investment income. Proof that the agency administrator notified the participant concerning the necessity to file a distribution agreement must accompany the written request. The agency administrator shall ensure that the plan administrator receives the request and proof no later than the 30th day after the occurrence that entitles the participant to the distribution.

(7) Notwithstanding anything to the contrary in this subsection, a participant who has not separated from service and who has reached age 70.5 must file a distribution agreement only if he wants distribu-

tions to begin to him. The distribution agreement must be filed with the participant's agency administrator. The agency administrator shall review and forward the distribution agreement in accordance with paragraphs (4) and (5) of this subsection.

(f) Filing of distribution agreements by beneficiaries.

(1) This subsection applies only when:

(A) a participant has died;

(B) the participant named a beneficiary in a participation agreement, change agreement, or distribution agreement; and

(C) the balance of the participant's deferrals and investment income is greater than zero at the time of the participant's death.

(2) The beneficiary named in a participant's participation agreement, change agreement, or distribution agreement must ensure that the participant's agency administrator receives the beneficiary's distribution agreement by no later than the 88th day after the participant's death.

(3) The requirements in subsection (e) of this section apply to the distribution agreements of beneficiaries except an agency administrator must ensure that the plan administrator receives a distribution agreement by no later than the 90th day after the participant's death.

(g) Minimum distributions during the life of a participant.

(1) This subsection applies to distributions to a participant during the life of the participant, notwithstanding anything to the contrary in the participant's distribution agreement.

(2) The amount distributed to the participant must be calculated so that the distributions:

(A) will be made in substantially non-increasing amounts;

(B) will be made annually or more frequently than annually after the first distribution;

(C) will be distributed over a period not exceeding the life expectancy of the participant or the life expectancy of the participant and his named beneficiary; and

(D) will satisfy the minimum distribution requirements of the Internal Revenue Code of 1986, §457(d)(2), and associated statutes and regulations.

(3) The plan administrator shall reject a proposed distribution agreement

that does not comply with paragraph (2) of this subsection. The plan administrator shall require the amendment of an existing distribution agreement that does not comply with paragraph (2) of this subsection.

(4) For the purpose of paragraph (2) of this section, life expectancies may not be recalculated annually.

(h) Review of distribution agreements by the plan administrator. The plan administrator shall review each distribution agreement received from an agency administrator to ensure that:

(1) a distribution would be in compliance with the sections in this undesignated head; and

(2) the minimum distribution requirements of this section have been satisfied.

(i) Amendments of distribution agreements.

(1) Beginning date for a distribution. The beginning date for a distribution may not be amended after the plan administrator has received the distribution agreement.

(2) Frequency of distribution. The frequency of distribution may be amended only if the plan administrator receives an amended distribution agreement no later than the 30th day before the first distribution.

(3) Amount of distribution. The amount to be distributed during each time period may be amended only if the plan administrator receives an amended distribution agreement no later than the 30th day before the first distribution.

(4) Beneficiaries.

(A) The primary and secondary beneficiaries named in a distribution agreement may be changed at anytime by filing a change agreement with the agency administrator of the state agency at which the participant was employed.

(B) Upon receipt of the change agreement, the agency administrator shall send the agreement to the plan administrator.

(C) The change agreement is effective upon receipt by the plan administrator.

(5) Emergency withdrawals. Notwithstanding anything to the contrary in this subsection, a distribution agreement may be amended to relieve a financial hardship caused by a sudden and unforeseeable emergency.

(6) Transfers after a distribution has begun.

(A) This paragraph applies when a participant or beneficiary has begun receiving a distribution and the participant, beneficiary, or plan administrator initiates a transfer of deferrals and investment income from one qualified investment product to another.

(B) The distribution agreement of the participant or beneficiary may be amended only to change the name or type of the qualified investment product or qualified vendor listed in the agreement.

(C) Deferrals and investment income may not be transferred from one qualified investment product to two or more qualified investment products. In other words, deferrals and investment income that have been invested in a single qualified investment product may not be separated into two or more qualified investment products.

(7) Procedures for amending a distribution agreement.

(A) A participant or beneficiary who wants to amend his distribution agreement must file an amended distribution agreement with his agency administrator. The amended distribution agreement must contain the word "Amended" at the top of the agreement.

(B) Upon receipt of the amended distribution agreement, the agency administrator shall promptly review the agreement for compliance with the sections in this undesignated head.

(C) If the amended distribution agreement does not comply with the sections in this undesignated head, the agency administrator shall promptly return the agreement to the participant or beneficiary for corrections.

(D) If the amended distribution agreement complies with the sections in this undesignated head, the agency administrator shall immediately sign the agreement and send it to the plan administrator.

(E) After the plan administrator receives a signed distribution agreement from an agency administrator, the plan administrator and the qualified vendor covered by the agreement shall take the steps specified in subsections (h) and (j) of this section.

(8) Effective date of amended distribution agreements. An amended distribution agreement is effective with the first distribution.

(j) Procedure for making distributions.

(1) After the plan administrator has approved a distribution agreement, the plan administrator shall send a letter of authorization to the qualified vendor covered by the agreement.

(2) Upon receiving a letter of authorization, the qualified vendor shall issue checks payable to the participant or beneficiary and mail the checks as instructed in the letter of authorization.

(3) The plan administrator may not complete any forms provided by a qualified vendor in connection with a distribution. A qualified vendor may not require the plan administrator to submit periodic letters of authorization beyond the initial letter of authorization for a participant unless the plan administrator agrees in writing to the contrary after the effective date of this section. A qualified vendor may not impose any requirements as a prerequisite to a distribution that are not specifically mentioned in the sections in this undesignated head.

(4) The plan administrator shall provide each qualified vendor with the names and signatures of the individuals who are authorized to sign letters of authorization.

(5) A qualified vendor shall confirm each letter of authorization as instructed in the letter.

(k) Emergency withdrawals.

(1) A participant may request an emergency withdrawal regardless of whether a distribution to the participant has already started.

(2) The participant must request the emergency withdrawal by filing a completed emergency withdrawal application with the plan administrator. An emergency withdrawal application:

(A) must show that the prerequisites for making an emergency withdrawal have been fulfilled; and

(B) must be accompanied by two copies of a W-4 Form specifically tailored to the withdrawal.

(3) The plan administrator shall approve the emergency withdrawal if the plan administrator determines that:

(A) an unforeseeable emergency has occurred;

(B) the severe financial hardship caused by the unforeseeable emergency cannot be relieved:

(i) through reimbursement or compensation by insurance or otherwise;

(ii) by liquidating the assets of the participant to the extent the liquidation of the assets would not itself cause severe financial hardship;

(iii) by cessation of deferrals under the plan; or

(iv) through a combination of the actions specified in clauses (i)-(iii) of this subparagraph; and

(C) the emergency withdrawal would satisfy the federal regulations for emergency withdrawals under the Internal Revenue Code of 1986, §457.

(4) If the plan administrator approves an emergency withdrawal, the plan administrator shall determine the amount of the withdrawal. The amount may not exceed the amount reasonably needed to overcome the severe financial hardship, after considering the federal income tax liability resulting from the withdrawal.

(5) The term "unforeseeable emergency" means a severe financial hardship to a participant caused by:

(A) a sudden and unexpected illness or accident of a participant or of a participant's dependent (as defined in the Internal Revenue Code of 1986, §152(a));

(B) the loss of the property of a participant because of a casualty; or

(C) a similar extraordinary and unforeseeable circumstance arising from events beyond the control of a participant.

(6) The term "unforeseeable emergency" excludes:

(A) the necessity to send a child to college;

(B) the purchase of a home; and

(C) other similar circumstances.

(7) The plan administrator may rely on the information provided by a participant in connection with his request for an emergency withdrawal. The participant is solely responsible for the sufficiency, accuracy, and veracity of the information.

(8) If the plan administrator denies a participant's request for an emergency withdrawal or if the participant disagrees with the amount of the approved emergency withdrawal, the participant may appeal to the Comptroller's Hardship Committee. The appeal must be in writing. When reviewing the appeal, the committee may not consider any documents or arguments that the participant did not provide or present to the plan administrator. After reviewing the appeal, the decision of the committee is final.

(9) The plan administrator may not approve an emergency withdrawal request from a primary or secondary beneficiary.

(1) **Naming of beneficiaries.** When a participant or beneficiary files a distribution agreement, the participant or beneficiary may name one or more primary and secondary beneficiaries. The naming of beneficiaries in a distribution agreement supersedes any previous naming of beneficiaries in a participation agreement or change agreement.

(m) **Death of a participant when the participant has named a beneficiary.**

(1) This subsection applies only if a participant has named a beneficiary in a participation agreement, change agreement, or distribution agreement.

(2) When this subsection requires the plan administrator to order a distribution, the plan administrator shall order the distribution on the 90th day after a participant's death.

(3) The plan administrator shall order a distribution to a primary beneficiary if the beneficiary:

(A) survives the participant; and

(B) is alive on the date of the order.

(4) The plan administrator shall order a distribution to a secondary beneficiary if:

(A) the secondary beneficiary survives the participant;

(B) the secondary beneficiary is alive on the date of the order; and

(C) no primary beneficiaries survive the participant.

(5) The plan administrator shall order a distribution in accordance with subsection (o) of this section if a primary or secondary beneficiary survives the participant but is not alive on the date of the order.

(6) This paragraph applies if a participant designates more than one primary beneficiary and more than one primary beneficiary survives the participant. The plan administrator shall order the distribution of the participant's deferrals and investment income to the surviving primary beneficiaries in equal shares unless the distribution agreement provides otherwise. The estates and heirs of the primary beneficiaries who did not survive the participant and the surviving secondary beneficiaries, if any, may not receive any benefits.

(7) This paragraph applies if a

participant designates more than one secondary beneficiary, more than one secondary beneficiary survives the participant, and no primary beneficiary survives the participant. The plan administrator shall order the distribution of the participant's deferrals and investment income to the surviving secondary beneficiaries in equal shares unless the distribution agreement provides otherwise. The estates and heirs of the primary and secondary beneficiaries who did not survive the participant may not receive any benefits.

(8) The plan administrator shall order the lump-sum payment to the participant's estate of the balance of the participant's deferrals and investment income if:

(A) the participant named a primary and a secondary beneficiary but neither survived the participant; or

(B) the participant named a primary beneficiary but did not name a secondary beneficiary and the primary beneficiary did not survive the participant.

(9) The plan administrator shall order the lump-sum distribution of a participant's deferrals and investment income to the person entitled to receive the distribution if the person is alive on the date of the order and either:

(A) the person files a distribution agreement requesting a lump-sum distribution; or

(B) the person does not file a distribution agreement before the 90th day after the participant's death.

(10) When the plan administrator orders a distribution to a primary or secondary beneficiary, the plan administrator's order must be in accordance with the beneficiary's distribution agreement so long as the agreement complies with the sections in this undesignated head.

(11) This paragraph applies when the plan administrator orders other than a lump-sum distribution to a primary or secondary beneficiary and distributions to the participant did not begin before the participant's death. Notwithstanding secondary beneficiary's distribution agreement, the amount distributed must be calculated so that the distributions:

(A) will begin not later than the first anniversary of the participant's death;

(B) will be made over the life of the person receiving the distributions or over a period not extending beyond the life expectancy of the person, not to exceed 15 years;

(C) will be made in substantially non-increasing amounts;

(D) will be made annually or more frequently than annually after the first distribution; and

(E) will satisfy the minimum distribution requirements of the Internal Revenue Code of 1986, §457(d) (2), and associated statutes and regulations.

(12) This paragraph applies when the plan administrator orders other than a lump-sum distribution to a primary or secondary beneficiary and distributions to the participant began before the participant's death. Notwithstanding a primary or secondary beneficiary's distribution agreement, the amount distributed to the primary or secondary beneficiary must be calculated so that the distributions:

(A) will be made at least as rapidly as under the method of distribution selected by the participant; and

(B) will satisfy the minimum distribution requirements of the Internal Revenue Code of 1986, §457(d)(2).

(13) If a participant dies before distributions to him began and the beneficiary or secondary beneficiary entitled to receive the participant's deferrals and investment income is the participant's surviving spouse, this paragraph applies.

(A) Paragraph (11) of this subsection applies to the distributions to the surviving spouse except as specified in this paragraph.

(B) Notwithstanding paragraph (11) of this subsection, the surviving spouse may delay the start of the receipt of the deferrals and investment income until a date not later than the date when the participant would have attained age 70.5.

(C) Notwithstanding paragraph (11) of this subsection, after a distribution to the surviving spouse begins, the entire amount must be paid over a period not exceeding the spouse's life expectancy.

(D) If the surviving spouse dies before distributions to the spouse begin, then the surviving spouse is a participant for the purpose of paragraph (11) of this subsection.

(14) The plan administrator shall reject a proposed distribution agreement that does not comply with paragraphs (11)-(13) of this subsection. The plan administrator shall require the amendment of an existing distribution

agreement that does not comply with paragraphs (11)-(13) of this subsection.

(15) For the purpose of paragraphs (11)-(13) of this subsection, life expectancies may not be recalculated annually.

(n) Death of a participant when the participant has not named a beneficiary.

(1) This subsection applies only when a participant has not named a beneficiary in a participation agreement, change agreement, or distribution agreement.

(2) On the 90th day after the participant's death, the plan administrator shall order the immediate lump-sum distribution to the participant's estate of the balance of the participant's deferrals and investment income.

(o) Death of a beneficiary.

(1) This subsection applies if:

(A) a participant named a beneficiary in a participation agreement, change agreement, or distribution agreement;

(B) the participant died;

(C) the beneficiary survived the participant but has since died;

(D) the plan administrator has ordered, in accordance with subsection (m) of this section, a distribution to the beneficiary or would have ordered a distribution to the beneficiary if the beneficiary had not died; and

(E) the beneficiary did not receive all the participant's deferrals and investment income before the beneficiary's death.

(2) On the 90th day after the beneficiary's death, the plan administrator shall order the lump-sum payment of the balance of the participant's deferrals and investment income.

(3) If the deceased beneficiary filed a distribution agreement and the agreement names a primary beneficiary, the plan administrator shall order a lump-sum payment to:

(A) the primary beneficiary if the primary beneficiary is alive on the date of the order; or

(B) the primary beneficiary's estate if the primary beneficiary survived the beneficiary who filed the distribution agreement but is not alive on the date of the order

(4) If the deceased beneficiary filed a distribution agreement and the

agreement names a secondary beneficiary, the plan administrator shall order a lump-sum payment to:

(A) the secondary beneficiary if:

(i) the secondary beneficiary is alive on the date of the order; and

(ii) no primary beneficiary survived the deceased beneficiary;

(B) the secondary beneficiary's estate if:

(i) the secondary beneficiary survived the deceased beneficiary;

(ii) the secondary beneficiary is not alive on the date of the plan administrator's order; and

(iii) no primary beneficiary survived the deceased beneficiary.

(5) The lump-sum payment must be made to the estate of the deceased beneficiary if:

(A) the deceased beneficiary's distribution agreement does not name a beneficiary;

(B) the deceased beneficiary did not file a distribution agreement; or

(C) no beneficiary named in the deceased beneficiary's distribution agreement survived the deceased beneficiary.

(6) When more than one primary or secondary beneficiary of a deceased beneficiary is entitled to a lump-sum distribution, the distributions must be made in equal shares unless the deceased beneficiary's distribution agreement provides otherwise.

(p) Distributions to minors and incompetents.

(1) The plan administrator may authorize the payment of a distribution to a person or entity other than the participant or beneficiary otherwise entitled to receive the distribution if satisfactory evidence is presented to the plan administrator that the participant or beneficiary is:

(A) a minor; or

(B) has been adjudicated by a court of law as mentally incompetent and unable to provide a valid release for the payment.

(2) If the conditions of the preceding paragraph are satisfied, the plan administrator shall make the distribution payable to the guardian of the participant or beneficiary.

(3) If no guardian has been appointed and after having obtained a proper release, the plan administrator shall make the distribution payable to:

(A) the person or entity maintaining custody of the participant or beneficiary;

(B) the custodian of the participant or beneficiary under the Texas Uniform Gifts to Minors Act (Texas Property Code, §141.002 et seq.) if the participant or beneficiary resides in the State of Texas;

(C) the custodian of the participant or beneficiary under a law similar to the Texas Uniform Gifts to Minors Act if the participant or beneficiary resides outside the State of Texas; or

(D) the court of law with jurisdiction over the participant or beneficiary.

(q) Distributions to missing persons.

(1) This subsection applies when the plan administrator is unable to determine the location of a participant or beneficiary who is entitled to a distribution.

(2) When the plan administrator does not know the location of a participant or beneficiary, the agency administrator for the participant or beneficiary must send a certified letter to the last known address of the participant or beneficiary.

(3) If the certified letter does not result in the discovery of the location of the participant or beneficiary, the agency administrator shall inform the plan administrator and provide proof to the plan administrator that the certified letter was sent.

(4) Upon receiving the notification and proof from an agency administrator, the plan administrator may direct that all benefits due the participant or beneficiary be deposited in the deferred compensation fund or a qualified investment product that the plan administrator has specifically designated for this purpose.

(r) Processing of distributions. A qualified vendor shall process distributions and resolve administrative problems with the plan administrator within a reasonable length of time, but not to exceed the 30th day after receiving a letter of authorization.

(s) Loans to participants.

(1) The plan administrator may not loan or authorize the loan to a participant of all or part of his deferrals and investment income.

(2) A qualified vendor may not loan to a participant all or part of his deferrals and investment income.

(t) Federal withholding and reporting requirements.

(1) A qualified vendor shall file all reports required by the Internal Revenue Service when any deferrals and investment income are distributed or otherwise made available to a participant or beneficiary. All distributions to the participant or beneficiary are taxable as ordinary income and must be reported on a W-2 Form.

(2) A qualified vendor shall execute an Employer Appointment of Agent form with the plan administrator so that the vendor may file the reports required by this subsection.

(3) When reporting to the Internal Revenue Service, a qualified vendor shall use a federal employers identification number that the vendor uses solely in connection with the plan. A qualified vendor is responsible for obtaining the number. A qualified vendor may not use the plan's federal employers identification number. Regardless of how many qualified investment products a qualified vendor sponsors, the vendor must use the same federal employers identification number for all reports to the Internal Revenue Service.

(4) Federal tax withholding is mandatory. A qualified vendor shall accurately determine any amounts to be withheld for federal taxes based on a W-4 submitted by the participant or beneficiary at the time of a distribution. If no W-4 is provided, the participant or beneficiary must be considered single with no dependents. The Tax Equity and Fiscal Responsibility Act does not apply to a deferred compensation plan governed by the Internal Revenue Code of 1986, §457.

(5) Total death benefits, including life insurance proceeds, are taxable as ordinary income to the beneficiary and must be reported on a W-2.

(6) A qualified vendor shall mail a copy of all reports filed with the Internal Revenue Service about a participant to the participant's home address.

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

Issued in Austin, Texas on April 9, 1990.

TRD-9003878 Bob Bullock
Comptroller of Public
Accounts

Effective date: May 7, 1990

Proposal publication date: March 13, 1990

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

◆ ◆ ◆
• 34 TAC §5.120

The Comptroller of Public Accounts adopts new §5.120, without changes to the proposed text as published in the March 13, 1990,

issue of the *Texas Register* (15 TexReg 1397).

The new section requires vendors participating in the Deferred Compensation Program to keep certain records and file certain reports with the plan administrator and state employees.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to adopt and enforce rules concerning the State's Deferred Compensation Program.

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

Issued in Austin, Texas on April 9, 1990.

TRD-9003877 Bob Bullock
Comptroller of Public
Accounts

Effective date: May 7, 1990

Proposal publication date: March 13, 1990

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

◆ ◆ ◆
• 34 TAC §5.121

The Comptroller of Public Accounts adopts new §5.121, without changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1398).

The new section concerns administrative remedies for violations of the deferred compensation rules by vendors participating in the Deferred Compensation Program and by their representatives. The section authorizes the plan administrator to take disciplinary action against vendors, their investment products, and their representatives. The new section details the procedures that must be followed when the plan administrator takes disciplinary action and contains certain other provisions.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to adopt and enforce rules concerning the State's Deferred Compensation Program.

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

Issued in Austin, Texas on April 9, 1990.

TRD-9003875 Bob Bullock
Comptroller of Public
Accounts

Effective date: May 7, 1990

Proposal publication date: March 13, 1990

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

◆ ◆ ◆

• 34 TAC §5.122

The Comptroller of Public Accounts adopts new §5.122, with changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1400).

The change appears in subsection (b) and constitutes an extension in time. The change is necessary to give qualified vendors sufficient time to provide notice of termination.

The new section contains provisions concerning the transition from the old §§5.111-5.115 to the new §§5.111-5.122.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-3f, which provide the comptroller with the authority to adopt and enforce rules concerning the State's Deferred Compensation Program.

§5.122. Transition.

(a) This subsection applies only to activities, investment products, vendors' participation in the plan, and documents that the plan administrator approved before the effective date of this section. A qualified vendor must comply with the substantive requirements of the sections in this undesignated head by July 1, 1990, to the extent that compliance with the requirements is a precondition for obtaining the plan administrator's approval of activities, investment products, vendors' participation in the plan, or documents. Compliance is required notwithstanding the plan administrator's approval of the activities, investment products, vendors' participation in the plan, or documents before the effective date of this section. If a qualified vendor does not comply by July 1, 1990, the plan administrator shall take appropriate disciplinary action.

(b) A qualified vendor is deemed to consent to each provision and requirement in the sections of this undesignated head unless the plan administrator receives written notice from the vendor by no later than May 18, 1990, that the vendor is terminating its participation in the plan effective no later than July 17, 1990. If the plan administrator timely receives the notice from a vendor:

(1) the prohibition against the charging of fees for voluntary termination from the plan in §5.114(g) of this title (relating to Vendor Participation) does not apply to the vendor's qualified investment products; and

(2) Section 5.114(g) of this title (relating to Vendor Participation) does not provide participants with the right to continue their life insurance coverage, although the terms of a particular life insurance product or state or federal law may provide the participants with the right to continue their insurance coverage.

(c) This section expire September 1, 1990.

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

Issued in Austin, Texas on April 9, 1990.

TRD-9603874 Bob Bullock
Comptroller of Public
Accounts

Effective date: May 7, 1990

Proposal publication date: March 13, 1990

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

TITLE 43.

TRANSPORTATION

Part I. State Department of Highways and Public Transportation

Chapter 15. Transportation Planning Division

Texas Highway Trunk System

• 43 TAC §§15.40-15.42

The State Department of Highways and Public Transportation adopts new §§15.40-15.42. Section 15.42 is adopted with changes to the proposed text as published in the February 9, 1990, issue of the *Texas Register* (15 TexReg 701). Section 15.40 and §15.41 are adopted without changes and will not be republished.

The new sections outline the purpose, definitions, and selection criteria for those roads eligible for the Texas Highway Trunk System. Texas Civil Statutes, Article 6665, authorize the State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation to formulate plans and policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

The new Texas Highway Trunk System will be a rural network of four-lane or better divided roadways that will serve as a principal connector of all Texas cities with over 20,000 population as well as ports and points of entry, not to exceed a total system mileage of 11,500 miles.

On February 26, 1990, a public hearing was held to receive comments, views, and/or testimony concerning the proposed new sections. Comments were received from 41 individuals and/or groups either at the hearing, through written comments, or telephone calls. Eight of those commenting were for the proposed sections, which included the Gonzales County Commissioner, Espey Huston & Association, and several individual citizens. Two comments were against the proposed section, which included one individual citizen and Tabors of San Angelo. Thirty-one offered general comments concerning suggested changes to the sections. The numerous written and oral comments were received

from: mayor, City of Abilene; city manager of Childress; mayor, City of Trinity; director of regulatory affairs, Farm Bureau; Weatherford/Parker County Economic Development Coop.; Alamo Group, Sierra Club; City of Stephenville; Hidalgo County judge; mayor, City of McAllen; Tom Green County judge; Corpus Christi Chamber of Commerce; Mayor, City of Port Lavaca; Caldwell County judge; Stephenville Chamber of Commerce; City of Minera Wells; McAllen Chamber of Commerce; Reynosa Maquilladora Association; mayor, City of Midland; Highway 19 Association; City of Harlingen; mayor, City of Borger; City of Weslaco; several individual citizens; and individual members of the House of Representatives and State Senate of the Texas Legislature.

Many commenters suggested that the trunk system (which serves as a principal connector of all Texas cities with over 20,000 population) should also connect with or between regional airports, education institutions, economic centers, regional health centers, etc. The commission has reviewed the concept behind the development of the trunk system and believes that by connecting the population centers over 20,000 and being within 25 miles of cities of 10,000 population or greater, the system will provide for a large majority of these commenters' specific requests while not adding unduly to the mileage, and therefore, the eventual cost of the system.

A comment was made requesting that criteria "maximizing the use of four-lane divided roadways" be amended to read "maximizing the use of four-lane divided roadways and two-lane highways which supply the most direct route to major tourist areas or ports." The commission feels that the issue of serving recreational and tourist areas is adequately addressed under criteria "serving tourism and/or recreational areas."

One commenter would recommend two mathematical formulas that would be used to minimize circuitry. The department used a similar formula as a guide in its general discussion of the trunk system concept at all the public meetings. The commission believes a rigid formula in the circuitry criteria "minimizing circuitous or indirect routing" would be restrictive and thus a hindrance to the trunk system development.

One commenter wanted to add "...all flow patterns originating or in adjacent states should be considered, whether or not they travel on principal roadways...". The commission feels that the original criteria "connecting with principal roadways of adjacent states" is adequate and allows for maximum planning coordination with our four adjacent states.

There were two comments recommending that reference to Mexico be added to the criteria "connecting with principal roadways of adjacent states." It is implied in the criteria "connecting with principal Mexican ports of entry" that the major highways in Mexico are serving the major ports of entry and therefore this criteria addition was found unnecessary.

A few commenters requested that the criteria "connect with principal deep water ports with channel depths of 40 feet or more" be expanded to include ports with channel depths of less than 40 feet. One commenter's

suggestion was to include shallow draft ports, i.e., ports with a channel depth of 12 feet. The commission has concluded that the level of activity generated by the shallow draft ports is not substantial enough by itself to warrant a four-lane divided highway and, therefore, that amending this criteria would be inappropriate.

One commenter felt that the interior Mexican highway system and major Mexican trade centers should also be considered in addition to the criteria "connecting to principal Mexican ports of entry." The commission has determined that "connecting to principal Mexican ports of entry" provides adequate places of interchange with Mexico.

Some commenters suggested that the criteria "serving significant military installations" be expanded to include all installations of national security interest. The commission has reviewed this criteria and has determined that the inclusion of other significant national security installations would be consistent with the goals of the trunk system; therefore, the criteria has been changed to read "serving significant military or other national security installations."

Two commenters expressed concern over the inclusion of the criteria "serving tourism and/or recreational areas." One wanted to drop the criteria entirely, while another wanted to drop the criteria and add another that read "minimize environmental impacts." The commenters thought that there was a potential for negative effects in environmentally sensitive areas with any highway expansion. The commission continuously addresses the need for minimizing the environmental impacts of all of its programs. This system will primarily involve the improvement and expansion of existing roadways, and the department's present provisions for addressing environmental concerns will be continued.

Additionally, the overall importance of tourism and recreational activities to the state economy is sufficient to retain this criteria as a consideration in the development of the system.

Many commenters emphasized that routes with heavy truck traffic or special purpose truck traffic, such as, oil or oil products, agricultural commodities, maquiladoras; etc., are of concern to them. One commenter wanted major truck routes to be given a "higher weighing," while two other commenters stated that major truck routes warranted "special consideration." The commission would like to point out that the order of the criteria is not so much a list of priorities, but of separate and equally desirable goals. It should also be noted that many of the criteria overlap. For example, the criteria "connecting with principal Mexican ports of entry" would also satisfy the criteria "comprising major truck routes" as the major ports of entry with Mexico generate significant truck volumes. Also, the trunk system concept of connecting population centers over 20,000 would capture a preponderance of truck traffic. The commission feels that further emphasis on truck traffic is not warranted.

Many commenters recommended a new criteria indicating that the growth potential and/or economic potential of an area be considered. The commission feels that the presently known data on population and eco-

nomics are a better basis for planning than the somewhat unknown data of the future. It should also be noted that our department intends to review and update the Texas Highway Trunk System on a periodic basis. The commission feels that adding this criteria would be inappropriate.

Many commenters suggested that routes be chosen so as to provide north-south and east-west routes at regular intervals. One commenter mentioned a range from 50 to 75 miles that would be the maximum distance between parallel routes. Most of the commenters simply suggested that directional routes be considered in the selection process. The existing selection criteria, the commission believes, adequately addresses the main objective of the trunk system which is to "serve as a principal connector" of major Texas population areas.

Four comments addressed the issue that emergency evacuation and emergency management planning be included in the criteria. The commission recognizes these issues as valid concerns that warrant significant consideration in all areas of transportation planning. It is believed, however, that this is a special area of concern that should be addressed in coordinated effort that reflects the specific needs of each area. This could be accomplished through facility expansions and management strategies for all transportation systems.

The department is currently working and will continue to work with all of the involved federal, state, and local agencies to address emergency accessibility needs.

One commenter suggested an additional criteria which stated "provide the nearest connection to interstate access for communities of population 100,000 and above." The commission has studied the effect of adding this criteria and concludes that the areas over 100,000 population are sufficiently served directly by the interstate highway system or will be connected to the interstate highway system by applying the criteria as stated in 43 TAC §15.42, concerning Selection Criteria. Therefore, the commission feels adding this criteria would be inappropriate.

One commenter wanted cities of population one million or more to have routes radiating from the eight points of the compass. In addition, cities of population 100,000 to one million would have routes radiating from four points of the compass. The commission believes that adding this suggested criteria would be inequitable because of geographic location of some cities and the physical barriers that adjoin them. Also, designating a minimum number of routes would in some cases be redundant and not cost-effective. The commission feels adding this would be inappropriate.

One commenter felt that all county seats should be connected to the trunk system making counties more accessible to each other. The trunk system concept is to connect major population areas. While the commission understands the importance of county seats in their respective county, the necessity of linking county seats to each other with a four-lane divided highway does not meet the trunk system objective.

One commenter suggested adding a criteria that selected designated routes be used in their entirety, i.e., over its whole length. Using only this criteria, the commission believes, would not constitute a rational route selection process to benefit Texas' current and future needs as most of the routes were designated several decades ago. The pattern of travel since the routes were designated has changed, therefore, the suggested criteria, if implemented, would be an out-of-date and nonresponsive system.

The new sections are adopted under Texas Civil Statutes, Articles 6665 and 6666, which provide the State Highway and Public Transportation Commission with the authority to promulgate rules for the conduct of the work of the State Department of Highways and Public Transportation, and to formulate plans and policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

§15.42. Selection Criteria. Routes to be included in and developed as a part of the

Texas Highway Trunk System shall be chosen by the commission as recommended by the engineer-director based upon one or more of the criteria set out in this section. To be included in the Texas Highway Trunk System the commission will give consideration to routes:

- (1) maximizing the use of existing four-lane divided roadways;
- (2) minimizing circuitous or indirect routing;
- (3) connecting with principal roadways from adjacent states;
- (4) connecting with principal deep water ports with channel depths of 40 feet or more;
- (5) connecting with principal Mexican ports of entry;
- (6) serving significant military or other national security installations;
- (7) serving tourism and/or recreational areas;
- (8) comprising major truck routes; and
- (9) which are within 25 miles or less of cities of 10,000 population or greater.

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

Issued in Austin, Texas on April 16, 1990.

TRD-9003898

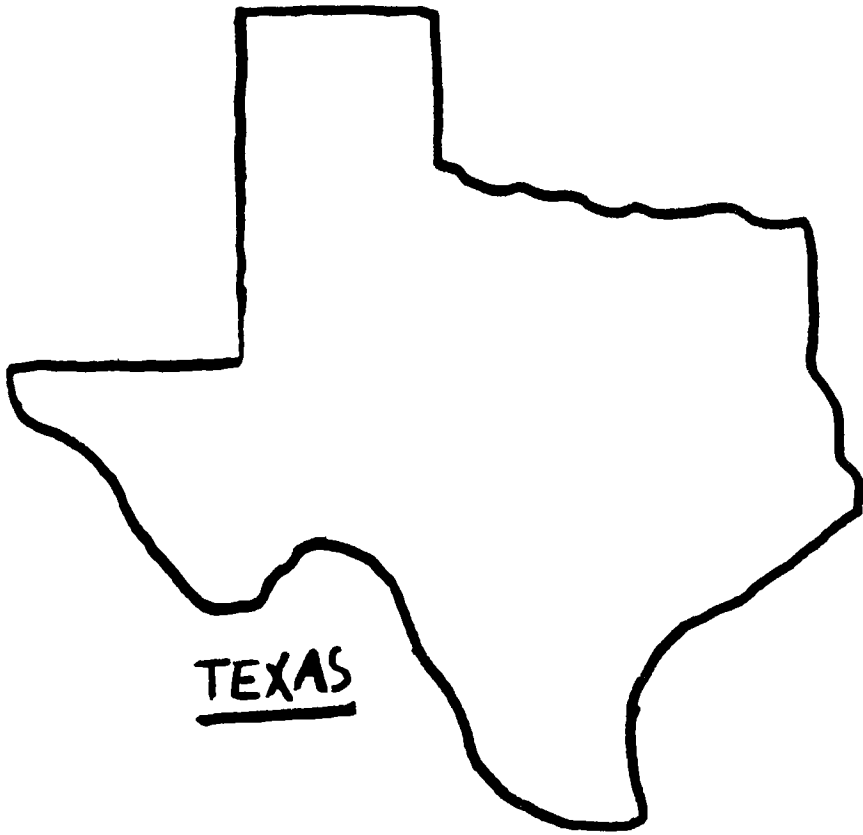
Diane L. Northam
Administrative Procedures
Technician
State Department of
Highways and Public
Transportation

Effective date: May 9, 1990

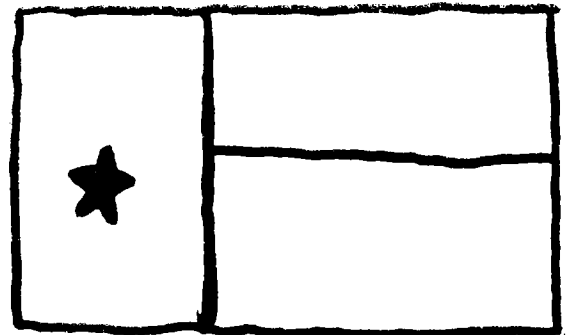
Proposal publication date: February 9, 1990

For further information, please call: (512) 463-8630

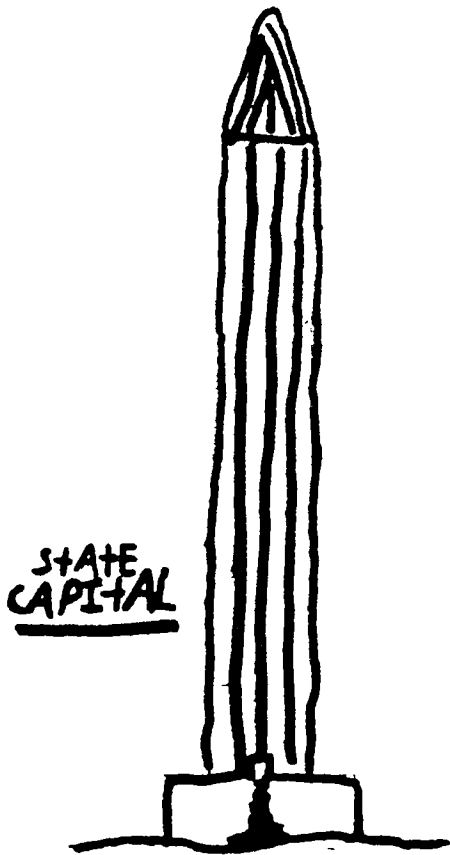




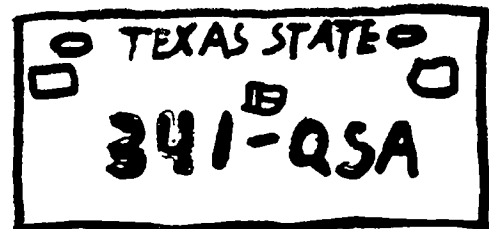
TEXAS



FLAG



STATE
CAPITAL



Name: K.C. Carpenter

Grade: 4

School: Moss Haven Elementary, Richardson

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Texas Department of Agriculture

Monday-Tuesday, April 30-May 1, 1990, 1 p.m. and 9:30 a.m. respectively. The Texas Agricultural Finance Authority of the Texas Department of Agriculture will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 924A, Austin. According to the agenda summary, the authority will review minutes of last meeting; introduction of bond counsels making presentations to the board; discussion and action on the selection of bond counsel (April 30). Introduction of financial advisors making presentations to the board. Discussion and action on the selection of financial advisor; and act on program design and project review presented to the board. (May 1)

Contact: Brian Muller, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-7624.

Filed: April 19, 1990, 9:39 a.m.

TRD-9004048

Thursday, May 3, 1990, 8 a.m. The Texas Wheat Producers Board of the Texas Department of Agriculture will meet at the Harvey Hotel, 1600 North Central Expressway, Plano. According to the complete agenda, the board will accept 1989-1990 fiscal year-end financial report; review research and education projects; and adopt 1990-1991 operating budget.

Contact: Bill Nelson, 2201 Civic Circle, Suite 803, Amarillo, Texas 79109, (806) 352-2191.

Filed: April 17, 1990, 2:32 p.m.

TRD-9003910

Texas Bond Review Board

Thursday, April 19, 1990, 1 p.m. The Texas Bond Review Board met in the Sergeant's Committee Room, State Capitol, Austin. According to the emergency revised agenda summary, the board discussed Texas Public Finance Authority-Series 1990A General Obligation Bonds- Reconsideration.

The emergency status was necessary because the time changed to accommodate board members' scheduling conflicts. III.-E. added to allow timely reconsideration of previously approved issue.

Contact: Tom K. Pollard, 201 East 14th Street, Room 506, Austin, Texas 78701, (512) 463 1741.

Filed: April 18, 1990, 3:26 p.m.

TRD-9004027

Texas Cancer Council

Wednesday, May 2, 1990, 9 a.m. The Board of Directors Quarterly Meeting of the Texas Cancer Council will meet at 1100 West 49th Street, Tower-607, Austin. According to the complete agenda, the board will discuss adoption of minutes; old business: report on the March 5 guard luncheon; consideration of proposal-South Texas study; executive director's report; new business: fiscal year 1990 mid-year reports; RFP application packet and review process; discussion of fiscal year 1992-1993 legislative appropriations request; and other business: future meeting dates; review of pain control video tape.

Contact: Emily Untermeyer, P.O. Box 12097, Austin, Texas 78711, (512) 463-3190.

Filed: April 19, 1990, 9:19 a.m.

TRD-9004045

Texas Health and Human Services Coordinating Council

Friday, April 27, 1990, 1:30 p.m. The Texas Health and Human Services Coordinating Council will meet at the Texas Law Center, Room 101 2, 14th and Colorado Streets, Austin. According to the complete agenda, the council will discuss the minutes of January 24, 1990 meeting; hear public comment, executive director's report; strategic policy committee report; data and information committee report, client

services committee report; task force on statewide case management for long term care update; SLIAG committee report; state agency census planning committee update; information and referral task force report; presentation on concept of local level public/private policy partnerships; human services interagency committee report; old business; and new business.

Contact: Patrice Thomas, 311-A East 14th Street, Austin, Texas 78701, (512) 463-2195.

Filed: April 18, 1990, 1:09 p.m.

TRD-9004002

State Department of Highways and Public Transportation

Wednesday, April 25, 1990, 9:30 a.m. The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation will meet at the Dewitt C. Greer Building, 11th and Brazos Streets, Room 101-A, First Floor, Austin. According to the agenda summary, the commission will discuss approval of minutes, execute contract awards, routine minute orders and resolutions. Authorize construction, bridge and rehabilitation projects, project overruns, public transportation oil overcharge projects and \$18 fund allocations, research test site funds, and City of Garland right of way litigation. Discuss Sunset review process. Propose amendment to 43 TAC §21. 33. Adopt amendments to 43 TAC §24.91 and §31.3. Adopt new 43 TAC §§31.50, 31.53, 31.55, and 31.57. Reports from staff and attorney general. Executive session: receive advice from counsel on litigation, including Save Barton Creek and Austin Transportation Study cases, and attorney-client matters, discuss real property acquisitions, and confer with staff to receive information. Accept awards and recognitions.

Contact: Myrna Klipple, Dewitt C. Greer Building, Room 203, 11th and Brazos Streets, Austin, Texas 78701, (512)

463-8616.

Filed: April 17, 1990, 1:53 p.m.

TRD-9003908

Texas Historical Commission

Wednesday, April 25, 1990, 2 p.m. The Executive Committee of the Texas Historical Commission will meet at the Embassy Suites, Royale Room, 4250 Ridgemont Drive, Abilene. According to the complete emergency revised agenda, the committee will discuss Houston Light Guard Armory Building; update on Alamo; and Glorieta Pass. The emergency status was necessary because items were added to agenda after filing of notice of open meeting.

Contact: Cindy Laguna Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: April 18, 1990, 11:55 a.m.

TRD-9004003

Thursday, April 26, 1990, 7:30 a.m. The CHC and Museum Service Committee of the Texas Historical Commission will conduct an emergency meeting at the Embassy Suites, Coffee Shop, 4250 Ridgemont Drive, Abilene. According to the complete agenda, the commission will discuss the commission awards revision. The emergency status was necessary because of being unable to finalize agenda prior to deadline.

Contact: Cindy Sherrell-Leo, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: April 18, 1990, 10:45 a.m.

TRD-9004026

Thursday, April 26, 1990, 8 a.m. The National Register Programs Committee of the Texas Historical Commission will conduct an emergency meeting at the Embassy Suites Hotel, Coffee Shop, 4250 Ridgemont Drive, Abilene. According to the agenda summary, the committee will discuss approval of fiscal year 1990 survey and planning grants; and quarterly report of activities. The emergency status was necessary because it was the only possible meeting date and time for committee members prior to full commission meeting.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: April 18, 1990, 11:55 a.m.

TRD-9004004

University of Houston System

Wednesday, April 25, 1990, 8 a.m. The Board of Regents of the University of Houston System will meet at the Waldorf Astoria Room (Zodiac), Conrad Hilton Col-

lege Building, University of Houston, Houston. According to the agenda summary, the board will discuss and/or act upon the following: minutes, consent docket, long-range plans, honorary degree policy, 90-91 board calendar of meetings, banking resolutions, various contracts, appointment of financial advisor, fee changes, return of gift-cyrobiology, family therapy program, personnel recommendations, appointment of senior vice-chancellor, faculty emeriti appointments, new degree programs, dual employment requests, promotion in academic rank, resolution updating security clearance, honorary degrees, award of contracts, construction change orders, official seals, private support organizations and foundations and gift acceptance reports.

Contact: Peggy Cervenka, 1600 Smith, Houston, Texas 77002, (713) 754-7440.

Filed: April 19, 1990, 9:36 a.m.

TRD-9004049

State Board of Insurance

Thursday, April 19, 1990, 10 a.m. The State Board of Insurance met in Room 414, 1110 San Jacinto Street, Austin. According to the emergency revised agenda summary, the board considered adoption on an emergency basis of amendments to rules as 28 TAC §§19.1001-19.1011, concerning continuing education for insurance agents and adjusters. The emergency status was necessary to meet an imminent threat to the public welfare by carrying out recent legislation to improve regulation of insurance agents by strengthening control over educational requirements for agents.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: April 18, 1990, 4:45 p.m.

TRD-9004042

Tuesday, April 24, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will hold an emergency meeting at 1110 San Jacinto Street, Room 460, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Christel Suzanne Cornelius, Fort Worth, who holds a group I, legal reserve life insurance agent's license issued by the board. Docket Number 10747. The emergency status was necessary because of schedule time set, need to discuss public hearing.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990, 2:59 p.m.

TRD-9003912

Tuesday, April 24, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will hold an emergency meeting at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will conduct a hearing to consider whether disciplinary action should be taken against John David Hayslip, Lubbock, who holds a group I, legal reserve life insurance agent's license issued by the board. Docket Number 10788. The emergency status was necessary because of scheduled time already set, need to discuss public hearings.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990, 2:59 p.m.

TRD-9003913

Tuesday, April 24, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will hold an emergency meeting at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will conduct a hearing to consider whether disciplinary action should be taken against Calvin Carl Singleton, League City, who holds a group I, legal reserve life insurance agent's license and a local recording agent's license issued by the board. Docket Number 10770. The emergency status was necessary because of scheduled time already set, need to discuss public hearings.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990, 2:59 p.m.

TRD-9003911

Tuesday, April 24, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will hold an emergency meeting at 1110 San Jacinto Street, Room 460, Austin. According to the complete agenda, the section will conduct a hearing to consider the total reinsurance of Red River Valley Life Insurance Company's policies or certificates of insurance with Texas Funeral Insurance Company. Docket Number 10808. The emergency status was necessary because of scheduled time already set, need to discuss public hearings.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990, 2:59 p.m.

TRD-9003914

Wednesday, April 25, 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 complete agenda, the section will conduct a hearing to consider whether disciplinary action should be taken against Jose Luis Barrios, Dallas, who holds

a group I, legal reserve combination/industrial agent's license issued by the board. Docket Number 10757.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990, 2:46 p.m.

TRD-9003915

Thursday, April 26, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 414, Austin. According to the complete agenda, the section will conduct a hearing to consider the application of Stephen Hal Looney, Austin, for a group I, legal reserve life insurance agent's license. Docket Number 10795.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990, 2:46 p.m.

TRD-9003916

Thursday, April 26, 1990, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda summary, the board will consider decision in Docket Number 1706, Montgomery Ward; consideration of decision in Docket Number 1707, Forum Insurance Company, Consideration of final action on repeal of 28 TAC §1.301, of final action on adoption of new rule 28 TAC §1.301, final action on adoption of new rule 28 TAC §1.408; consideration of extension of emergency effectiveness and of final action on adoption of new rule 28 TAC §7.1008 and new rule as 28 TAC §25.714; consideration of extension of emergency effectiveness of new rule as 28 TAC §1.1001, new rule as 28 TAC §7.58; consideration of authorization for publication as a proposal of an amendment to rule 28 TAC §5.4001; consideration of adoption on an emergency basis of an amendment as 28 TAC §29.208; driving safety courses; memorandum of understanding between the State Board of Education and the State Board of Insurance; board orders on several different matters as itemized on complete agenda; personnel matters; litigation; solvency matters; appointment of senior citizen issues advisory committee; consideration of standards of conduct policy for the board; consideration of annual assessment by the National Association of Insurance Commissioners.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: April 18, 1990, 4:46 p.m.

TRD-9004041

Thursday, April 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 414, Austin. According to the complete agenda, the section will conduct a hearing to consider the application of Abundio Rodriguez, El Paso, for a group I, legal reserve life insurance agent's license to be issued by the board. Docket Number 10725.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990, 2:46 p.m.

TRD-9003917

Friday, April 27, 1990, 8:30 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 complete agenda, the section will reopen a public hearing to consider the application of David M. Terek, Dallas, to acquire control of Enterprise Life Insurance Company and Enterprise Fire and Casualty Company, Arlington, pursuant to the provisions of Texas Insurance Code, Article 21.49-1, §5. Docket Number 10602.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 18, 1990, 3:31 p.m.

TRD-9004028

Friday, April 27, 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 complete agenda, the section will conduct a hearing to consider the application of First Victoria National Bank to acquire all of the outstanding shares of First Victoria Insurance Company, Victoria, from First Victoria Corporation, a bank holding company, and for an exemption from the provision of Texas Insurance Code, Article 21.49-1, §5 pursuant to Article 21.49-1, §5(e)(3)(i). Docket Number 10778.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990, 2:46 p.m.

TRD-9003919

Friday, April 27, 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 complete agenda, the section will conduct a hearing to consider whether disciplinary action should be taken against Lesley Henry Blackburn, Wolforth/Lubbock, who holds a group I, legal reserve life insurance agent's license and a group II, insurance agent's license issued by the board. Docket Number 10734.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990

TRD-9003918

Friday, April 27, 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 complete agenda, the section will conduct a hearing to consider whether disciplinary action should be taken against David Wayne McMichael, Athens, who holds a group II, insurance agent's license issued by the board. Docket Number 10769.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990, 2:45 p.m.

TRD-9003922

Friday, April 27, 1990, 1:30 p.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 complete agenda, the section will conduct a hearing to consider the application of Anthony C. Cantrell, Plano, for a group II, insurance agent's license. Docket Number 10793.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990, 2:45 p.m.

TRD-9003923

Friday, April 27, 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 complete agenda, the section will conduct a hearing to consider whether disciplinary action should be taken against Michael Enriquez Baca, El Paso, who holds a group I, legal reserve life insurance agent's license and a local recording agent's license issued by the board. Docket Number 10798.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990, 2:45 p.m.

TRD-9003924

Monday, April 30, 1990, 4:30 p.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 complete agenda, the section will conduct a hearing to consider the renewal application of Faris Boyd Croxen, Phoenix, Arizona, for a group I, non-resident legal reserve life insurance agent's license. Docket Number 10666.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: April 17, 1990, 2:45 p.m.

TRD-9003925

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Texas Juvenile Probation Commission

Thursday, April 26, 1990, 9 a.m. The Board of the Texas Juvenile Probation Commission will meet at the (Compri) Hotel Casa de Palmas, McAllen. According to the complete agenda, the board will discuss approval of the minutes of the February 23, 1990 meeting; conduct public hearing; report by executive director; approve memorandum of understanding for services to runaways for publication as a proposed rule; approve increase in placement fees for community corrections diversion program; approve Hidalgo County's conference committee supplemental training grant; discussion of preliminary 1992-1993 biennial budget request; executive session to discuss appointment of the TJPC executive director; resume open meeting; set date for next meeting; approve a contract with the state agency volunteer recruitment campaign for \$8,500 of defined in-kind services to improve juvenile probation services by developing volunteer programs.

Contact: Bill Anderson, P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: April 17, 1990, 2:26 p.m.

TRD-9003909

Texas State Library and Archives Commission

Thursday-Friday, May 17-18, 1990, 10 a.m. and 9 a.m. respectively. The Library Services and Construction Act Advisory Council of the Texas State Library and Archives Commission will meet at the Lorenzo de Zavala State Library and Archives Building, Room 314, 1201 Brazos, Austin. According to the complete agenda, the council will discuss overview of the FFY 1991 LSCA annual program and basic state plan; SFY 1990-1993 LSCA long range plan, revised; review and approval of the FFY 1991 LSCA annual program and basic state plan; review and approval of the SFY 1990-1993 LSCA long range plan, revised; certification of advisory council review; statewide library development program biennial budget request (information item); statewide library development program biennial budget request (information item); staff reports and discussion; review of grant applications: Title III grants (Interlibrary Cooperation), Title I grants (Project Partners), Title I grants (Disadvantaged Services).

Contact: Edward Seidenberg, P.O. Box 12927, Austin, Texas 78711, (512) 463-5459.

Filed: April 17, 1990, 10:39 a.m.

TRD-9003905

Monday April 30, 1990, 9 a.m. The Business and Occupational Programs, Talent Agencies of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E.O. Thompson Building, 10th Floor Conference Room, Austin. According to the complete agenda, the department will consider the assessment of an administrative penalty for violation of Texas Civil Statutes, Article 5221a-9, §2(a) and Article 9100 for Lacia Talent Company.

Contact: Imelda Escobar, 920 Colorado Street, Austin, Texas 78701, (512) 463-7332

Filed: April 18, 1990, 4:28 p.m.

TRD-9004040

Texas Department of Licensing and Regulation

Monday, April 30, 1990, 11 a.m. The Business and Occupational Programs, Talent Agencies of the Texas Department of Licensing and Regulation will meet 920 Colorado Street, E.O. Thompson Building, 10th Floor Conference Room, Austin. According to the complete agenda, the department will consider the assessment of an administrative penalty for violation of Texas Civil Statutes, Article 5221a-9, §2(a) and Article 9100 for Sherita Lynne Modeling.

Contact: Imelda Escobar, 920 Colorado Street, Austin, Texas 78701, (512) 463-7332.

Filed: April 18, 1990, 4:28 p.m.

TRD-9004038

Monday, April 30, 1990, 1:30 p.m. The Business and Occupational Programs, Talent Agencies of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E.O. Thompson Building, 10th Floor Conference Room, Austin. According to the complete agenda, the department will consider the assessment of an administrative penalty for violation of Texas Civil Statutes, Article 5221a-9, §2(a) and Article 9100 for Mirage Modeling.

Contact: Imelda Escobar, 920 Colorado Street, Austin, Texas 78701, (512) 463-7332.

Filed: April 18, 1990, 4:28 p.m.

TRD-9004039

Texas National Research Laboratory Commission

Thursday, April 19, 1990, 1:30 p.m. The Texas National Research Laboratory Commission met at CRSS, Inc. Office Building, First Floor Conference Room, 1177 West Loop, South, Houston. According to the agenda summary, the commission will discuss approval of March 7, 1990, meeting minutes; chairman's

report—Morton H. Meyerson; executive director's report—Edward C. Bingler; counselor's report—J. Fred Bucy; committee reports—budget and finance, land acquisition, and regional planning; commissioner reports, old business and new business; hear public comment; executive session—land acquisition policy issues; reconvene.

Contact: Karen L. Chrestay, 1801 North Hampton Road, Suite 400, DeSoto, Texas 75115, (214) 709-6481.

Filed: April 17, 1990, 11:42 a.m.

TRD-9003902

Texas State Board of Public Accountancy

Wednesday, April 25, 1990, 3 p.m. The Examination Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the committee will discuss non-routine applications for the May 1990, examination and other matters coming before the committee.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: April 17, 1990, 1:33 p.m.

TRD-9003906

Thursday, April 26, 1990, 9 a.m. The Informal Conferences of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the board will conduct conferences on complaint numbers 89-08-07L; 89-10-17L; 88-11-06L; 89-10-37L; 89-06-06L; and 89-01-02L.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3893, (512) 451-0241.

Filed: April 17, 1990, 3:50 p.m.

TRD-9003933

Thursday-Friday, April 26-27, 1990, 9 a.m. The Technical Standards Review Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the committee will hear January-February and March status report; recommendations regarding specific complaints-licensees: complaint numbers 89-11-04L; 89-11-05L; 89-07-04L; 89-10-11L; 89-06-09L; 89-06-03L; 89-04-21L; 86-12-07L; 89-07-03L; 86-10-19L; 89-07-02L; discussion items: complaint number 89-08-04, and 89-08-05L; recommendations regarding specific complaints-licensees: complaint numbers 89-09-04L; 89-10-13L; 88-09-14L; 89-10-15L; 89-10-14L; 88-03-16L; 89-10-22L; 89-10-10L; 86-12-07L; and discussion items.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: April 17, 1990, 3:50 p.m.

TRD-9003935

Thursday, April 26, 1990, 10 a.m. The Licensing Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the committee will discuss ratification of approved applications for registration of partnerships and professional corporations; consideration of applications for reinstatement of CPA certificates; ratification of previously approved applications under §§12, 13, and 14; consideration of 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 licensing statistics; and other.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: April 17, 1990, 3:47 p.m.

TRD-9003937

Thursday, April 26, 1990, 10 a.m. The Licensing Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the committee will discuss ratification of approved applications for registration of partnerships and professional corporations; consideration of applications for reinstatement of CPA certificates; ratification of previously approved applications under §§ 12, 13, and 14; consideration of 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 licensing statistics; and other.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: April 17, 1990, 1:32 p.m.

TRD-9003907

Friday, April 27, 1990, 10 a.m. The Informal Conferences of the Texas State Board of Public Accountancy will meet at 1033 La

Posada, Suite 340, Austin. According to the complete agenda, the board will conduct conferences on complaint numbers 86-11-12L; 88-06-29L; 87-11-22L; and 88-12-11L.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: April 17, 1990, 3:50 p.m.

TRD-9003934

Wednesday, May 2, 1990, 9:30 a.m. The Public Hearing of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the board will conduct a hearing on complaint number 87-07-30L.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: April 17, 1990, 3:50 p.m.

TRD-9003936

Public Utility Commission of Texas

Wednesday, April 18, 1990, 9 a.m. The Public Utility Commission of Texas met at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete emergency revised agenda, the commission, in addition to the previously submitted agenda, considered general counsel's appeal of examiners' April 3, 1990 oral ruling on general counsel's motion to change briefing schedule in Docket Numbers 8646 and 9141-application of Central Power and Light Company for authority to change rates and petition of Central Power and Light Company to continue deferred accounting for Unit 1 of the South Texas project beyond February 15, 1990. The emergency status was necessary because prompt commission action was necessary to preserve jurisdiction over the subject matter of the appeal.

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

Filed: April 17, 1990, 3:21 p.m.

TRD-9003920

Friday, April 27, 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 complete agenda, the division will conduct a hearing on the merits on Docket Number 9113: application of GTE Southwest, Inc. to reduce Centrex rate for Lone Star Steel.

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

Filed: April 18, 1990, 3:15 p.m.

TRD-9004029

Friday, April 27, 1990, 2:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will conduct a second prehearing conference in Docket Number 9402: application of Southwestern Bell Telephone Company to revise §5 of the general exchange tariff and to add a optional feature for Plexar II, Simplified Message Desk Interface (SMDI).

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

Filed: April 18, 1990, 3:14 p.m.

TRD-9004030

Friday, April 30, 1990, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will conduct a prehearing conference in Docket Number 9490: application of Southwestern Bell Telephone Company for a new 2,122 station Plexar-Custom Digital Service for Tarrant County in Fort Worth.

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

Filed: April 17, 1990, 3:21 p.m.

TRD-9003921

Texas Racing Commission

Wednesday, April 25, 1990, 9 a.m. The Texas Racing Commission will meet at the First State Bank Building, Third Floor Auditorium, 400 West 15th Street, Austin. According to the complete agenda, a hearing examiner will conduct administrative hearings on the following Texas Racing Commission Cause Numbers: 90-0001, 90-0002, 90-0004, and 90-0005.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78711, (512) 476-7223.

Filed: April 17, 1990, 4:53 p.m.

TRD-9003942

Texas Rehabilitation Commission

Thursday-Friday, April 26-27, 1990, 9:30 a.m. and 8:30 a.m. respectively. The Planning and Evaluation Committee, Texas Planning Council for Developmental Disabilities of the Texas Rehabilitation Commission will meet at 4900 North Lamar Boulevard, DD Program Conference Room 4240, Austin. According to the complete

agenda, the committee will discuss executive director's report; hear public comments; review public input on draft state plan amendments; discussion of proposed fiscal year 1991 funding activities; review of consumer stipends RFP; approval of recommended state plan activities; approval of draft fiscal year 1991 funding activities; and continuation of discussion of items from committee agenda of April 26, 1990 as necessary.

Contact: Roger A. Webb 4900 North Lamar Boulevard, Austin, Texas 78751-2316, (512) 483-4081.

Filed: April 17, 1990, 3:47 p.m.

TRD-9003938

Texas Water Commission

Monday, April 30, 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 agenda summary, the commission will consider various matters within the jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

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

Filed: April 18, 1990, 3:20 p.m.

TRD-9004032

Monday, April 30, 1990, 2 p.m. The Texas Water Commission will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

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

Filed: April 18, 1990, 3:20 p.m.

TRD-9004033

Tuesday, May 1, 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 agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider

items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

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

Filed: April 18, 1990, 3:20 p.m.

TRD-9004034

Tuesday, May 1, 1990, 2 p.m. The Texas Water Commission will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

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

Filed: April 18, 1990, 3:20 p.m.

TRD-9004035

Wednesday, May 2, 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 agenda summary, the commission will consider various matters within the jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Gloria Barrera, P.O. Box 13087, Austin, Texas 78711, (512) 473-7898.

Filed: April 17, 1990, 4:10 p.m.

TRD-9003939

Wednesday, May 2, 1990, 3 p.m. The Texas Water Commission will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Gloria Barrera, P.O. Box 13087,

Austin, Texas 78711, (512) 463-7898.

Filed: April 18, 1990, 3:20 p.m.

TRD-9004031

Thursday, May 3, 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 agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

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

Filed: April 18, 1990, 3:21 p.m.

TRD-9004036

Thursday, May 3, 1990, 2 p.m. The Texas Water Commission will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

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

Filed: April 18, 1990, 3:20 p.m.

TRD-9004037

Regional Meetings

Meetings Filed April 17, 1990

The Austin-Travis County Mental Health Mental Retardation Center Operations and Planning Committee held an emergency meeting at 1430 Collier Street, Board Room, Austin, April 20, 1990, at 7:30 a.m. The emergency status was necessary because of an agenda item that needed to be acted upon at this meeting. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Dallas Central Appraisal District Appraisal Review Board will meet at 1420 West Mockingbird Lane, Suite 500, Dallas, April 27, 1990, at 8 a.m. Information may be obtained from Rick L. Kuehler, 1420 West Mockingbird Lane, Suite 500, Dallas, Texas 75247, (214) 631-0520.

The Education Service Center Region

XV Regional Advisory Committee will meet at 612 South Irene Street, San Angelo, April 24, 1990, at 10 a.m. Information may be obtained from Clyde Warren, 612 South Irene Street, San Angelo, Texas 76903, (915) 658-6571.

The Education Service Center Region XV Board of Directors will meet at 612 South Irene Street, Conference Room #1, San Angelo, April 24, 1990, at 1:30 p.m. Information may be obtained from Clyde Warren, 612 South Irene Street, San Angelo, Texas 76903, (915) 658-6571.

The Middle Rio Grande Development Council Private Industry Council met at the Lion's Club Community Building, 304 East Kinney, Crystal City, April 23, 1990, at 1 p.m. Information may be obtained from Michael M. Patterson, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The West Central Texas Council of Governments Executive Committee will meet at 1025 E.N. 10th Street, Abilene, April 25, 1990, at 12:45 p.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544.

TRD-9003900

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Meetings Filed April 18, 1990

The Ark-Tex Council of Governments Executive Committee will meet at the Mt. Pleasant Country Club, Mt. Pleasant, April 26, 1990, at 5:30 p.m. Information may be obtained from Susan J. Rice, P.O. Box 5307, Texarkana, Texas 75505, (214) 832-8636.

The Brazos River Authority Administrative Policy Committee, Board of Directors will meet at 4400 Cobbs Drive, Waco, April 24, 1990, at 9 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555.

The Burnet County Appraisal District Board of Directors will meet at 223 South

Pierce Street, Burnet, April 26, 1990, at 6:30 p.m. Information may be obtained from Barbara Ratliff, 223 South Pierce, Burnet, Texas 78610, (512) 756-8291.

The Golden Crescent Service Delivery Area Private Industry Council, Inc. held an emergency meeting at the Alkek Building, 2401 Houston Highway, Victoria, April 18, 1990, at 6:30 p.m. The emergency status was necessary because of an oversight; chairperson resigned and needed replacement, and could not wait until next meeting. Information may be obtained from Sandy Heiermann, P. O. Box 164, Victoria, Texas 77902, (512) 576-5559.

The Kendall County Appraisal District Board of Directors will meet at 207 East San Antonio Street, Kendall Appraisal Office, Boerne, April 25, 1990, at 7:30 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

The Middle Rio Grande Development Council Texas Review and Comment System Committee will meet in the McNelly Room, First State Bank, 200 East Nopal, Uvalde, April 25, 1990, at 10 a.m. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The Parmer County Appraisal District Board of Directors will meet at 305 Third Street, Bovina, May 10, 1990, at 7:30 p.m. Information may be obtained from Ron Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405.

The Region VIII Education Service Center Board of Directors will meet at the Service Center, F.M. 1734, Mt. Pleasant, April 26, 1990, at 7 p.m. Information may be obtained from Scott Ferguson, F.M. 1734, Mt. Pleasant, Texas 75455, (214) 572-8551.

The Rio Grande Council of Governments Board of Directors will meet at 1014 North Stanton, Conference Room, El Paso, April 27, 1990, at 9:30 a.m. Information may be

obtained from Cecile C. Gamez, 1014 North Stanton, Suite 100, El Paso, Texas 79902, (915) 533-0998.

The Texas Panhandle Mental Health Authority Board of Trustees will meet at 1200 Wallace Boulevard, Killgore Atrium, Amarillo, April 26, 1990, at 10:30 a.m. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235.

TRD-9003943

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Meetings Filed April 19, 1990

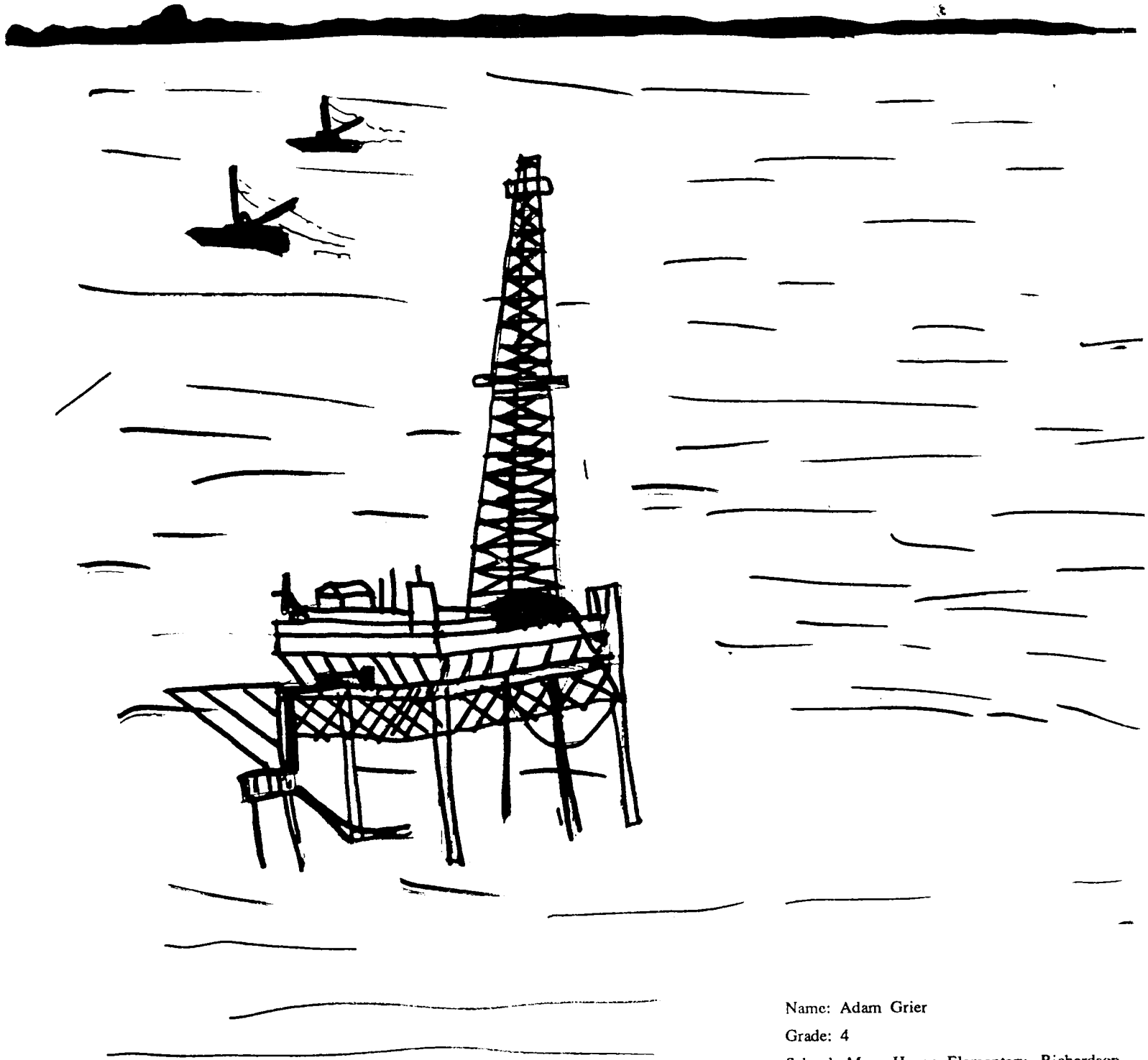
The Education Service Center-Region XVII Board of Directors will meet in the Board Room, ESC Region XVII, 1111 West Loop 289, Lubbock, May 2, 1990, at 1 p.m. Information may be obtained from Weldon E. Day, 1111 West Loop 289, Lubbock, Texas 79416, (806) 792-4000, ext. 202.

The Education Service Center, Region 20 Board of Directors will meet at 1314 Hines Avenue, San Antonio, May 2, 1990, at 2 p.m. Information may be obtained from Dr. Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208, (512) 299-2400.

The Liberty County Central Appraisal District Agricultural Advisory Board will meet at 315 Main Street, Liberty, April 26, 1990, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722.

The Trinity River Authority of Texas Board of Directors will meet at 5300 South Collins, Arlington, April 25, 1990, at 10 a.m. Information may be obtained from Jack C. Worsham, 5300 South Collins, Arlington, Texas 76004, (817) 467-4343.

TRD-9004043



Name: Adam Grier

Grade: 4

School: Moss Haven Elementary, Richardson

In Addition

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

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

Texas Air Control Board Notice of Public Hearing

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

The changes are being proposed primarily in response to a commitment to address issues which could not be resolved during public hearings held in September, 1989 on the incineration rules. Specifically, the proposal includes changes to the General Rules, §101.1, concerning definitions, which would make TACB definitions of terms related to incineration and solid waste consistent with those of the Texas Department of Health. The proposal also would delete a reference to hospital/pathological incinerators and add one for industrial incinerators in §111.121, concerning single-chamber incinerators; stipulate the same control requirements for commercial and on-site medical waste incinerators in §111.123, concerning dual- or multiple-chamber incinerators; add recordkeeping requirements to §111.127, concerning monitoring and recordkeeping requirements; limit the hours of operation for certain incinerators in §111.129, concerning operating requirements; and delete the exemption for incinerators burning less than five tons per day of domestic or municipal solid waste currently found in §111.129, concerning exemptions. A compliance date of May 31, 1991, is proposed for facilities being impacted by these rules. Finally, a proposed change related to §111.111, concerning requirements for specified sources, would add test methods for source not previously covered in visible emissions rules.

Oral and written public comments on the proposals are invited at hearings which will be held at the following times and places: May 17, 1990, 10 a.m., Texas Air Control Board, Auditorium, 6330 Highway 290 East, Austin, and May 17, 1990, 7 p.m., City of Houston Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston.

The hearings are structured for receipt of oral or written comments. Interrogation or cross-examination is not permitted, however, TACB staff will be available to answer questions informally. Persons desiring to testify at the hearing should examine material on file beforehand and prepare statements for presentation at the hearing.

Written comments not presented at a hearing may be submitted to the TACB central office in Austin, prior to and including May 18, 1990. Material received by 4 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Five copies of all written comments are requested.

Copies of the proposals are available for inspection at the TACB central office located at 6330 Highway 290 East, Austin, Texas, 78723, and at all regional offices. For further information, contact Betty Rogers at (512) 451-5711.

Issued in Austin, Texas, on April 13, 1990.

TRD-9003852 Steve Spaw, P.E.
Executive Director
Texas Air Control Board

Filed: April 16, 1990

For further information, please call: (512) 451-5711, ext.354

Request for Proposal

This request for consulting services is being filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The Texas Air Control Board (TACB) is soliciting proposals from interested parties to provide expert support for a photochemical air quality modeling project whose final goal is the development of ozone control strategies for metropolitan areas in Texas.

The Consultant selected shall be responsible for conducting all tasks associated with data development, pre-processing software development, and deployment of the Urban Airshed Model (UAM), through the performance evaluation phase for four Consolidated Metropolitan Statistical Areas (CMSA's) in Texas. In addition, the chosen consultant shall be responsible for performing all tasks associated with the evaluation of control strategy alternatives for the Houston-Galveston CMSA. Finally, the selected consultant shall be responsible for transferring expertise, in data development, software application, and utility of the UAM to TACB staff, so TACB will have in-house capability to independently accomplish all tasks associated with using UAM procedures for the State Implementation Plan (SIP) projects for ozone.

Persons to contact for more detailed information in regard to this solicitation are: Richard Karp or Cyril Durrenburger, Chief Modeling Section, Control Strategy Division, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The TACB will receive proposals until 5 p.m. May 18, 1990.

The award of a contract will be based upon the proposal which best meets TACB's needs to develop ozone control strategies for metropolitan areas in Texas. All proposals will be reviewed and evaluated as to the consultants understanding of the project and TACB legal mandates; the technical approach suggested including a detailed work plan, allocation of resources and project schedule; recent related experience in airshed modeling using UAM procedures with carbon-bond IV mechanisms, and in preparing ozone SIP's; satisfactory references from federal, state, and/or local agencies; a commitment of pertinent professional staff; and proof of financial stability.

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

TRD-9003890

Bill Ehret
Director of Hearings
Texas Air Control Board

Filed: April 16, 1990

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

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Office of the State Auditor
Consultant Proposal Request

Notice of Invitation for Proposal. Pursuant to Texas Civil Statutes, Article 6152-11c, and Senate Bill Number 1105, Acts of the 71st Texas Legislature, Regular Session (1989), the Office of the State Auditor invites offers from consultant firms for the purpose of obtaining a review of specific aspects of the retirement programs administered by the State of Texas.

There are currently six retirement programs administered by the State of Texas. These are: Employees Retirement Program; Teacher Retirement Program; Optional Retirement Program; Judicial Retirement Program; Deferred Compensation Programs; Law Enforcement and Custodial Officers Supplemental Retirement Fund.

Description of Project. The consulting services are intended to provide a review of specific aspects of the retirement programs administered by the State of Texas. The objectives are to: assess the compliance with the Internal Revenue Code and Internal Revenue Service regulations and other applicable federal laws and regulations; analyze the advantages and disadvantages to the State of adopting the "grandfather election" added to Section 415 of the Internal Revenue Code by the Technical and Miscellaneous Revenue Act of 1988; and identify and discuss options available to the State of Texas for providing retirement benefits to various groups at current levels that will meet both Internal Revenue Service requirements and Texas Constitutional restrictions.

Contact Person/RFP Instructions. The Office of the State Auditor will provide contract management for the consulting engagement. Detailed specifications concerning this project will be made available in proposal preparation instructions, which may be obtained on or after April 27, 1990, by submitting a written request to Review of Retirement Programs Project, Office of the State Auditor, P.O. Box 12067, Austin, Texas 78711-2067, attention: Dennis Ludwig. In order to ensure that all offerors have the same information and instructions concerning the preparation of proposals, all communication between offerors and the Office of the State Auditor prior to the submission of proposals shall be in writing.

Closing Date for Receipt of Offers. Written proposals offering to provide the requested consulting services may be hand-delivered between the hours of 8 a.m. and 5 p.m., Monday-Friday, or sent by certified mail to Dennis Ludwig, Assistant State Auditor, at the address specified above. Proposals must be received by the Office of the State Auditor no later than 5 p.m. on May 28, 1990, except that proposals postmarked on or before May 26, 1990, and received subsequent to the closing date will also be considered.

Selection Process. The State Auditor will recommend an consultant firm to the Legislative Audit Committee for approval. In developing his recommendation to the Legislative Audit Committee, the State Auditor will consider: the demonstrated competence, knowledge, and qualifications of each individual who will work on the project, and of the consultant firm as a whole; the extent to which the proposed consulting services accomplish the purposes and specifications of the RFP; the reasonableness of the proposed fee for the proposed consulting services; and when other considerations are equal, a consultant firm whose principal place of business is within the State of Texas, or who will manage the engagement wholly from one of its offices within the State of Texas, will be given preference. Final selection will be made by the Legislative Audit Committee in its sole discretion.

Project Timing. Contingent upon negotiation of a contract with the offeror selected, the period of performance for the consulting services is anticipated to be June 20, 1990-August 19, 1990. The consultant firm selected for the engagement may be required to submit progress reports to the Legislative Audit Committee.

General Information. The Office of the State Auditor reserves the right to accept or reject any (or all) proposals submitted. The information contained in this proposal request is intended to serve only as a general description of the services desired. Additional terms and conditions relating to this proposal request will be provided in the proposal preparation instructions. The Office of the State Auditor intends to use responses hereto as a basis for further negotiation of specific project details with offerors, subject to the review and approval of the Legislative Audit Committee. Issuance of this Consultant Proposal Request creates no obligation to award a contract or to pay any costs incurred in the preparation of a proposal.

Issued in Austin, Texas, on April 18, 1990.

TRD-9003959

Lawrence F. Alwin, CPA
State Auditor
Office of the State Auditor

Filed: April 18, 1990

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

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Texas Department of Commerce
Announcement of Contract Awards-
Community Development, Special
Impact, and Planning/Capacity
Building-1989 Funds

The Texas Department of Commerce announces the units of general local government listed below have been selected as contract recipients for Community Development Funds under the Texas Community Development Program established pursuant to Texas Government Code, Chapter 481, Subchapter N.

A contract is not effective until executed by the unit of general local government and the Executive Director of Commerce.

Grants Awarded Under the 1989 Community Development Fund

GRANTEE	FUNDED AMOUNT
ADRIAN	\$177,100
ARANSAS PASS	\$300,000
ARCHER CITY	\$94,860
ARP	\$260,000
ASHERTON	\$101,000
AVINGER	\$133,000
BASTROP	\$250,000
BEASLEY	\$141,915
BECKVILLE	\$197,727
BELLMEAD	\$135,000
BERTRAM	\$119,900
BIG WELLS	\$101,000
BLOOMING GROVE	\$131,676
BLOSSOM	\$188,500
BOGATA	\$157,000
BOYD	\$250,000
BRACKETTVILLE	\$93,000
BRADY	\$99,900
BRAZORIA	\$140,800
BROOKS COUNTY	\$248,500
BROWDELL	\$214,773
BROWNSBORO	\$199,935
BUCKMOLTS	\$168,000
CALVERT	\$223,478
CHANDLER	\$263,600
CHILLICOTHE	\$103,200
COAHOMA	\$158,745
COMBES	\$139,105
COMMERCE	\$220,000
CORRIGAN	\$250,000
CRYSTAL CITY	\$228,104
DE KALB	\$159,500
DE LEON	\$242,600
DEL RIO	\$321,176
DEVERS	\$166,600
DEVINE	\$250,000
DODD CITY	\$250,000
EAGLE PASS	\$251,586
EL PASO COUNTY	\$250,000
ELBORADO	\$186,900
ELECTRA	\$100,000
ELGIN	\$250,000
ENCINAL	\$84,654
ENNIS	\$250,000
EUSTACE	\$250,000
FAIRFIELD	\$241,600
FLOYDADA	\$159,000
FRANKLIN	\$250,000
FULSHEAR	\$400,000
FULTON	\$300,000
GALVESTON COUNTY	\$400,000
GARRETT	\$113,100
GEORGETOWN	\$250,000
GODLEY	\$222,000

Grants Awarded Under the 1980 Community Development Fund

GRANTEE	FUNDED AMOUNT
GRAND SALINE	\$300,000
GRANDFALLS	\$294,774
GROOM	\$205,276
GROVETON	\$158,576
HALE CENTER	\$222,861
HAMILTON	\$207,217
HAPPY	\$188,779
HARDIN COUNTY	\$250,000
HART	\$132,038
HAWKINS	\$306,000
HIGGINS	\$138,180
HITCHCOCK	\$400,000
HOLLAND	\$245,000
HUNTINGTON	\$193,586
HUTTO	\$250,000
JEFF DAVIS COUNTY	\$121,870
JIM HOGG COUNTY	\$268,171
JIM WELLS COUNTY	\$264,085
JOAQUIN	\$250,000
JOURDANTON	\$250,000
KARNES CITY	\$250,000
KNOX CITY	\$242,500
KRESS	\$209,715
LA FERIA	\$139,105
LA GRULLA	\$268,171
LA SALLE COUNTY	\$50,000
LEAKEY	\$83,967
LOCKHART	\$250,000
LONETA	\$156,500
LOS FRESNOS	\$139,105
LYFORD	\$139,105
LYTLE	\$250,000
MARFA	\$212,500
MASON	\$199,000
MATABOR	\$250,000
MATAGORDA COUNTY	\$400,000
MAVERICK COUNTY	\$251,094
MEGARGEL	\$109,127
MENARD	\$128,136
MIDLAND COUNTY	\$202,584
MONTGOMERY	\$239,000
MOUNT VERNON	\$182,500
NATALIA	\$250,000
NAVASOTA	\$183,000
NEW BOSTON	\$182,000
NEW DEAL	\$97,090
NEWCASTLE	\$103,600
NIXON	\$250,000
MOCONA	\$110,875
NORDHEIN	\$134,400
NORMANGE	\$215,818
O'BRIEN	\$220,000
OLNEY	\$108,300
OLTOM	\$211,800

Grants Awarded Under the 1989 Community Development Fund

GRANTEE	FUNDED AMOUNT
OMAHA	\$146,400
ORANGE GROVE	\$115,000
PECAN GAP	\$68,850
PINELAND	\$146,470
PORT ISABEL	\$139,105
PRAIRIE VIEW	\$400,000
PRESIDIO	\$250,000
PRINERA	\$139,105
PYOTE	\$279,820
RAYMONDVILLE	\$139,105
RIO HONDO	\$127,513
RIO VISTA	\$250,000
ROCKPORT	\$200,000
ROCKSPRINGS	\$87,408
ROMA	\$268,171
ROPEVILLE	\$215,090
ROSEBUD	\$250,000
ROYSE CITY	\$250,000
RUNGE	\$250,000
RUSK COUNTY	\$300,000
SABINAL	\$213,717
SAN AUGUSTINE	\$187,183
SAN PERLITA	\$139,105
SANTA ROSA	\$139,105
SHEPHERD	\$230,296
SILSBEE	\$250,000
SMILEY	\$250,000
SMITHVILLE	\$250,000
SPUR	\$240,800
STARR COUNTY	\$268,171
SWEETWATER	\$250,000
TEAGUE	\$203,025
TEXLINE	\$227,519
THORNDALE	\$240,000
THREE RIVERS	\$300,000
THROCKMORTON	\$250,000
TIOGA	\$248,400
VAN HORN	\$159,200
VENUS	\$244,518
VICTORIA COUNTY	\$142,560
VIDOR	\$240,532
WEATHERFORD	\$250,000
WEBB COUNTY	\$268,171
WEST COLUMBIA	\$400,000
WHITNEY	\$250,000
WILLACY COUNTY	\$139,105
WINK	\$300,000
WOLFE CITY	\$189,000
ZAPATA COUNTY	\$268,171
=====	=====
Total:	\$32,666,502

The Texas Department of Commerce announces that the units of general local government listed below have been selected as contract recipients for Special Impact Funds

under the Texas Community Development Program established pursuant to Texas Government Code, Chapter 481, Subchapter N.

Angelina County	\$ 294,150
Cameron County	300,000
San Patricio County	300,000
Uvalde County	300,000

A contract is not effective until executed by the unit of general local government and the Executive Director of Commerce.

Building Funds under the Texas Community Development Program established pursuant to Texas Government Code, Chapter 481, Subchapter N.

The Texas Department of Commerce announces that the units of general local government listed below have been selected as contract recipients for Planning/Capacity

A contract is not effective until executed by the unit of general local government and the Executive Director of Commerce.

Grants Awarded Under the 1989 Planning/Capacity Building Fund

GRANTEE	FUNDED AMOUNT
-----	-----
ANAHUAC	\$24,055
ARANSAS PASS	\$29,000
ARCOLA	\$24,500
BANDERA	\$26,000
BRACKETTVILLE	\$24,800
CASTROVILLE	\$26,600
CELESTE	\$14,200
CLUTE	\$26,080
COOPER	\$20,800
CUERO	\$22,560
EUSTACE	\$11,025
GRANDVIEW	\$18,375
HOWE	\$19,350
HUBBARD	\$20,500
KYLE	\$29,900
LA COSTE	\$12,400
SAN SABA	\$20,900
TOM BEAN	\$14,325
VENUS	\$16,235
WEST TAWAKONI	\$15,280
WHITEWRIGHT	\$14,700
WILMER	\$21,000
WOLFE CITY	\$13,450
YORKTOWN	\$26,900
=====	=====
Total:	\$492,935

Issued in Austin, Texas, on April 16, 1990.

TRD-9003850 William D. Taylor
Executive Director
Texas Department of Commerce

Filed: April 16, 1990

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

◆ ◆ ◆
State Comptroller of Public Accounts
Local Sales Tax Changes Effective July
1, 1990

City sales tax (1.0%) becomes effective July 1, 1990, in the City of Redwater in Bowie County. The city code is 2019081; the zip code is 75573. The combined state, city, and county sales tax rate in Redwater will be 7 1/2%.

The city sales tax rates for the cities of Brownfield, Edinburg, and Mission will increase by 1/2% effective July 1, 1990. The additional sales tax is for economic and industrial development. The total city sales tax rate for these cities will be 1 1/2%. The combined state and city sales tax rate will be 7 1/2% in each of these cities.

Issued in Austin, Texas, on April 16, 1990.

TRD-9003873 Bob Bullock
Comptroller of Public Accounts

Filed: April 16, 1990

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

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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 individuals to provide regional assistance to public school districts in controlling energy costs. The primary targets for this assistance will be smaller districts (10 schools or less) with limited staffs and resources to commit to energy management efforts and larger districts that seek individualized assistance in developing comprehensive energy management programs. Regional school energy coordinators selected to provide this service will serve as local resources to answer school energy questions, make site visits to area school districts to discuss existing energy programs and districts needs, and coordinate regional meetings for school energy managers and operational personnel.

The EMC is particularly interested in receiving proposals from individuals who have had experience in setting up and managing school energy programs.

Individual coordinators will be selected to serve school districts in nine areas of the state. The service areas are comprised of the following Education Service Center (ESC) regions: Area I-ESC Regions 1 and 2; Area II-ESC Regions 3 and 13; Area III-ESC Regions 4 and 5; Area IV-ESC Regions 6 and 12; Area V-ESC Regions 7, 8, and 10; Area VI-ESC Regions 9, 11 and 14; Area VII-ESC Regions 15 and 20; Area VIII-ESC Regions 16 and 17; and Area IX-ESC Regions 18 and 19.

◆ *In Addition April 24, 1990 15 TexReg 2369*

Services To Be Performed. Each Contractor will be expected to perform, at a minimum, the following services: contact all school districts in a specified area to assess their energy management status and technical assistance needs; provide on-site consultation to school district energy managers in a specified area to discuss on-going energy programs, as well as successes, difficulties, and needs which state services may address; plan, schedule, publicize, conduct, and report on six bimonthly meetings for school energy managers in the designated area; meet with EMC staff and contractors, upon request, to assist in planning future programs and evaluating current district energy needs; provide presentations, upon request, at conventions, professional association meetings, and legislative hearings; and respond to energy-related questions from district personnel in the contractor's designated area.

Contact Person. To obtain a copy of the required proposal format and information packet, contact Richard Taylor, Governor's Office of Budget and Planning, Energy Management Center, P.O. Box 12428, Austin, Texas 78711, (512) 463-1931. Proposal packets will be sent first class mail. The EMC will not fax proposal packets.

Closing Date. Six copies of the proposal should be sent to: Ms. Kim Munyon, Energy Management Center, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711.

The EMC is located in Room 620 of the Sam Houston State Office Building, 201 East 14th Street, Austin, Texas 78711. Proposals should be sent by registered mail or by courier and must arrive no later than 3 p.m. on May 22, 1990.

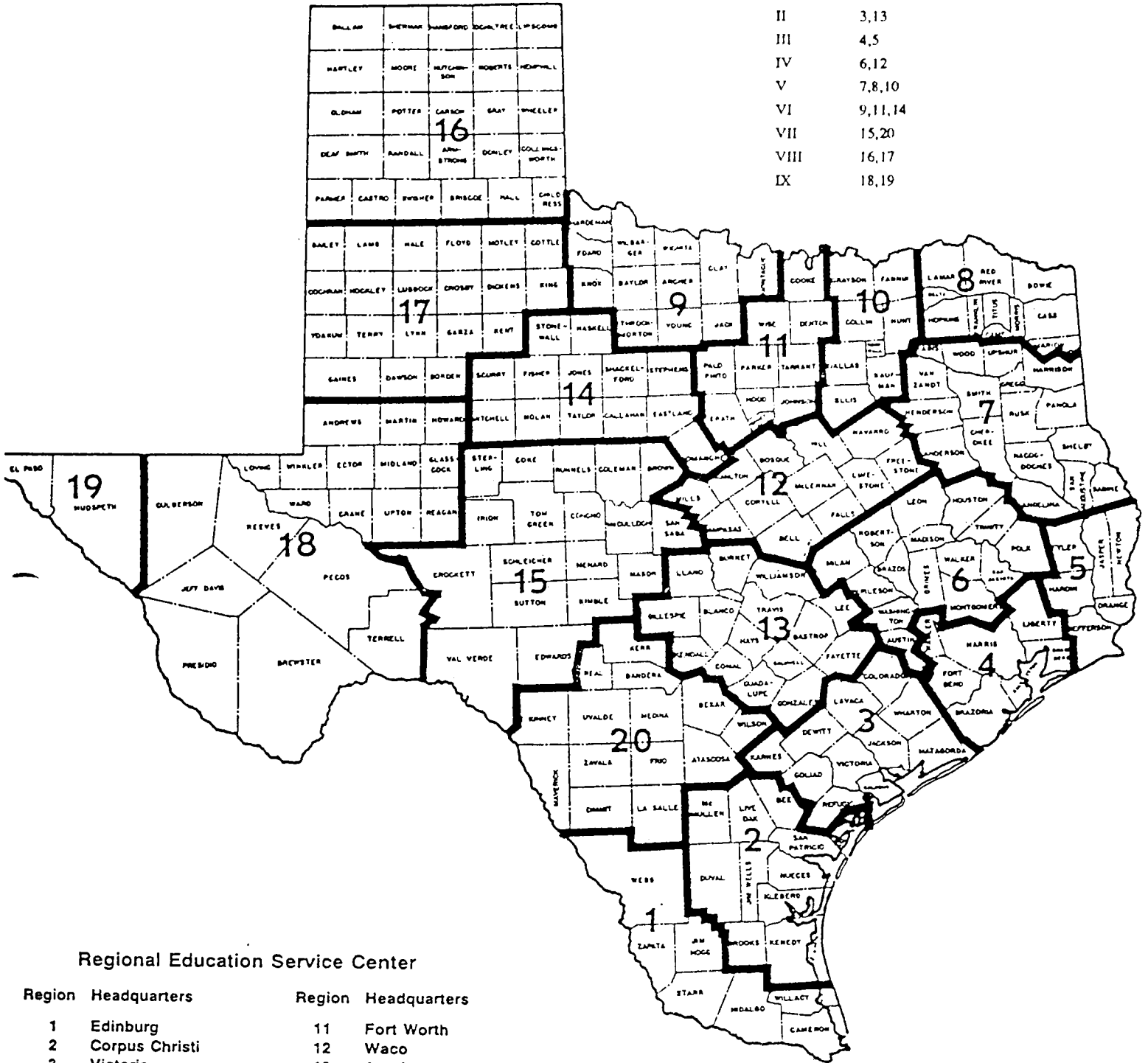
Proposals received after that time and proposals submitted by fax will not be considered. Contractor selection will be made on or before June 1, 1990. The contract period for this project will extend from the date of signing through June 30, 1991.

Selection Criteria. In evaluating the proposals, the evaluation committee will use the following criteria: proposers' experience in establishing and directing school energy management programs; proposers' knowledge of energy accounting terms and principles; proposers' knowledge of manual and computerized energy tracking systems appropriate for school use; proposers' experience with energy using systems found in school facilities; proposers' familiarity with school operation practices and schedules; proposers' ability to communicate effectively with school administrators and operational staff; and reasonableness of the proposed budget in relation to tasks to be performed.

Proposals should address the stated criteria in order listed. Selection will be based on the proposers' 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.

AREA	ESC
I	1,2
II	3,13
III	4,5
IV	6,12
V	7,8,10
VI	9,11,14
VII	15,20
VIII	16,17
IX	18,19



Regional Education Service Center

Region	Headquarters	Region	Headquarters
1	Edinburg	11	Fort Worth
2	Corpus Christi	12	Waco
3	Victoria	13	Austin
4	Houston	14	Abilene
5	Beaumont	15	San Angelo
6	Huntsville	16	Amarillo
7	Kilgore	17	Lubbock
8	Mount Pleasant	18	Midland
9	Wichita Falls	19	El Paso
10	Richardson	20	San Antonio

Issued in Austin, Texas, on April 16, 1990.

TRD-9003926 Sheila W. Beckett
Director
Governor's Office of Budget and Planning

Filed: April 17, 1990

For further information, please call: (512) 463-1931

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Texas Higher Education Coordinating Board

Notices of Meetings

The Outstanding Rural Scholar Advisory Committee will meet on Tuesday, May 15, 1990, in Room 255 at 200 East Riverside Drive; Austin. The meeting is scheduled to begin at 10 a.m. and end at 3 p.m. For additional information please contact Mack Adams at (512) 462-6325.

Issued in Austin, Texas, on April 13, 1990.

TRD-9003904 Suzanne Ortiz
Special Projects Director
Texas Higher Education Coordinating Board

Filed: April 17, 1990

For further information, please call: (512) 462-6420

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The Advisory Committee on Professional Nursing Programs will meet on Thursday, May 3, 1990, in Room 209 at 200 East Riverside Drive; Austin. The meeting is scheduled to begin at 10 a.m. and end at 3 p.m. For further information please contact Mack Adams at (512) 462-6325.

Issued in Austin, Texas, on April 13, 1990.

TRD-9003903 Suzanne Ortiz
Special Projects Director
Texas Higher Education Coordinating Board

Filed: April 17, 1990

For further information, please call: (512) 462-6420

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Texas Department of Human Services

Notices of Public Hearing

The Texas Department of Human Services (DHS) will conduct a public hearing to receive comments on the department's proposed reimbursement rates for the Diagnostic Services Program. The hearing is in compliance with the provisions of Senate Bill 487, which requires a public hearing to be held for proposed reimbursement rates for medical assistance programs. The public hearing will be held on May 9, 1990, at 8:30 a.m. in meeting room 460W, Fourth Floor, West Tower, 701 West 51st, Austin. Interested parties may request a briefing package to be mailed to them or pick one up by contacting Carolyn A. Pratt, P.O. Box 149030, MC 182-E, Austin, Texas 78714-9030, (512) 450-4057.

Issued in Austin, Texas on April 18, 1990.

TRD-9003950 Cathy Rossberg
Agency liaison, Policy Communication
Services
Texas Department of Human Services

Filed: April 18, 1990

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

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The Texas Department of Human Services (DHS) will conduct a public hearing to receive comments on the department's proposed reimbursement rates for primary home care, case management for persons with chronic mental illness, and medically dependent children's services waiver (skilled nursing care) programs. The hearing is in compliance with the provisions of Senate Bill 487, which requires a public hearing to be held for proposed reimbursement rates for medical assistance programs. The public hearing will be held on May 4, 1990, at 9 a.m. in the public hearing room, First Floor, East Tower, 701 West 51st, Austin. Interested parties may request a briefing package to be mailed to them or pick one up by contacting Carolyn A. Pratt, P.O. Box 149030, MC 182-E, Austin, Texas 78714-9030, (512) 450-4057.

Issued in Austin, Texas on April 18, 1990.

TRD-9003951 Cathy Rossberg
Agency liaison, Policy Communication
Services
Texas Department of Human Services

Filed: April 18, 1990

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

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Public Notices of Open Solicitation

Pursuant to 40 TAC §16.1513 as amended in the September 29, 1989, issue of the *Texas Register* (14 TexReg 5099), and the Human Resources Code, Title 2, Chapters 22 and 32, the Texas Department of Human Services (TDHS) is announcing the reopening of the open solicitation period for Dewitt County, County Number 062, Jackson County, County Number 120, Lee County, County Number 144, and San Jacinto County, County Number 204, identified in the November 21, 1989, issue of the *Texas Register* (14 TexReg 6144). Potential contractors desiring to construct a 90-bed nursing facility in the above referenced areas must submit a written reply (as described in 40 TAC §16.1513(1)) to TDHS, Long-Term Care Department, Provider Services Section, Mail Code 646-E, P.O. Box 149030, Austin, Texas 78714-9030. Upon receipt of a reply from a potential contractor, TDHS will place a notice in the *Texas Register* to announce the closing date of the reopened solicitation period.

Issued in Austin, Texas on April 18, 1990.

TRD-9003949 Cathy Rossberg
Agency liaison, Policy Communication
Services
Texas Department of Human Services

Filed: April 18, 1990

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

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Pursuant to 40 TAC §16.1513, as amended in the September 29, 1989, issue of the *Texas Register* (14 TexReg 5099), and the Human Resources Code, Title 2, Chapters 22 and 32, the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days, effective the date of this public notice, for the county identified below, where Medicaid contracted nursing facility occupancy rates exceed the threshold (90% occupancy) in each of five months in the continuous

September-February, six-month period. Potential contractors seeking to contract for existing beds which are currently licensed as nursing home beds or hospital beds in the county identified in this public notice must submit a written reply (as described in 40 TAC §16.1513) to TDHS, Long-Term Care Department, Provider Services Section, Mail Code 646-E, P.O. Box 149030, Austin, Texas 78714-9030. The written reply must be received by TDHS by 5 p.m. May 24, 1990, the last day of the open solicitation period.

Potential contractors will be placed on a waiting list for the primary selection process in the order in which the Texas Department of Health originally licensed the beds that are being proposed for Medicaid participation. The primary selection process will be completed on June 4, 1990. If there are insufficient available beds after the primary selection to reduce occupancy rates to less than 80%, TDHS will place a public notice in the **Texas Register** announcing an additional open solicitation period for those individuals wishing to construct a facility.

County Number	County Name	Number of Months Over	Sept	Oct	Nov	Dec	Jan	Feb
049	Cooke	5	89.4	90.5	90.6	97.1	91.4	91.4

Issued in Austin, Texas on April 18, 1990.

TRD-9003948 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: April 18, 1990

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

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State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

Application for name change by American Prepaid Dental Plan of Texas, a domestic health maintenance organization. The home office is in Dallas. The proposed new name is American Dental Plan of Texas, Inc.

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

TRD-9003864 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: April 16, 1990

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

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Notices of Public Hearing

Notice is hereby given that a hearing will be held under Docket Number 1751 before the State Board of Insurance beginning at 9 a.m. Monday, May 7, 1990, in Room 460 of the State Insurance Building at 1110 San Jacinto Boulevard in Austin. The purpose of the hearing will be consideration of subjects relating to workers' compensation insurance and rules and regulatory responsibilities of the State Board of Insurance concerning workers' compensation insurance. In particular, the board's consideration will include consideration on the following items: petition from the Texas Workers' Compensation Assigned Risk Pool to amend Rule X(b) of the Rules and Regulations Governing Pool and Servicing Companies of Assigned Risks which pertains to each member company's proportionate share of the assessment declared in accordance with the terms of Rule X(f); petition from the Texas Workers' Compensation Assigned Risk Pool

proposing that a recalculation and reallocation of the 1988 Pool calendar year deficit be permitted; petition from the staff of the Workers' Compensation Division of the State Board of Insurance proposing an amendment to the By-Laws of the Texas Workers' Compensation Assigned Risk Pool by adding Article XII pertaining to the implementation of the Small Premium Policy Plan.

Copies of these filings are available for public inspection at the office of the Chief Clerk of the State Board of Insurance in Room 406 of the State Insurance Building at 1110 San Jacinto Boulevard in Austin.

The hearing and procedure under Docket Number 1751 will be governed by the rulemaking provisions of the Rules of Practice and Procedure before the State Board of Insurance and by the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a), as modified by the Insurance Code, Article 5.96.

As particular sections of statutes and rules that may be involved in this hearing, reference is hereby made to the above-cited statutes and rules and to Articles 5.55-5.97 and other Articles of the Texas Insurance Code to the Texas Administrative Code, Title 28, Part 1, and to the manual entitled **Texas Basic Manual of Rules, Classifications and Rates for Workers' Compensation and Employers Liability Insurance, 1980 Edition**, adopted by the State Board of Insurance under the Insurance Code, Article 5.96.

Please direct inquiries relating to this hearing to Nancy Moore, Director of Workers' Compensation Insurance, Mail Code 012-2, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, (512) 322-3490.

Issued in Austin, Texas, on April 18, 1990.

TRD-9003958 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: April 18, 1990

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

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Notice is hereby given that a public hearing under Docket Number 1735 will be held before the State Board of Insurance at 9 a.m., Thursday, May 9, 1990. Agenda Item 90-1, will consider Texas commercial multi-peril experience for the purpose of possible adjustments to the

Texas Commercial Package Modification Factors and Texas Commercial Package Policy rates. The location of the hearing will be in Room 460 in the State Insurance Building at 1110 San Jacinto Boulevard, in Austin.

The State Board of Insurance has jurisdiction over the promulgation and revision of Commercial Multi-Peril rates and all other matters pertinent to the writing of Commercial Multi-Peril insurance in the State of Texas pursuant to the Insurance Code, Articles 1.02, 1.04, 5.25, 5.81, 5.81A, 5.96, and 21.49, in conjunction with Chapter 5, Subchapter C.

The Rules of Practice and Procedure before the State Board of Insurance applicable to contested cases (Texas Administrative Code, Title 28, Chapter 1, Subchapter A) and the contested case provisions of the Administrative Procedure and Texas Register Act, (Texas Civil Statutes, Article 6252-13a) will govern the procedural aspects of Agenda Item 90-1 which deals exclusively with the revision and promulgation of rates.

Reference is further made to the above-cited statutes and rules; to all Articles of the Insurance Code; to all sections of the Texas Administrative Code, Title 28, particularly to Chapter 5, Subchapters D-F; and to the General Basis Schedules adopted by the State Board of Insurance under Texas Insurance Code, Article 5.96, as particular sections of the statutes and rules which may be involved.

Please direct inquiries relating to this hearing to Gaylon Daniel, Chief Property and Casualty Actuary, Mail Code 000-2, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, (512) 475-3017

Issued in Austin, Texas, on April 18, 1990.

TRD-9003957 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: April 18, 1990

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

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Texas Racing Commission
Notice of Application Period

The Texas Racing Commission announces that on June 1, 1990-June 29, 1990, the commission will accept application documents in support of a Class I pari-mutuel racetrack license Harris County. In addition to the Class II application period running from April 1, 1990-April 30, 1990, the commission will open an additional window to accept application documents in support of a Class II pari-mutuel racetrack license beginning October 1, 1990 and running through October 30, 1990.

Under Texas Racing Commission rules, the commission may designate an application period of not more than 60 days, in which application documents for a racetrack license may be filed.

On April 9, 1990, the Texas Racing Commission's Horse Racing Section adopted a timeline for the application process and designated the period from 8 a.m., June 1, 1990-5 p.m., June 29, 1990, as the application period for a Class I racetrack license in Harris County. Any persons wishing to file an application document for a Class II racetrack license may do so April 1, 1990-April 30, 1990 or October 1, 1990-October 30, 1990.

For more information contact Lisa Gonzales, Hearings Coordinator, at (512) 476-7223. The Texas Racing Commission offices are located at the First State Bank

Building, Suite 625, 400 West 15th Austin, Texas, 78701, or write Post Office Box 12080, Austin, Texas 78711.

Issued in Austin, Texas, on April 17, 1990.

TRD-9003956 Paula Cochran Carter
General Counsel
Texas Racing Commission

Filed: April 18, 1990

For further information, please call: (512) 476-7223

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Texas Water Commission
Meeting Notice

A joint conference for all committees of the Galveston Bay National Estuary Program (GBNEP) is scheduled for: April 27-28, 1990, Key Largo Resort Hotel, 5400 Seawall, Galveston.

Specific meeting times for the separate committees at this location are as follows: Policy Committee-April 28, 1990, 4 p.m., West Ball Room; Management Committee-April 28, 1990, 8:30 a.m., Crystal Ball Room; Local Governments Advisory Committee (LGAC)-Meets jointly with Management Committee; Scientific/Technical Advisory Committee (STAC)-April 27, 1990, 1:30 p.m., East Ball Room; Citizens Advisory Steering Committee-April 27, 1990, 1:30 p.m., West Ball Room.

The purpose of this two-day workshop is to develop consensus building approaches for ongoing work conducted under the Galveston Bay National Estuary Program. Specific Committee agendas follow.

The Policy Committee will hear a summary of GBNEP activities and expenditures, and discuss and approve the Fiscal Year 1991 annual workplan/cooperative agreement. They will then approve the contract for the coastal preserves regulatory evaluation and various committee appointments.

The Management Committee and Local Governments Advisory Committee will hear a summary of GBNEP activities and expenditures and approve the Fiscal Year 1991 annual workplan/cooperative agreement. They will then approve worksopes for two projects: oyster survey, status and trends, and Bay Day coordination. The committees will then hear proposal presentations for awarding the contract for the coastal preserves regulatory evaluations project and approve recommendation of various committee appointments. The LGAC structure and function will be discussed and the shoreline survey project workplan will be reviewed and approved.

The Scientific/Technical Advisory Committee will review the Fiscal Year 1991 annual workplan/cooperative agreement and discuss the work scopes for status and trends analysis of oyster reef habitat in Galveston Bay and the photo acquisition. The Fiscal Year Characterization Study Sub-committees will present reports. The staff will report on STAC comments regarding environmental projects.

The Citizens Advisory Steering Committee will review the Fiscal Year 1991 workplan/cooperative agreement and discuss nominations of a local real estate developer for membership to the committee. The Media and Education Subcommittees will report on activities. Information will be provided on the public forum meetings. The committee will then hear reports on Bay Day, citizen's monitoring, and a staff review of current events and the 1990 budget levels.

Issued in Houston, Texas, on April 11, 1990.

Filed: April 16, 1990

For further information, please call: (713) 283-3950



Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of April 9-13, 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.

Harris County Fresh Water Supply District Number 51; Houston; Harris County Fresh Water Supply District Number 51 Sub-Regional Wastewater Treatment Facility; 14701 Woodforest Boulevard, east of Carpenter's Bayou in Harris County; 10032-01; renewal.

City of Haslet; wastewater treatment facility; 403 Keller-Haslet Road; approximately 1,500 east of the intersection of FM Road 156 and Keller-Haslet Road in Tarrant County; 10989-01; renewal.

Ronald L. Hensarling; Williamsburg, Virginia; Greenhollow Development Wastewater Treatment Facility; southern edge of Greenhollow Park Subdivision, approxi-

mately 1,500 feet east of Interstate Highway 45 and 1/2 mile north of Greens Road in Harris County; 12152-01; renewal.

City of McGregor; wastewater treatment facility; approximately 1 mile south of the City of McGregor, along the west side of State Highway 317, inside the east boundary of the North American Aviation property in McLennan County; 10219-02; renewal.

Mount Houston Road Municipal Utility District; Mount Road Municipal Utility District Plant Number 2; approximately 1.0 mile east and 0.50 mile south of the intersection of West Mount Houston Road and West Montgomery Road in Harris County; 11154-02; renewal.

City of Southlake; Southlake Bank Place Wastewater Treatment Plant; approximately 2,600 feet due west of the intersection of State Highways 26 and 114 in Tarrant County; 11736-03; renewal.

Sun Pipe Line Company; Ingleside; dikes tank farms at Ingleside Terminal; approximately five miles south of the City of Aransas Pass, at the south end of FM Road 1069, adjacent to Corpus Christi Bay, San Patricio County; 01207; renewal.

Texas Department of Criminal Justice; Sugarland; live-stock feedlot; within Coffield Unit, approximately 6.5 miles southwest of the intersection of FM Roads 321 and 645 in Anderson County 01807; amendment.

Texas Department of Criminal Justice; Sugarland; live-stock farm; within Ferguson Unit, approximately 2.0 miles east of the intersection of FM Roads 247 and 1428 in Madison County; 02380; amendment.

Texas Department of Criminal Justice; Sugarland; confined animal feeding operation; within Beto Units I and II, approximately six miles south of the intersection of FM Roads 321 and 645 in Anderson County; 02412; amendment.

Texas Department of Criminal Justice; Sugarland; dog kennels, a dairy, a swine feeder slab and a chicken operation; within the Ramsey I, II, and III Units, approximately five miles west of the intersection of FM Roads 655 and 521 in Brazoria County; 03004; new.

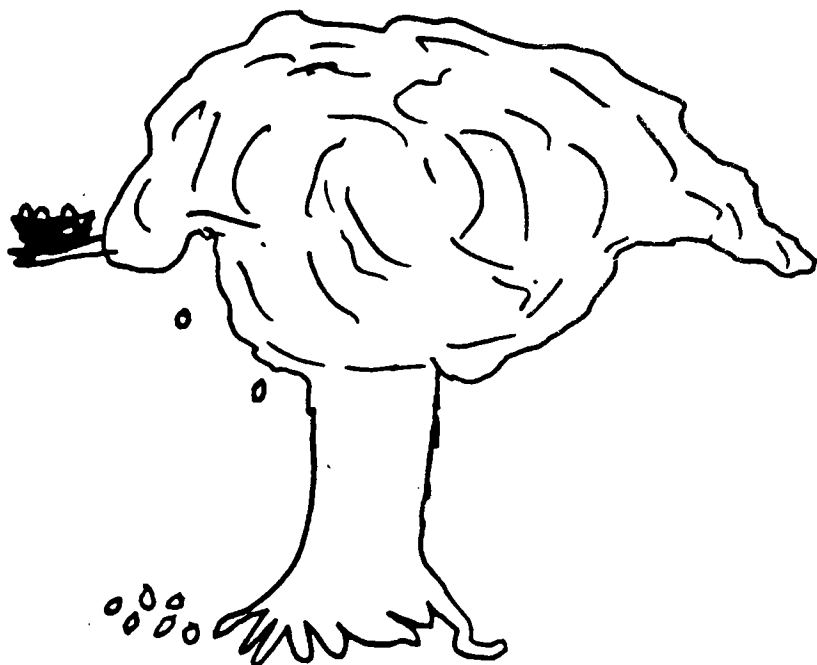
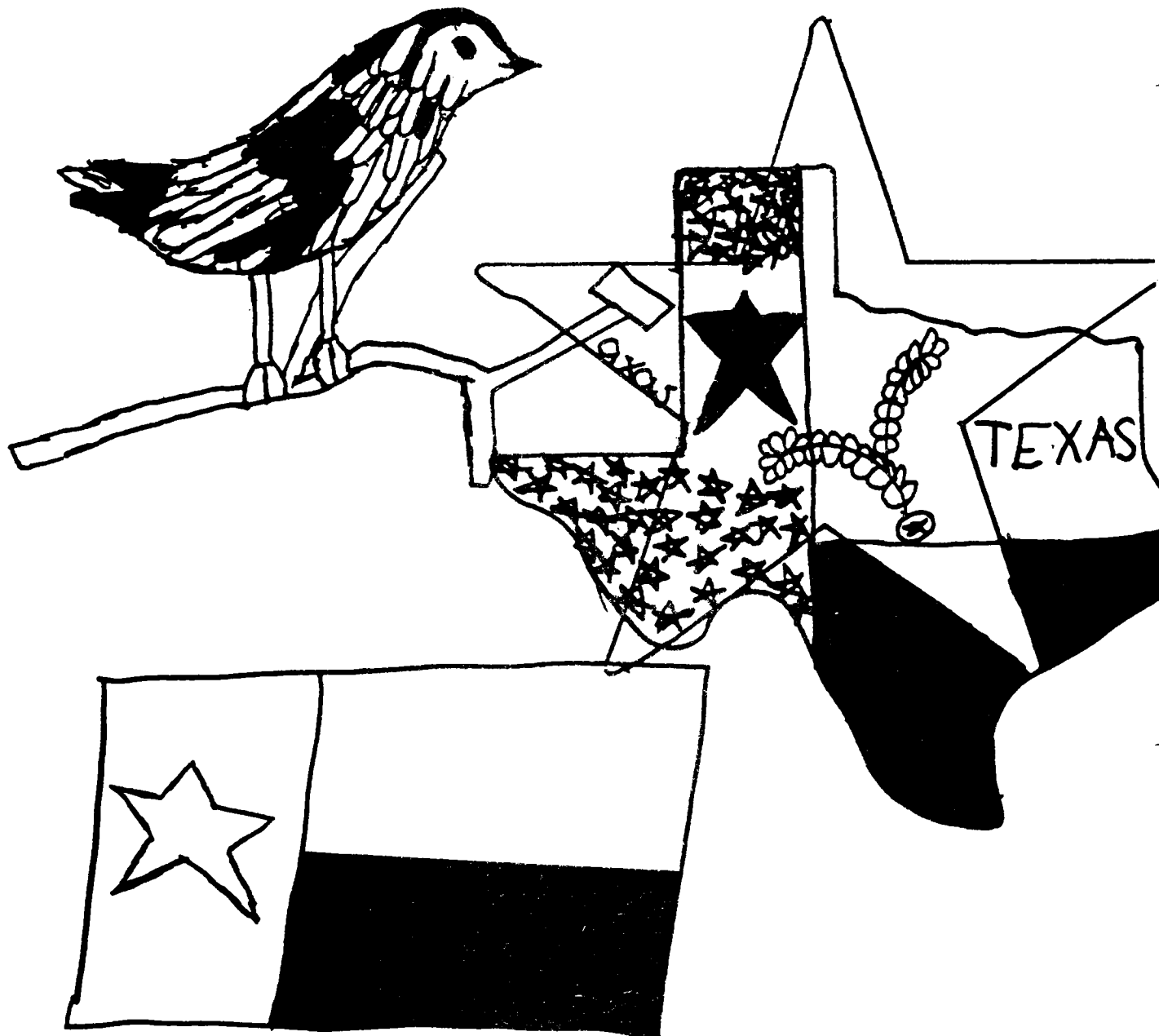
Issued in Austin, Texas, on April 16, 1990

TRD-9003872 Brenda W. Foster
Chief Clerk
Texas Water Commission

Filed: April 16, 1990

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Public Utility Commission of Texas

In response to growing public concern over the rising cost and uneven availability of utility services during the 1960's and early 70's, the 64th Legislature approved the Public Utility Regulatory Act (PURA) and established the Public Utility Commission (PUC) in 1975. The PUC, operating as a substitute for the free market forces of competition, was charged with protecting the public interest inherent in the rates and services of public utilities in Texas.

At its inception, the commission was given original jurisdiction over rates and services for radio common carriers and telecommunications services statewide and electric and water utilities in unincorporated areas. Municipally owned utilities were generally placed outside the agency's jurisdiction, in view of the regulatory authority available to local government. The PUC was given appellate jurisdiction over privately or investor owned utilities within incorporated areas.

In January 1977, the commission considered its first rate case, Docket No. 78. Southwestern Bell Telephone Company was granted \$57.8 million of a \$293.8 million rate increase request.

During the next ten years, the Legislature continued to refine the commission's regulatory authority. Radio common carriers were deregulated in 1981, based on commission reports of the increasing competitiveness of the market. In March of 1986, responsibility for water and sewer utilities was transferred to the Texas Water Commission.

In April that same year, the commission ordered Gulf States Utilities, Houston Lighting and Power, Texas Utilities Electric Company and West Texas Utilities to refund \$408.8 million in over recovered fuel costs to more than 3 million Texas households. The agency also ordered reductions in residential bills, saving consumers an additional \$350 million over the next six months. Fuel rates were lowered for most utilities on an expedited basis in response to decreasing fuel prices.

The 70th Legislature, through passage of SB 141, gave the commission authority to review and certify contracts between cogenerators and utilities. The first case to be considered under the new

statute was the certification of a cogeneration contract between Texas Utilities Electric Company and EDC One Inc. in Docket No. 7623.

1988 also saw the agency begin earnings analyses of some 20 telephone and electric companies to determine whether rates should be lowered to reflect the lower costs of service that resulted from changes in the federal and state tax laws. The commission initiated proceedings to lower the rates of four local exchange carriers and secured more than \$18 million dollars in annual rate reductions.

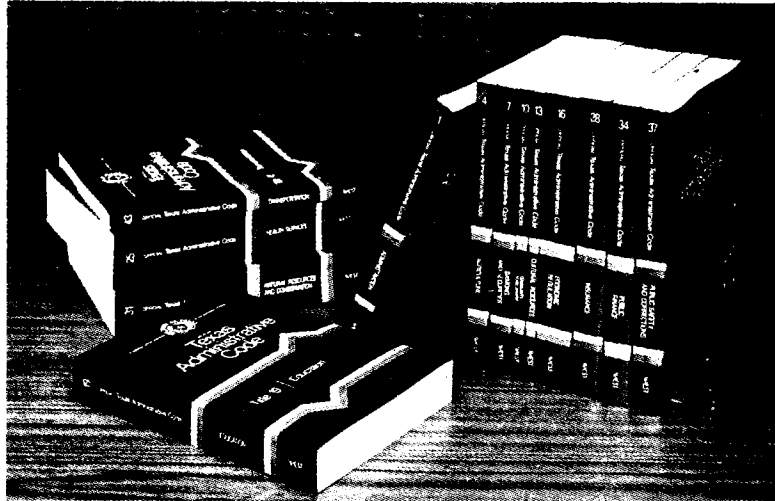
In the field of telecommunications, new technologies and the court ordered breakup of AT&T contributed to an increasingly complex and competitive market. The 70th Legislature passed landmark legislation greatly increasing the commission's authority to determine the existence, scope and impact of competition in the industry. The agency was also given responsibility for creating new rules and procedures to encourage industry development, while maintaining consumer protection and universal service as essential provisions.

Today, the commission monitors the management of all utilities, prescribing the form of books, accounts and records to be used. The agency is required to conduct management audits at least once every 10 years of every utility under its jurisdiction. It fixes methods and rates of depreciation and requires every utility to carry a proper and adequate depreciation account. The commission also evaluates utility construction plans and expenditures.

The agency controls entry into a service area by granting Certificates of Convenience and Necessity. The development and application of a methodology for fuel cost recovery is also the responsibility of the PUC. It must ensure that public utilities comply with PURA and may, through the Attorney General's Office, bring court action against violators of the statute or commission rules or orders.

The Public Utility Commission is located in Austin and may be contacted at (512) 458-0100.

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