

Texas Register

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Governor-Appointments, executive orders, and proclamations

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

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

Proposed Sections-sections proposed for adoption

Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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

Open Meetings-notices of open meetings

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

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

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

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

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

Texas Administrative Code

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

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

1 indicates the title under which the agency appears in the *Texas Administrative Code*;

TAC stands for the *Texas Administrative Code*;

§27.15 is the section number of rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).



Texas Register Publications

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Rhian Reed





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Emergency Sections

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

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

Chapter 118. Priority Care

• 37 TAC §118.1

The Texas Youth Commission adopts on an emergency basis new §118.1, concerning new classification: controlled substances dealer. The emergency amendment will allow the commission to classify appropriate youth as controlled substances dealer and assign a minimum length of stay of six months. The emergency adoption is necessary in order for the commission to retain youth as necessary for longer periods of time.

The new section is adopted on an emergency basis under the Human Resources Code, §61.034, which provides the Texas Youth Commission authority to make rules appropriate to proper accomplishment of its functions.

§118.1. New Classification: Controlled Substances Dealer.

(a) Any youth found to have engaged in a felony-level manufacture or sale offense under the Texas Controlled Substances Act will be classified as a controlled substances dealer (CSD). Controlled substances dealer youth are assigned to a facility of high restriction for a minimum stay of six months unless other circumstances warrant a classification with a longer minimum length of stay. The classifications with the longer minimum length of stay prevails.

(b) Commission of a CSD offense may be found by a court or during a Level I hearing. Parole will be revoked if a youth on parole is reclassified to CSD. If there are extenuating circumstances incident to an offense which would otherwise result in CSD classification, the youth will be classified as a non-violent offender with no minimum length of stay.

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

TRD-9004939

Ron Jackson
Executive Director
Texas Youth Commission

Effective date: June 1, 1990

Expiration date: September 29, 1990

For further information, please call: (512) 483-5244





Name: Angie Adair

Grade: 12

School: Waskom H

chool. Waskom

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 4. AGRICULTURE

Part VII. Texas

Agriculture Resources Protection Authority

Chapter 101. General Rules

Subchapter A. Routine Procedures

• 4 TAC §§101.1-101.3

The Texas Agriculture Resources Protection Authority (the authority) proposes new §§101.1-101.3, concerning routine procedures to be followed in the exercise of the general powers and duties conferred upon the authority.

The authority is the coordinating body for the policies and programs of management, regulation, and control of pesticides conducted by the Texas Department of Agriculture (the department), the State Soil and Water Conservation Board, the Texas Agricultural Extension Service, the Texas Department of Health, the Texas Water Commission, and the Texas Structural Pest Control Board under the provisions of the Texas Agriculture Code, Chapter 76, as amended by the Texas Legislature effective September 1, 1989 (the code).

Under the new code, §76.009(g)(1), the authority, with specific exceptions none of which is applicable here, is authorized to promulgate rules and regulations not inconsistent with the code as may be necessary to carry out the activities set out within the code in respect to pesticides.

These proposed regulations are intended to clarify the procedures to be followed in conducting the general routine operations of the authority under various particular provisions included in the code. The proposed regulations further define key terms found both in the law in the proposed regulations.

Proposed §101.1 opens Subchapter A titled "Routine Procedures" and defines terms used in the controlling statute, the code, §76.009, and in the proposed sections. Also incorporated are terms used in the Administrative Procedures and Texas Register Act, Article 6252-13a, Texas Civil Statutes (the Act). Many of the definitions are similar to if not identical with those used in the rules of other administrative agencies.

Proposed §101.2, relating to meetings of the authority, specifies procedures to be followed and clarifies minor procedural matters required to implement the code, §76.009(c) and (d).

Proposed §101.3 specifies the procedures to be utilized in implementing the Code, §76.009(g)(6). The provisions clarify the statutory language relating to gifts and prescribe the manner of assigning responsibility for compliance with the terms and conditions of any grant approved for acceptance by the governor.

Richard M. Lannen, legal counsel to the authority, 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. There will be no fiscal implications for local employment as a result of enforcing or administering the sections.

Mr. Lannen 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 for a more coordinated regulation of pesticide use in Texas. There will be no effect on small businesses as a result of enforcing the sections. The anticipated economic cost to persons who are required to comply with the sections as proposed will generally be legal costs associated with representation before the authority. Those costs cannot be determined at this time.

Comments on the proposal may be submitted to Richard M. Lannen, Baeza, Lannen, & Moye, First City Center-LB 48, 1700 Pacific Avenue, Dallas, Texas 75201.

The new sections are proposed under the code, §76.009, which authorizes the authority to promulgate rules and regulations, not inconsistent with the code, as may be necessary to carry out the activities set out within the code in respect to pesticides.

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

Act—Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

Authority—Agriculture Resources Protection Authority.

Code—Texas Agriculture Code.

Commissioner—The commissioner of the Texas Department of Agriculture.

Department—Texas Department of Agriculture.

Gift—Money or any other thing of value, real, personal or mixed, tangible for intangible. The term includes any devise or bequest.

Governor—The Governor of the State of Texas.

Member—

(A) the director of the Texas Agricultural Experiment Station;

(B) the dean of the College of Agricultural Sciences of Texas Tech University;

(C) the dean of The University of Texas School of Public Health at Houston;

(D) the director of the environmental epidemiology program of the Texas Department of Health;

(E) the chief of the ground-water conservation section of the Texas Water Commission;

(F) the director of the Institute for International Agribusiness Studies of Prairie View A&M University;

(G) a person appointed by the governor to represent the interests of consumers;

(H) a producer of agricultural products appointed by the governor; and

(I) the commissioner of agriculture.

Person—Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character.

Pesticide agency—The Texas Department of Agriculture, the State Soil and Water Conservation Board, the Texas Agricultural Extension Service, the Texas Department of Health, the Texas Water Commission, or the Texas Structural Pest Control Board.

Petition—A petition for adoption of a proposed rule or for repeal or amendment of an existing rule.

Petitioner—Any person who has by written petition applied for or sought the adoption of a proposed rule or the repeal or amendment of an existing rule.

Pleading—Any written petition.

answer, motion, or other written instrument filed with the authority with respect to any authorized proceeding.

Rule—Any statement of general applicability of a pesticide agency that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements relating to the management, regulation, and control of pesticides. The term includes the amendment or repeal of a prior rule which relates to the management, regulation, and control of pesticides but does not include statements concerning only the internal management or organization of any pesticide agency and not affecting private rights or procedures.

Texas Register—Official publication of the Secretary of State's Office created by the Act, §6.

§101.2. Meetings.

(a) The required quarterly meetings of the Texas Agriculture Resources Protection Authority (the authority) shall be held on the first Monday of the third month of each calendar quarter at 10 a.m. at a location designated by the commissioner for use of the authority unless a different date, hour, or place is specified by call for the regular quarterly meeting to be held alternatively at another place, date, or hour.

(b) Alternative quarterly meetings or special meetings may be called by the commissioner or by a majority of the members of the authority. A call by a majority of the members of the authority must be in writing and delivered to the commissioner at least 10 days in advance. The call shall state the time, place, and purpose of the meeting, including a proposed agenda.

(c) The commissioner, if present, shall be the presiding officer, but if he is absent or excluded by statute from participating in the discussion of the matter to be considered the other members of the authority by a majority of those present, shall designate one of themselves to be the presiding officer.

(d) Any member may cause an item to be placed on the agenda of any meeting of the authority at a sufficient time prior to the meeting to meet the notice requirements of Texas Civil Statutes, Article 6252-17.

(e) On the concurring vote of a least five members, testimony may or may not be taken on any issue before a meeting of the authority, provided, any member may authorize testimony of a resource witness to assist the authority on any issue being considered by it.

(f) The concurring vote of at least five members is required for action.

§101.3. Gifts.

(a) The Texas Agriculture Resources Protection Authority (the

authority) may accept any unconditional gift, devise, or bequest.

(b) Upon being offered a gift requiring compliance with specified terms or conditions, the authority shall submit the matter, with its recommendations, to the governor for action.

(c) The Governor's approval shall be automatically presumed unless the governor, within 60 days after the matter was submitted to him, has, in writing addressed to the authority, expressly rejected the terms or conditions of the contemplated gift.

(d) It shall be the responsibility of the authority to see to it that compliance is made with the terms or conditions applicable to any accepted gift, devise, or bequest. The responsibility may be delegated to the member representing the agency most likely to benefit from the gift.

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

Issued in Austin, Texas, on May 21, 1990.

TRD-9004978 Richard M. Lannen
Legal Counsel
Texas Agriculture
Resources Protection
Agency

Earliest possible date of adoption: June 25, 1990

For further information, please call: (214) 969-0090

Subchapter B. Special Proceedings

• 4 TAC §§101.10-101.13

The Texas Agriculture Resources Protection Authority (the authority) proposes new §§101.10-101.13 concerning special proceedings and procedures to be followed in the exercise of the general powers and duties conferred upon the authority.

The authority is the coordinating body for the policies and programs of management, regulation, and control of pesticides conducted by the Texas Department of Agriculture (the department), the State Soil and Water Conservation Board, the Texas Agricultural Extension Service, the Texas Department of Health, the Texas Water Commission, and the Texas Structural Pest Control Board under the provisions of the Texas Agriculture Code, Chapter 76, as amended by the Texas Legislature effective September 1, 1989 (the code).

Under the new code, §76.009(g)(1), the authority, with specific exceptions none of which is applicable here, is authorized to promulgate rules and regulations not inconsistent with the code as may be necessary to carry out the activities set out within the code in respect to pesticides.

These proposed regulations are intended to clarify the procedures to be followed in conducting the general operations of the

authority under various particular provisions included in the code. The proposed regulations further define key terms found both in the law in the proposed regulations.

Proposed §101.10 opens the subchapter titled "Special Proceedings." The subchapter contains provisions regulating the authority's exercise of its own rulemaking power as authorized in the code, §76.009(g)(1), as well as the statutory requirement in subsection (g)(2) that the authority review and approve or disapprove rules proposed by any one of the various agencies for which the authority is assigned the duty of acting as the coordinating body. The proposed section sets forth the purpose of the subchapter and details its implementation of procedures required by the Act.

Proposed §101.11 specifies the scope of the rules.

Proposed §101.12 specifies the procedure for rule adoption by the authority itself and clarifies and implements the Act, §5 and §11.

Proposed §101.13 specifies procedures to be followed in review of rules proposed by a pesticide agency included in the group for which the authority is the coordinating body.

Richard M. Lannen, legal counsel to the authority, has determined that for the first five-year period the proposed sections are in effect there will be fiscal implications of \$100,000 per year for state government as a result of enforcing or administering the sections. There will be no fiscal implications for local government or local employment as a result of enforcing or administering the sections.

Mr. Lannen 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 for a more coordinated regulation of pesticide use in Texas. There will be no effect on small businesses as a result of enforcing the sections. The anticipated economic cost to persons who are required to comply with the sections as proposed will generally be legal costs associated with representation before the authority. Those costs cannot be determined at this time.

Comments on the proposal may be submitted to Richard M. Lannen, Baeza, Lannen, & Moye, First City Center-LB 48, 1700 Pacific Avenue, Dallas, Texas 75201.

The new sections are proposed under the code, §76.009, which authorizes the authority to promulgate rules and regulations, not inconsistent with the code, as may be necessary to carry out the activities set out within the code in respect to pesticides.

§101.10. Purpose. The purpose of this subchapter is to provide for a simple and efficient system of procedure by establishing uniform standards of practice and procedure for proceedings before the Texas Agriculture Resources Protection Authority (the authority), thereby encouraging public participation and notice of agency actions. The authority's rules are designed to supplement procedures established by the Administrative Procedure and Texas Register Act, Article 6252-13a or other

applicable statute and therefore any statutory procedure not specifically included in this chapter shall be applicable to practice before the authority. The provisions of this chapter shall be liberally construed, with a view towards the purpose for which they were adopted.

§101.11. Scope of Rules. The provisions of this chapter shall govern the procedure for the institution, conduct, and determination of all activities delegated by statute to the Texas Agriculture Resources Protection Authority, (the authority), as well as the procedure for the adoption of all rules promulgated independently by the authority and for review of rules being considered for adoption by a pesticide agency for which the authority is the coordinating body. The rules shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers, authority, or the substantive rights of any person.

§101.12. Procedure for Adoption of Rules.

(a) All rules of Texas Agriculture Resources Protection Authority (the authority) itself, as well as of the pesticide agencies for which the authority is the coordinating body, shall be promulgated in accordance with the provisions of the Administrative Procedure and Texas Register Act, Article 6252-13a.

(b) The authority itself may adopt any rule relating to pesticides, including a rule that amends or repeals an existing rule of a pesticide agency, under the following terms and conditions.

(1) The authority may not:

(A) adopt, amend, or repeal a rule under the Code, Chapter 125;

(B) repeal a rule that was adopted by a pesticide agency and that was in effect on May 1, 1989; or

(C) amend a pesticide agency rule that was in effect on May 1, 1989, in such a manner as to make the rule less protective of public health, safety, or welfare.

(2) Any person may petition the authority for the adoption of a proposed rule of the authority or a pesticide agency, including a rule that amends or repeals an existing rule of a pesticide agency. Such petition shall:

(A) be in writing;

(B) be addressed to the authority and dated;

(C) give a brief explanation of the proposed rule;

(D) set out the precise text of the proposed rule;

(E) contain a request that the rule be adopted;

(F) be signed by the petitioner with the petitioner's mailing address set out thereunder; and

(G) set out the benefits to be derived by the public from the proposed rule.

(3) Unless it is determined that the petition should be denied in conformity with the requirements of the Act, §11, the authority shall cause the text of the proposed rule or rules, with required explanation and additional information, to be published in the *Texas Register* and provide each affected pesticide agency with a separate written notice containing the same information.

(4) All comments concerning a proposed rule submitted to the authority pursuant to the provisions of the Act, §5 shall:

(A) clearly identify the party or parties wishing the comment to be registered with the authority;

(B) concisely address the proposed rule(s) upon which comment is made; and

(C) be filed with the authority no later than 30 days from the date the proposed rule is published in the *Texas Register*.

(5) Whenever hearing on a proposed rule or rules is required by statute or deemed appropriate by the authority, at least a majority of the members of the authority shall conduct the proceeding.

(6) The authority order finally adopting a rule must meet the requirements set forth in the Act, §5(c) (1).

(7) Copies of comments and petitions for rulemaking will be timely mailed by the authority to its members.

§101.13. Procedure for Review of Pesticide Agency Rules.

(a) When a pesticide agency proposes to adopt a rule relating to pesticide regulation, a copy of the proposed rule must be sent to each member of the Texas Agriculture Resources Protection Authority (the authority) at the time the rule is submitted for publication in the *Texas Register*.

(b) As comments are received in regard to the proposed rule by the pesticide

agency, copies thereof shall be provided to the members of the authority.

(c) When the pesticide agency has completed its comment period and hearings on the proposed rule and has developed its finalized version, the finalized version of the proposed rule shall be submitted to each member of the authority along with the pesticide agency's response to the comments received by it.

(d) Within 20 days after receipt of the finalized version of the pesticide agency proposed rule, each member of the authority shall in writing to the commissioner either:

(1) state approval of the proposed rule; or

(2) state desire to review the proposed rule.

(e) If three or more members of the authority state their desire to review the proposed rule, the proposed rule may not be adopted by the pesticide agency until the authority has reviewed the proposed rule under the procedure hereinafter stated.

(f) The pesticide agency proposing the rule shall:

(1) notify each person who commented on the proposed rule that the authority will review the proposed rule; and

(2) prepare and submit to each member of the authority a written justification for the proposed rule including the pesticide agency's reasons for not following any suggestions for changes in the proposed rule made in comments received by it.

(g) Any person who commented on the proposed rule before the pesticide agency may comment in writing to the authority on the proposed rule at any time prior to final action by the authority.

(h) A meeting of the authority shall be held to consider the proposed rule within 30 days of the date the members receive the pesticide agency's written justification for the rule.

(i) The authority shall consider the proposed rule at its next quarterly meeting if a quarterly meeting is scheduled within 30 days of the receipt by the members of the pesticide agency's written justification for the rule. If a quarterly meeting is not scheduled during such period of time, the commissioner shall timely call a special meeting to consider the proposed rule within the 30-day period. The authority may take testimony on the proposed rule at its meeting if the authority so desires.

(j) At its meeting to consider the proposed rule the authority may:

(1) approve the proposed rule;

(2) disapprove the proposed rule; or

(3) postpone action on the proposed rule.

(k) No pesticide agency may adopt a proposed rule until approved by the authority under this section. No pesticide agency may change a proposed rule after the submission of the finalized version of the proposed rule to the members under subsection (c) of this section without the approval of the authority.

(1) If the proposed rule has not been finally acted upon by the authority within 90 days of the receipt of the pesticide agency's written justification, the proposed rule shall be deemed approved by the authority.

(m) If the proposed rule is approved by the authority, the pesticide agency may finally adopt the rule in conformity with the requirements of the Administrative Procedure and Texas Register Act, §5(c)(1).

(n) For the purpose of this subsection a rule may be any independent part of a set of rules proposed by a pesticide agency.

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

Issued in Austin, Texas, on May 21, 1990.

TRD-9004979
Richard M. Lannen
Legal Counsel
Texas Agriculture
Resources Protection
Agency

Earliest possible date of adoption: June 25, 1990

For further information, please call: (214) 969-0090

◆ ◆ ◆
**Chapter 105. Procedures for
Appeal**

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• 4 TAC §§105.1-105.10

The Texas Agriculture Resources Protection Authority (the authority) proposes new §§105.1-105.10, concerning the appeals procedures to be followed by aggrieved parties appealing agency decisions to the authority.

The authority is authorized to regulate the appellate procedures and to accept such appeals under the provisions of the Texas Agriculture Code, Chapter 76 (the Act), as amended by the Texas Legislature effective September 1, 1989. Amendments by the Legislature added §76.009 to the Texas Agriculture Code, creating the Agriculture Resources Protection Authority.

Under the new §76.009(g) of the Act, one of the authority's primary roles is to serve as the coordinating body for the policies and programs of management, regulation, and control of pesticides conducted by the department (Texas Department of Agriculture), the State Soil and Water Conservation Board, the Texas Agricultural Extension Service, the Texas Department of Health, the Texas Water Commission, and the Texas Structural Pest Control Board.

Under §76.009(g)(10) of the Act, the authority was given further authority to hear and determine all appeals from orders entered, by an agency for which the authority is the coordinating body, under this chapter or Chapters 75 or 125 of this code.

The proposed regulations are intended to clarify the procedure to be followed by all of the parties who will be involved in an appeal from a final determination by an agency on subject matter overseen by the authority. The proposed regulations further define key terms found both in the law and in the proposed regulations.

The proposed sections set out specific procedures to be followed by the appellants, appellees, and the authority itself when appeals are made from the agencies listed.

Proposed §105.1 states the authority's responsibility to hear and determine all appeals from final orders concerning the policies and programs of management, regulation, and control of pesticides entered by the Texas Department of Agriculture, the State Soil and Water Conservation Board, the Texas Agricultural Extension Service, the Texas Department of Health, the Texas Water Commission, and the Texas Structural Pest Control Board. Section 105.1 also provides that an agency's final order shall continue in effect and shall not be stayed pending the appeal to the Authority. The proposed section further describes the point at which the appellate process officially begins.

Proposed §105.2 specifies that an aggrieved party must file notice of intention to appeal with the authority no later than 30 days after entry of the final order by the agency involved, requires that the notice be in writing, and specifies the content of the notice that must be filed with the authority. The proposed section also requires the affected agency to prepare and submit a certified copy of the record of the case to the authority and specifies what is to be included in the record submitted.

Proposed §105.3 requires the appellant to provide all interested parties named in an action a copy of the notice of appeal and statement of position filed with the authority.

Proposed §105.4 requires that, after the notice of appeal has been received, but no later than 45 days from the date of entry of the final order by the agency, the appellee shall file a statement of position with the authority addressing the appellant's points of appeal and stating the facts and the law supporting the decision.

Proposed §105.5 defines what will be considered a "timely filing" by the authority.

Proposed §105.6 generally describes the process the authority shall follow upon receiving a notice of appeal and statement of position from an appellant.

Proposed §105.7 requires the hearing panel to convene a hearing on each appeal on their own motion or the motion of any interested party and to provide at least 10 days notice of the hearing to each interested party. The proposed section also allows the parties to present and to respond to arguments at the hearing and provides general guidelines to the hearing panels on conduct of the hearing.

Proposed §105.8 requires the hearing panel to prepare a written proposal for decision

recommending a final decision to the authority outlining the reasons for the decision being proposed. The proposed section further states that the parties must be notified of the final hearing and must be given the opportunity to file exceptions and briefs not later than 10 days before the final hearing is held.

Proposed §105.9 requires that the parties receive at least 30 days notice of the final hearing before the authority.

Proposed §105.10 requires that all final decisions of the authority shall be in writing and shall be rendered within 60 days after the hearing is closed. It also requires the parties involved to be notified by mail of the decision.

Richard M. Lannen, legal counsel to the authority, has determined that there will be fiscal implications as a result of enforcing or administering this section. The effect on state government for the first five-year period the sections are in effect will be estimated additional cost of \$50,000 in the first full year, and \$82,110 per year for the succeeding four years. For the first five-year period the proposed sections are in effect, there will be no fiscal implication for local government and no fiscal implication for local employment.

Mr. Lannen also has determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated as a result of the proposed rules is an opportunity for parties to appeal agency decisions to the authority.

The anticipated economic cost to persons who are required to comply with the sections as proposed will generally be legal costs associated with representation before the authority.

Those costs cannot be determined at this time.

Comments on the proposal may be submitted to: Richard M. Lannen, Baeza, Lannen & Moye, First City Center-LB 48, 1700 Pacific Avenue, Dallas, Texas 75201.

The new sections are proposed under the Texas Agriculture Code (the Act), §76.009, which authorizes the authority to promulgate rules and regulations not inconsistent with the Act as may be necessary to carry out the activities set out within the Act in respect to pesticides.

§105.1. Purpose.

(a) The Agriculture Resources Protection Authority shall hear and determine all appeals from final orders concerning the policies and programs of management, regulation and control of pesticides entered by the Texas Department of Agriculture, the State Soil and Water Conservation Board, the Texas Agricultural Extension Service, the Texas Department of Health, the Texas Water Commission, and the Texas Structural Pest Control Board. The Agriculture Resources Protection Authority shall not stay final orders of affected agencies during the pendency of Agriculture Resources Protection Authority appeals of those orders.

(b) The appellate process is commenced upon the filing of Appellant's Notice of Appeal and Statement of Position by an adversely affected party to an action in which a final order has been entered by the agency for which the Agriculture Resources Protection Authority is the appellate forum.

§105.2. Appellant's Notice of Appeal and Statement of Position.

(a) Notice of intention to appeal a final order entered by an agency for which the Agriculture Resources Protection Authority is the appellate forum shall be filed with the Agriculture Resources Protection Authority at its offices in Austin, not later than 30 days from the date of the entry of the final order from which the appeal is taken. Appellant's notice of appeal and statement of position must:

- (1) be in writing;
- (2) clearly and accurately identify:

(A) the agency from which the order is being appealed;

(B) the cause or file number assigned to the order by the agency from which the appeal is being taken; and

(c) the statute(s) or regulation(s) involved.

(b) Appellant's notice of appeal and statement of position shall include a statement of position setting forth in detail appellant's points of appeal and the law and facts supporting appellant's position.

(c) Upon receipt of notice of appeal, the affected agency shall prepare and transmit a certified copy of the official record of the case. The record shall include:

(1) all pleadings, motions, and intermediate rulings on file with the agency from which the appeal is being taken;

(2) all evidence received or considered by the agency from which the appeal is being taken;

(3) a statement of matters official noticed by the agency from which the appeal is being taken;

(4) questions and offers of proof, objections, and rulings made on them by the agency from which the appeal is being taken;

(5) proposed findings and exceptions made by the agency from which the appeal is being taken;

(6) any decision, opinion, or report regarding the case made by the officer presiding at the hearing held by the agency from which the appeal is being taken; and

(7) all staff memoranda and data submitted to or considered by the

hearing officer and members of the agency from which the appeal is being taken and who are involved in making the decision being appealed.

§105.3. Notice of All Interested Parties. At the time appellant's notice of appeal and statement of position is filed with the agriculture resources protection authority, appellant shall deliver by United States Certified Mail a copy of appellant's notice of appeal and statement of position to all interested parties named in the action made the basis of the appeal.

§105.4. Appellee's Statement of Position. Not later than 45 days from the date of entry of the final order being appealed, and after notice of appeal has been received, appellees shall file a statement of position with the Agriculture Resources Protection Authority. Appellee's statement of position shall address appellant's points of appeal and shall set forth in detail the facts and law supporting appellee's position.

§105.5. Timely Filing. Appellant's notice of appeal and statement of position and appellee's statement of position will be considered timely only if received by the Agriculture Resources Protection Authority at its Austin office during business hours on the last permissible day of filing. When the last day for filing is a legal holiday, or is Sunday, then the time is extended so as to include the next succeeding business day.

§105.6. Docketing. Upon timely receipt of appellant's notice of appeal and statement of position, the Agriculture Resources Protection Authority shall assign a docket number to each appeal and each appeal shall then be assigned to a hearing panel. Each hearing panel shall consist of three members of the Agriculture Resources Protection Authority. Hearings panels shall be assigned by the presiding officer of the Agriculture Resources Protection Authority pursuant to a random number generator selection process.

§105.7. Panel Hearing.

(a) On its own motion or on the motion of an interested party, the hearing panel shall convene a hearing on each appeal with not less than 10 days written notice to all interested parties.

(b) All parties may respond and present argument on all issues involved at this hearing. The hearing panel may continue a hearing from time to time and from place to place. The notice of hearing must indicate the times and places at which the hearing may be continued. If a hearing is not concluded on the day it commences, the hearing panel shall, to the extent possible, proceed with the conduct of the hearing

on each subsequent working day until the hearing is concluded.

§105.8. Proposal for Decision.

(a) After hearing argument of the parties, reviewing appellant's notice of appeals and statement of position and appellee's statement of position, each hearing panel shall prepare a written proposal for decision recommending to the Agriculture Resources Protection Authority the final decision to be rendered in each appeal.

(b) The proposal for decision shall contain a statement of the reasons for the proposed decision and each finding of fact and conclusion of law necessary to the proposed decision.

(c) The proposal for decision and notice of final hearing shall be mailed to all parties by the Agriculture Resources Protection Authority by First Class United States Mail. All parties shall be notified of the final hearing and afforded the opportunity to file exceptions and present briefs regarding the proposal for decision, not later than 10 days prior to final hearing by the Agriculture Resources Protection Authority.

§105.9. Notice of Final Hearing. All parties to an appeal shall receive not less than 30 days written notice of final hearing before the Agriculture Resources Protection Authority.

§105.10. Final Decisions. All final decisions shall be in writing and shall include findings of fact and conclusions of law. All final decisions shall be rendered within 60 days after the final hearing is closed. All parties shall be notified by mail individually or through their attorney of record of all final decisions.

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

Issued in Austin, Texas, on May 21, 1990.

TRD-9004976

Richard M. Lannen
Legal Counsel
Texas Agriculture
Resources Protection
Authority

Earliest possible date of adoption: June 25, 1990

For further information, please call: (214) 969-0090

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TITLE 16. ECONOMIC REGULATION

Part III. Texas Alcoholic Beverage Commission

Chapter 33. Licensing

• 16 TAC §33.12

The Texas Alcoholic Beverage Commission proposes new §33.12, concerning the use of caterer's permits. The new section is designed to allow review of functions which will be catered and to prevent the use of catering as a means to get around ongoing business licensing procedures.

Randy Yarbrough, assistant administrator, 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. There will be no local employment impact.

Mr. Yarbrough also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a clearer public knowledge as to who is selling and/or providing alcoholic beverages at catered functions and to allow the commission, as well as other law enforcement authorities to know who is providing alcoholic beverages and under what authority they are being provided at catered functions. 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 Joe Darnall, General Counsel or Randy Yarbrough, Assistant Administrator, P.O. Box 13127, Austin, Texas 78711-3127.

The new section is proposed under the Texas Alcoholic Beverage Code, §5.31, which authorizes the Texas Alcoholic Beverage Commission to promulgate rules regulating the sale and promotion of alcoholic beverages by licensed establishments and §31.03(b) which requires the Texas Alcoholic Beverage Commission to promulgate rules and regulations governing the application for and the issuance and use of caterer's permits.

§33.12. Use of Caterer's Permits.

(a) Authority and applicability. This rule is promulgated under the authority of Alcoholic Beverage Code, §31.03(b), and in the absence of specific statutory authority to the contrary, regulates the activities of holders of mixed beverage permits who also hold caterer's permits issued in conformity with the Code, Chapter 31.

(b) Designated areas. The holder of a caterer's permit, or his designated representative, shall complete a form (in duplicate), provided by the commission, prior to the use of the permit. The forms shall include the following information:

- (1) the caterer's permit number;
- (2) the tradename of the mixed beverage permit associated with the caterer's permit.

(3) the location of the function(s) to be catered;

(4) the date(s) and time(s) of the function(s) to be catered;

(5) a brief description of the function to be catered. The original of the form shall be signed by a representative of the commission and shall be left with the commission at either a district office, an outpost office, or with a local agent or employee authorized to issue such forms. The copy of the form shall be placed in a conspicuous place at the location of the catered function during the time that the function is being catered.

(c) Use in connection with pending application. Only under the following circumstances may the holder of a caterer's permit utilize that authority to provide service of alcoholic beverages at a location which has been designed as the licensed premises in a pending application for a permit or license allowing the sale of alcoholic beverages for on-premise consumption:

(1) there has been no protest filed by the commission, any local authorities or groups of citizens against the granting of the pending application;

(2) the commission's district office must have determined that the license or permit application for the proposed location has been completed and that all fees and securities, if applicable, have been paid, and the district office clearance report must have been finalized and sent to the licensing division at the state headquarters;

(3) the caterer's permit may be used for no more than 10 days, counting the day of the first catered event, unless the administrator or his designated representative, on the basis of a case by case review of the specific situation, grants an extension of time;

(4) regardless of the number of days on which the caterer's permit has been used, the right to use that permit terminates when the commission either issues an order denying the previously pending application or issues to the applicant the license or permit for which application has been made.

(d) Suspension. No holder of a caterer's permit shall utilize that authority to provide service of alcoholic beverages on the licensed premises of any person or entity whose permit or license for that location has been suspended by commission administrative action.

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

Issued in Austin, Texas, on May 21, 1990.

TRD-9004997

Joe Darnall
General Counsel
Texas Alcoholic Beverage
Commission

Earliest possible date of adoption: June 25, 1990

For further information, please call: (512) 458-2500

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 1. Texas Board of Health

Procedures and Policies

• 25 TAC §1.9

The Texas Department of Health proposes an amendment to §1.9, concerning procedures and policies of the Board of Health. The section covers actions requiring Board of Health approval. The amendment will update and clarify titles of appointments made by the commissioner of health and approved by the Board of Health. Specifically, the titles of some of the appointments will be changed and one title will be deleted.

Robert A. MacLean, M.D., Deputy Commissioner for Professional Services, Texas Department of Health, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications to state or local government as a result of enforcing and administering the section. There will be no impact on local employment.

Dr. MacLean also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to improve the operation and efficiency of department management. 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 may be submitted to Robert A. MacLean, M.D., Deputy Commissioner for Professional Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78757. Comments will be accepted for 30 days following publication of this proposal in the *Texas Register*.

The amendment is proposed under the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for its procedure.

§1.9. Actions Requiring Board Approval.

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

(c) Other appointments. Of those appointments made by the commissioner, the board shall approve the following:

(1) deputy commissioner [for professional services];

(2) assistant deputy commissioner for [management and] administration;

(3) associate commissioner for support services;]

(3)(4) associate commissioner for community and rural health;

(4)(5) associate commissioner for family health services [personal health services];

(5)(6) associate commissioner for disease prevention [preventable diseases];

(6)(7) associate commissioner for special health services;

(7)(8) associate commissioner for environmental and consumer health protection;

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

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

Issued in Austin, Texas on May 21, 1990.

TRD-9005006 Robert A. MacLean, M.D.
Deputy Commissioner for
Professional Services
Texas Department of
Health

Earliest possible date of adoption: June 30, 1990

For further information, please call: (512) 458-7378

TITLE 31. NATURAL RESOURCES AND CON- SERVATION

Part IX. Texas Water Commission

Chapter 291. Water Rates

Subchapter A. General Provisions

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

The Texas Water Commission (commission) proposes the repeal of §§291. 1-291.14, 291.21-291.32, 291.41-291.44, 291.71-291.75, 291.81-291.89, 291.91-291.95, 291.101-291.117, and 291.121-291.126, concerning the regulation of the business of retail public utilities to assure rates, fees, operations, and services that are just and reasonable to the consumers and to the utilities and concerning the submetering of utility service. On December 20, 1989, the commission adopted on an emergency basis new §§291.1-291.16, 291.21-291.32, 291.41-291.45, 291.71-291.76, 291.81-291.89, 291.91-291.95, 291.102-291.118, and 291.121-291.127, which were published in the December 26, 1989, issue of the *Texas Register* (14 TexReg 6824). The existing emergency sections will expire on June 12, 1990. The

repeal of these sections is necessary to allow for the adoption of the new sections. The new proposed sections are the same as the emergency sections published in the December 26, 1989, issue of *Texas Register* (14 TexReg 6824), with some changes as specifically set out in the May 15, 1990, issue of the *Texas Register* (15 TexReg 2723). These changes are proposed to clarify certain ambiguities, correct omissions, and revise several provisions to facilitate regulatory compliance.

The repealed sections are proposed in response to House Bill 1808, 71st Legislature, 1989, which, in pertinent part, amended the Texas Water Code, Chapter 13.

Roger G. Bourdeau, chief fiscal officer, has determined that for the first five-year period the proposed repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Bourdeau also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be improvement in the regulation of water utility services and enforcement of the provisions of the Texas Water Code and regulations of the Texas Water Commission. The effect on small businesses as a result of enforcing the repeals will vary with specific circumstances and cannot be anticipated at this time. The effect will be to improve ability to recover operating costs from service users through higher fees on late payments and contributions for extension of service in more sparsely populated areas. Some costs due to reporting requirements for facilities which have reached the Texas Department of Health capacity limits may result, but these are anticipated to be minimal. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

• 31 TAC §§291.1-291.14

The repeals are proposed under House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 13, and the Texas Water Code, §§5.103, 5.105, and 13.041, which provides the commission with rulemaking authority relating to the regulation and supervision of retail public utilities' rates, fees, operations, and services.

§291.1. Purpose and Scope of this Chapter.

§291.2. Severability Clause.

§291.3. Definitions of Terms.

§291.4. Cooperative Corporation Rebates.

§291.5. Filing of Documents.

§291.6. Signatories to Applications.

§291.7. Filing Fees.

§291.8. Administrative Completeness.

§291.9. Agreements to be in Writing.

§291.10. Request for Public Hearing.

§291.11. Informal Proceedings.

§291.12. Burden of Proof.

§291.13. Record of Proceeding; Right to Hearing.

§291.14. Emergency Orders.

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

Issued in Austin, Texas on May 21, 1990.

TRD-9005021 Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: June 25, 1990

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

Subchapter B. Utility Rates, Rate Making, and Rate/Tar- iff Changes

• 31 TAC §§291.21-291.32

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

The repeals are proposed under House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 13, and the Texas Water Code, §§5.103, 5.105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities' rates, fees, operations, and services.

§291.21. Form and Filing of Tariffs.

§291.22. Applicant's Notice of Intent to Change Rates.

§291.23. Time Between Filings.

§291.24. Jurisdiction over Affiliated Interests.

§291.25. Rate Change Applications, Testimony, and Exhibits.

§291.26. Suspension of Rates.

§291.27. Request for a Review of a Rate Change Pursuant to the Texas Water Code, §13.187(b).

§291.28. *Action on Notice of Rate Change Pursuant to the Texas Water Code, §13.187(b).*

§291.29. *Interim Rates.*

§291.30. *Escrow of Proceeds Received Under Rate Increase.*

§291.31. *Cost of Service.*

§291.32. *Rate Design.*

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

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TRD-9005020 Jim Haley
Director, Legal Division
Texas Water Commission

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

Subchapter C. Ratemaking Appeals

• 31 TAC §§291.41-291.44

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

The repeals are proposed under House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 13, and the Texas Water Code, §§5.103, 5.105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities' rates, fees, operations, and services.

§291.41. *Appeal of Ratemaking Pursuant to the Texas Water Code, §13.043.*

§291.42. *Contents of Petition Seeking Review of Rates Pursuant to the Texas Water Code, §13.043(b).*

§291.43. *Refunds During Pendency of Appeal.*

§291.44. *Contents of Pleading Seeking Review of Rates for Sales of Water Under the Texas Water Code, §§11.036-11.041 and 12.013.*

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

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Subchapter D. Records and Reports

• 31 TAC §§291.71-291.75

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

The repeals are proposed under House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 13, and the Texas Water Code, §§5.103, 5.105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities' rates, fees, operations, and services.

§291.71. *General Reports.*

§291.72. *Financial Records and Reports—Uniform System of Accounts.*

§291.73. *Water and Sewer Utilities Annual Reports.*

§291.74. *Duplicate Information.*

§291.75. *Maintenance and Location of Records.*

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

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Subchapter E. Customer Service and Protection

• 31 TAC §§291.81-291.89

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

The repeals are proposed under House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 13, and the Texas Water Code, §§5.103, 5.105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities' rates, fees, operations, and services.

§291.81. *Customer Relations.*

§291.82. *Resolution of Disputes.*

§291.83. *Refusal of Service.*

§291.84. *Applicant and Customer Deposit.*

§291.85. *New Construction.*

§291.86. *Billing.*

§291.87. *Discontinuance of Service.*

§291.88. *Meters.*

§291.89. *Continuity of Service.*

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

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Subchapter F. Quality of Service

• 31 TAC §§291.91-291.95

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

The repeals are proposed under House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 13, and the Texas Water Code, §§5.103, 5.105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities' rates, fees, operations, and services.

§291.91. *Applicability.*

§291.92. *Requirements by Others.*

§291.93. *Water Utilities and Water Supply Corporations.*

§291.94. *Sewer Utilities and Sewer Service Corporations.*

§291.95. *Standards of Construction.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and

found to be within the agency's authority to adopt.

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◆ ◆ ◆
Subchapter G. Certificates of Convenience and Necessity

◆ ◆ ◆
• 31 TAC §§291.101-291.117

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

The repeals are proposed under House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 13, and the Texas Water Code, §§5.103, 5.105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities' rates, fees, operations, and services.

§291.101. *Definitions of Terms.*

§291.102. *Certificate Required.*

§291.103. *Exceptions for Extension of Service.*

§291.104. *Applicant.*

§291.105. *Certificates or Amendments for New Service Areas and Facilities.*

§291.106. *Contents of Certificate of Convenience and Necessity Applications.*

§291.107. *Notice for Applications for Certificates of Convenience and Necessity.*

§291.108. *Action on Applications.*

§291.109. *Corrections to Certificates of Convenience and Necessity.*

§291.110. *Report of Sale, Merger, or Consolidation.*

§291.111. *Transfer of Certificate of Convenience and Necessity.*

§291.112. *Revocation or Amendment of Certificate.*

§291.113. *Requirement to Provide Continuous and Adequate Service.*

◆ ◆ ◆
§291.114. *Cessation of Operations by a Retail Public Utility.*

◆ ◆ ◆
§291.115. *Exclusiveness of Certificates.*

◆ ◆ ◆
§291.116. *Contracts Valid and Enforceable.*

◆ ◆ ◆
§291.117. *Consents of Request for Commission Order Under the Texas Water Code, §13.252.*

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

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◆ ◆ ◆
Subchapter H. Utility Submetering

◆ ◆ ◆
• 31 TAC §§291.121-291.126

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

The repeals are proposed under House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 13, and the Texas Water Code, §§5.103, 5.105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities' rates, fees, operations, and services.

§291.121. *General Rules.*

§291.122. *Definitions.*

§291.123. *Records and Reports.*

§291.124. *Billing.*

§291.125. *Discontinuance of Service.*

§291.126. *Submeters.*

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

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◆ ◆ ◆
Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

◆ ◆ ◆
Subchapter J. Hazardous Waste Generation, Facility, and Disposal Fees System

◆ ◆ ◆
• 31 TAC §§335.321-335.323, 335.326-335.333

The Texas Water Commission proposes the amendments to §§335.321-335.323, repeal of §§335.326-335.332, and new §§335.326-335.333, concerning hazardous waste generation, facility, and disposal fees system. The Texas Water Commission is authorized under the Texas Solid Waste Disposal Act, Texas Health and Safety Code Annotated, Chapter 361 (Vernon Supplement 1990) to establish a hazardous waste generation, facility, and disposal fee program to support the state's costs of hazardous waste regulation. Senate Bill 1544, Acts of the 71st Legislature, (1989), amends the Texas Solid Waste Disposal Act to require the commission to impose a fee on the operator of a commercial hazardous waste storage, processing, or disposal facility for the hazardous wastes received and managed at that facility for a charge. The commercial facility fee is to be assessed in addition to any fee currently authorized by the Solid Waste Disposal Act and this subchapter under the Hazardous Waste Fee Program. The commission is authorized to establish a schedule for commercial facility fees and revise rates as necessary to meet the requirements of Senate Bill 1544. In establishing hazardous waste fees, including commercial hazardous waste fee rates, the commission shall consider the following: risks to the public of various waste management methods; promotion of reclamation, recycling, and reuse of wastes; promotion of the public policy of preferred waste management methods, particularly for wastes which are amenable to more than one method of disposition; promotion of the efficient use of existing hazardous waste storage, processing, and disposal facility capacity within the state; and the funding necessary to adequately support the regulation of industrial solid waste and hazardous waste activities.

Wastes which are received from out-of-state generators may be charged an incremental fee in addition to that assessed for wastes from in-state generators. This incremental fee shall be established based on: the added costs to the state of regulating the interstate transport and subsequent management and disposal of imported hazardous wastes; similar fees that may be assessed in the state of origin of a hazardous waste; and the contributions in fees and taxes that are paid by generators in this state to support the state's hazardous waste regulatory programs.

The commission is authorized to establish a separate fee for the storage, processing, incineration, and disposal of hazardous waste fuels. A hazardous waste fuel is defined for the purposes of fee assessment as a

hazardous waste or a blend of hazardous wastes which is burned for energy recovery, is not subject to regulation under 40 Code of Federal Regulations, Part 264, Subpart O (relating to incinerators) and which meets certain criteria, including BTU value, ash content, and elemental composition. The fee for waste fuels shall be the same for those wastes generated in state and out of state. For hazardous wastes which are legitimately reclaimed, reused or recycled at a commercial hazardous waste storage, processing, or disposal facility, the fee shall also be the same for wastes generated in state and out of state.

No commercial facility fee shall be imposed on the operator of a commercial hazardous waste storage, processing, or disposal facility for hazardous wastes which are generated in this state by an affiliate or wholly owned subsidiary, provided that the commercial facility handles solely wastes which are generated onsite or by an affiliate or wholly owned subsidiary. A fee shall not be imposed on the operator of a commercial hazardous waste storage, processing, or disposal facility for the storage of wastes which are received from off-site generators, provided such wastes are stored for less than 60 days. A commercial facility fee shall not be imposed under this subchapter on the operation of a wastewater treatment facility permitted under the Water Code, Chapter 26.

Also, no additional commercial facility fee will be assessed for the on-site disposition of wastes generated by a commercial facility in the form of residuals which result from the normal process of incineration or waste treatment. Certain aqueous wastes, which contain 1.0% or less of total organic carbon, will qualify for a fee of 10% of the scheduled rate if they are incinerated.

A captured facility is defined as a manufacturing operation which shares in the use of integrated waste management units owned by and located within a contiguous commercial storage, processing, or disposal facility. No commercial fee would be imposed on the operator of such a commercial facility receiving wastes from a captured facility, provided it is not receiving wastes subject to assessment under proposed §335.326 from any facility which does not qualify as a captured facility.

The commercial hazardous waste fees proposed are based on the total weight of the waste except for those wastes disposed of in underground injection wells, in which case the fee is based on the dry weight. Dry weight is the basis for fee assessment for the on-site hazardous waste land disposal fees currently authorized by the Texas Solid Waste Disposal Act as part of the commission's hazardous waste fee program and is defined in this subchapter. Senate Bill 1544 authorizes a maximum commercial hazardous waste fee, for wastes generated in state, of \$20 per ton, which applies to wastes which are landfilled. The fees established for other methods of waste management are to be at lesser amounts and based on the factors identified previously. It is proposed that commercial fees be assessed on all hazardous wastes subject to the provisions of this section which are received, or in storage, at commercial facilities on or after July 1, 1990.

The proposed fee rate structure supports the public policy for preferred waste management methods in the Texas Solid Waste Disposal

Act and the specific criteria of Senate Bill 1544. The highest authorized fee is assessed for landfilling of hazardous waste and the lowest for those activities of greatest preference, such as recycling. In determining the incremental fee for wastes imported into the state, the major factors considered were the costs of regulating imported hazardous waste and the revenue which generators in this state currently contribute to the costs of the state's regulatory programs through fees and taxes which out-of-state generators do not pay. Under the current generation fee structure authorized in this subchapter, the annual cost per unit of waste for each generator may vary considerably with the volume generated and where the reported volume falls within a particular bracket of the rate schedule. The median cost per year to a generator, however, is approximately \$10 per ton. The incremental fees for imported wastes approach, but do not exceed, this value. While the proposal for an incremental fee for imported wastes is related to the recovery of regulatory program costs, where the fee for a particular waste management activity in the state of origin is higher than that proposed for this state, then the higher fee would be charged.

The disposition of revenue collected from commercial hazardous waste storage, processing, or disposal facilities shall be as follows. One-quarter (25%) is to be deposited to the hazardous waste generation and facility fee fund to supplement existing fees from hazardous waste generators and facilities which are used to support the commission's hazardous waste regulatory program. One-quarter (25%) is to be deposited to the hazardous waste generation and facility fee fund and subsequently distributed by the commission to the county in which the commercial facility paying the fee is located. These funds will be available to the county to assist in defraying costs to local government associated with commercial hazardous waste management facilities. Upon receipt and verification of payment, the commission shall distribute funds to the affected county. One-half (50%) is to be deposited to the hazardous waste disposal fee fund to supplement existing fees from on-site hazardous waste land disposal which support both the federal and state superfund programs for the remediation of abandoned waste disposal sites.

Beyond authorization of commercial hazardous waste fees, Senate Bill 1544 further requires that the commission report to the legislature in January of 1991 with an evaluation of the Commercial Hazardous Waste Fee Program which is proposed and the additional fees presently authorized under the Solid Waste Disposal Act and this subchapter. Consideration is to be given to the revenue generated by existing and proposed fee programs, the equity of the cumulative effects of the various assessments and any recommendations for adjustments to fee schedules or amendments to legislative authority. It is the intent of the commission that the commercial hazardous waste fees which are proposed be adopted consistent with the provisions of Senate Bill 1544 and that needed revisions to the program, which may be identified during implementation and administration, should be addressed in the commission's report in January of 1991.

In addition to implementing new authority for assessment of commercial facility fees, the commission also proposes broadening the

current exemption for assessment of generation fees, consistent with the criteria of Senate Bill 1544 for setting fee rates, and the public policies for preferential methods of waste management. Currently, wastes which are hazardous solely due to the characteristic of corrosivity and which are neutralized on site are exempt from generation fee assessment. The proposal would broaden the current exemption to apply to any wastewater stream containing a characteristic hazardous waste which is treated on site to destroy hazardous characteristics.

Minor changes to procedural requirements are proposed to improve the assessment and collection of fees. Provisions which establish due dates for payment of existing generation, facility and land disposal fees are amended to clarify that the commission shall establish a due date upon distribution of an invoice requesting payment. This change is consistent with the commission's consolidation and automation of agency accounts receivable functions and will insure that the agency's accounting and related data processing activities for fee revenue programs can be coordinated more efficiently. Payment of proposed commercial facility fees will be made monthly by a facility operator and is due within 25 days of the end of each month for which payment is due.

Section 335.321, relating to purpose, is amended to reflect the broader application of the subchapter to include commercial hazardous waste facility fees in addition to fees currently authorized for hazardous waste generators, facilities, and onsite land disposal operations. The authority for distribution of new revenue sources to the existing hazardous waste fee funds is incorporated.

Section 335.322, relating to definitions, is amended to include the terms "captured facility", "commercial hazardous waste storage, processing, and disposal facility" and "hazardous waste fuel" for the purpose of assessment of commercial fees authorized under Senate Bill 1544.

Section 335.323, relating to hazardous waste generation fee assessment, is amended to incorporate a broader exemption which will preclude generation fee assessment on those wastes which are components of wastewater streams which are treated or processed on site to destroy hazardous characteristics.

New §335.326, relating to commercial fee assessment, establishes the hazardous waste commercial facility fee schedule as required by Senate Bill 1544, Acts of the 71st Legislature (1989). The basis for fee assessment is established, including exemptions for wastes which are generated by affiliates and subsidiaries or captured facilities, stored for less than 60 days, or processed in permitted wastewater treatment facilities. A fee of \$18 per ton, for wastes generated in this state which are landfilled, is authorized as are incremental fees for wastes which are imported to this state for processing or disposition. Fees for the processing of hazardous waste fuels are established.

New §335.327, relating to dry weight determination, establishes the method of calculating the dry weight of each hazardous waste stream. It is the responsibility of each generator of hazardous waste to provide a certificate of computation to the operator of a

land disposal facility concerning the dry weight of the hazardous waste to be disposed.

New §335.328, relating to alternate methods of dry weight determination, provides, as required by the Texas Solid Waste Disposal Act, §361.136(e), a method of determining or estimating the dry weight of small volumes of hazardous waste for which the costs of analyzing the waste to determine dry weight are disproportionate to the fee assessed. In addition, a procedure has been established under which generators may petition the executive director for the use of an alternate method of dry weight determination other than those specified in the proposed rule.

New §335.329, relating to fees payment, establishes the procedures and schedules for payment of fees. Fees must be paid by check, certified check, or money order payable to the Texas Water Commission. Except for commercial hazardous waste fees, the actual due dates will be established at the time that invoices are distributed requesting payments. Commercial hazardous waste fee assessments are to be determined by the operator of a commercial facility by applying the current rate schedule, and appropriate adjustments authorized under §335.326, to the reported volumes of waste received and processed. Payment of commercial fees will be due by the 25th day following the end of each month.

New §335.330, relating to records and reports, requires all generators to keep records and report the amount of hazardous waste they generate and the dry weight amount of each hazardous waste which is to be deposited in a land disposal facility. This section requires operators of off-site or commercial storage, processing, and disposal facilities to keep records of the amount of each hazardous waste received and its disposition, including the dry weight amount of each hazardous waste disposed in each land disposal unit. Also, operators of commercial hazardous waste storage, processing, and disposal facilities are required to maintain records to document the basis of any commercial facility fee assessment as determined by the operator, including applicable out-of-state fee rates and allowable exemptions or adjustments. Generators and operators are to retain these records for a period of three years.

New §335.331, relating to cancellation, revocation, and transfer, addresses the responsibility and requirements for facility fee payments by operators of hazardous waste management facilities the permits and/or authority for which are canceled, revoked, or terminated, whether by voluntary action or as a result of involuntary proceedings initiated by the commission. In addition, this section addresses the issue of liability for nonpayment of any fee when a change in ownership of the facility occurs.

New §335.332, relating to failure to make payment or report, establishes provisions for enforcement of this subchapter. Penalties for failure to make payment include interest charges of 15% (annual rate). Failure to report activities as required under this subchapter is subject to administrative penalties of \$100 per day for each day the violation occurs.

New §335.333, relating to Appendices I and II, outlines the methods to be used to determine the dry weight of a hazardous waste as required under proposed §335.327.

Roger G. Bourdeau, chief fiscal officer, has determined that for the first five-year period the proposed sections are in effect there will be fiscal implications as a result of compliance with and enforcement of these sections. The effect on state government will be an increase in revenue of approximately \$750,000 in fiscal year 1990 and \$2,750,000 annually in each of the fiscal years 1991-1994. Increased costs to the state, to administer these provisions will be approximately \$17,500 in each of the fiscal years 1990-1994. The effect on local government will be an increase in revenue of approximately \$250,000 in fiscal year 1990 and \$1 million in each of the fiscal years 1991-1994. These sections as proposed will have fiscal impacts on small businesses. Those businesses which generate hazardous wastes which are transported to commercial waste management facilities would presumably be assessed service charges which would increase to recover the increased costs of the commercial facility. The maximum cost to all businesses would be approximately \$4 million per year. The percentage of this cost which would be borne by small businesses cannot be determined accurately, but is not anticipated to exceed 50%, or \$2 million annually.

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 improvements in the state's hazardous waste regulatory programs, increased funding for federal and state remediation efforts at abandoned disposal sites, more effective use of the capacity of existing hazardous waste management facilities in this state, and increased resources available to local governments with which to address the impacts of commercial hazardous waste management facilities on local jurisdictions. 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 Stephen Minick, Fiscal Services Section, P.O. Box 13087, Austin, Texas 78711. The deadline for submission of comments will be 30 days after the date of publication in the *Texas Register*.

The amendments and new sections are proposed under the Texas Solid Waste Disposal Act, Texas Health and Safety Code, Annotated Chapter 361 (Vernon Supplement 1990), as amended by Senate Bill 1544, Acts of the 71st Legislature (1989), which provides the Texas Water Commission with the authority to establish a hazardous waste fee program and to implement fee assessments for the commercial management of hazardous wastes.

§335.321. Purpose.

(a) It is the purpose of this subchapter to establish a hazardous waste fee program [generation, facility, and disposal fees system]. Under this program the following fees are imposed:

(1) an annual fee [is imposed] on each hazardous waste generator; [and]

(2) an annual fee on each facility which either holds a hazardous waste permit or operates hazardous waste management units subject to permit authorization; [.]

(3) [In addition] a quarterly fee on each operator of an on-site land disposal facility for [shall be imposed on] each dry weight ton of hazardous waste deposited in a land disposal unit; [facility.]

(4) a fee on the operator of a commercial hazardous waste storage, processing, or disposal facility for hazardous waste which is generated by generators and received by such commercial facility;

(5) the commercial hazardous waste facility fee in addition to any other fee authorized under this subchapter.

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

(d) Commercial hazardous waste fees collected under this subchapter shall be credited to the funds of the state as follows.

(1) One quarter, or 25% of the commercial hazardous waste facility fee shall be credited to the hazardous waste generation and facility fees fund.

(2) One quarter, or 25%, of the commercial hazardous waste facility fee shall be credited to the hazardous waste generation and facility fees fund to be distributed to the county in which the facility paying the fee is located. Funds due the affected county shall be paid by the commission within 60 days of the receipt and verification of payments from a commercial hazardous waste facility in the county.

(3) One half, or 50%, of the commercial hazardous waste fee shall be credited to the hazardous waste disposal fee fund.

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

Captured facility—A manufacturing or production facility which generates hazardous waste which is routinely stored, processed, or disposed, on a shared basis, in an integrated waste management unit owned and operated by and located within a continuous manufacturing facility.

Commercial hazardous waste storage, processing, and disposal facility—Any facility which accepts a hazardous waste for storage, processing (including incineration) or disposal from an off-site generator for a charge.

Hazardous waste fuel—A hazardous waste or blend of hazardous

wastes burned for energy recovery which, for the purposes of assessment of fees under this section, is not subject to

regulation under 40 Code of Federal Regulations, Part 264, (or Part 265) Subpart 0, relating to incinerators, and

which is consistent with the following specifications:

<u>Component</u>	<u>Constraint</u>	
<u>Btu content</u>	<u>9000 Btu/lb</u>	<u>minimum</u>
<u>Chlorine</u>	<u>5%</u>	<u>maximum</u>
<u>Sulfur</u>	<u>2%</u>	<u>maximum</u>
<u>Ash</u>	<u>10%</u>	<u>maximum</u>
<u>Lead</u>	<u>1000 ppm</u>	<u>maximum</u>
<u>Zinc</u>	<u>1500 ppm</u>	<u>maximum</u>
<u>Mercury</u>	<u>1.7 ppm</u>	<u>maximum</u>
<u>Arsenic</u>	<u>40 ppm</u>	<u>maximum</u>
<u>Barium</u>	<u>800 ppm</u>	<u>maximum</u>
<u>Chromium</u>	<u>800 ppm</u>	<u>maximum</u>
<u>Cadmium</u>	<u>800 ppm</u>	<u>maximum</u>
<u>Selenium</u>	<u>8 ppm</u>	<u>maximum</u>
<u>Silver</u>	<u>40 ppm</u>	<u>maximum</u>

§335.323. Hazardous Waste Generation Fee Assessment.

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

(c) **Wastewaters** containing hazardous wastes which are designated as hazardous solely because they exhibit [the] hazardous characteristic [of corrosivity] as defined in 40 Code of Federal Regulations, Part 261, Subpart C, relating to characteristics of hazardous waste [§261.22] and are neutralized or otherwise treated onsite in totally enclosed treatment facilities or wastewater treatment units for which no permit is required under §335.2 of this title (relating to Permit Required) or §335.41 of this title (relating to Purpose, Scope, and Applicability) are exempt from the assessment of hazardous waste generation fees. This exemption from fee assessment in no way limits a generator's obligation to report such waste generation or waste management activity under any applicable provision of this chapter.

(d)-(e) (No change.)

§335.326. Commercial Fee Assessment.

(a) A fee is hereby assessed on each operator of a commercial hazardous waste storage, processing, or disposal

facility, except as provided in subsections (b)-(e) of this section, for hazardous wastes received after July 1, 1990.

(b) A fee shall not be imposed on the operator of a commercial hazardous waste storage, processing, or disposal facility for hazardous wastes which are generated in this state and received from an affiliate or wholly owned subsidiary of the commercial facility, provided that said commercial facility handles solely industrial solid wastes generated either on site or by an affiliate or wholly owned subsidiary. For the purpose of this section, an affiliate of a commercial hazardous waste facility must have a controlling interest in common with that facility.

(c) A fee shall not be imposed on the operator of a commercial hazardous waste storage, processing, or disposal facility for wastes received from a captured facility, defined under §335.322 of this title (relating to Definitions), provided that the commercial facility in question receives and handles solely industrial solid wastes generated either on site or by a contiguous captured facility.

(d) A fee shall not be imposed on the operator of a commercial hazardous waste storage, processing, or disposal facility for the storage of hazardous wastes

which are received from off-site generators, provided that such wastes are stored for less than 60 days.

(e) A fee may not be imposed under this section on the operation of a facility permitted under the Texas Water Code, Chapter 26, or the Federal National Pollutant Discharge Elimination System Program for wastes treated, processed, or disposed of in a wastewater treatment system that discharges into surface waters of the state.

(f) The commercial hazardous waste fee authorized under this section shall be based on the total weight or volume of a hazardous waste except for wastes which are disposed of in an underground injection well in which case the fee shall be based on the dry weight of the waste, measured in dry weight tons (dwt), as defined in §335.322 of this title (relating to Definitions) and §335.327 of this title (relating to Dry Weight Determination).

(g) The commercial hazardous waste fee for wastes generated in this state shall not exceed \$20 per ton for wastes which are landfilled. The fee established by rule for other waste management methods shall be at a lesser amount.

(h) The operator of a commercial hazardous waste storage, processing, or dis-

posal facility receiving hazardous waste from out-of-state generators shall be assessed the fee amount required on wastes generated in state plus an additional increment to be established by rule, except as provided in subsection (i) of this section.

(i) A fee shall be established by rule of the commission in lieu of the commercial fee for the storage, processing (including incineration), and disposal of hazardous waste fuels, except that such fee shall be the same for wastes generated both in state and out of state.

(j) Except as provided in subsections (k)(o) of this section, commercial hazardous waste fees shall be assessed according to the following schedule:

<u>Disposition</u>	<u>in State</u>	<u>Out of State</u>
Landfill	\$18/ton	\$27/ton
Landfarm	16/ton	25/ton
Underground Injection	14/dwt	23/dwt
Treatment/Incineration	10/ton	19/ton
Storage	6/ton	9/ton
Energy Recovery	6/ton	6/ton
Recycle	4/ton	4/ton

(k) For wastes which are generated out of state, the fee will be the greater of the fee specified in subsection (j) of this section or the maximum applicable to the specified waste management activity in the generator's state of origin. The receiver of the waste shall be responsible for determining the appropriate fee to be charged for any waste from an out-of-state generator.

(1) Except as provided in subsection (m) of this section, only one fee shall be paid for a waste received at a commercial facility. The operator of the commercial facility shall specify the disposition of the waste according to the schedule in subsection (j) of this section within 10 days of receipt of the waste. No additional commercial fee will be assessed under this section for the management on site of those wastes which are generated as residuals by the operator of the commercial facility in the normal process of incineration or waste treatment operations.

(m) No commercial fee shall be assessed under this section for the storage of a hazardous waste for a period of 60 days or less from the date of receipt of the waste (or the effective date of this section).

(1) The fee rate specified in the schedule under subsection (j) of this section shall apply to the storage of waste from 61 to 90 days. A fee of one-half of the amount

specified in subsection (j) of this section shall be assessed for each subsequent 90-day period, or part of such period, beyond the initial 90 days of storage.

(2) In lieu of a fee for storage as specified in paragraph (1) of this subsection, an operator of a commercial facility may elect to declare the ultimate method of disposition of a waste stream to be stored, within 10 days of receipt, and pay the fee for that disposition under the schedule in subsection (j) of this section.

(n) A commercial facility which receives waste transferred from another commercial facility shall pay any fee applicable under this section except as provided under subsection (b) of this section regarding the receipt of waste from an affiliate or wholly-owned subsidiary.

(o) The fee rate for incineration of aqueous wastes containing 1.0% or less of total organic carbon will be 10% of the fee for incineration under the schedule in subsection (j) of this section.

§335.327. Dry Weight Determination.

(a) The method of calculating the dry weight of each hazardous waste stream shall be determined initially and at any time the waste stream undergoes a significant change in water content using the appropriate method(s) as specified in this

section. Determinations shall be made from a representative sample collected by grab or composite. Collection methods and sample preservation shall be by methods to minimize volatilization.

(1) Hazardous wastes which contain suspended solids greater than or equal to 15% of the sample on a weight basis shall have the dry weight determination calculated using the method specified in Appendix I in §335.332 of this title (relating to Appendices I and II).

(2) Aqueous based hazardous wastes which contain suspended solids less than 15% of the sample by weight basis and which contain a single liquid phase shall have the dry weight determination calculated using *Standard Methods for the Examination of Water and Wastewater*, 15th Edition; Method 209A; pages 92 and 93 or equivalent method in later editions.

(3) Organic based hazardous wastes which contain suspended solids less than 15% of the sample by weight and which contain a single liquid phase shall have the dry weight determination calculated using:

(A) *1981 Annual Book of ASTM Standards*, Part 30; Method E203, pages 803-812 or equivalent method in later editions; or

(B) the method specified in Appendix II in §335.332 of this title (relating to Appendices I and II).

(4) Hazardous wastes which do not meet any of the criteria specified in paragraphs (1)-(3) of this subsection shall have the dry weight determination calculated using:

(A) the 1981 *Annual Book of ASTM Standards*, Part 23; Method D96, pages 64-81 or equivalent method in later editions;

(B) the method specified in Appendix II in §335.332 of this title (relating to Appendices I and II); or

(C) the 1981 *Annual Book of ASTM Standards*, Part 23; Method D95, pages 59-63 or equivalent method in later editions. Method D96 determines the water and sediment content of the sample. The calculations shall be modified to determine only the water content.

(5) The method for calculating the dry weight shall be that method specified in Appendix I in §335.332 of this title (relating to Appendices I and II) or an alternate method selected by the generator pursuant to §335.327 of this title (relating to *Alternate Methods of Dry Weight Determination*), if the hazardous waste cannot be analyzed by one of the other required methods of this section due to interfering constituents. Documentation identifying the method of analysis and describing the interference shall be maintained by the generator.

(b) Hazardous wastes containing free liquids which are designated for disposal in a landfill and must be solidified prior to disposal shall have the dry weight determination made on the hazardous waste prior to the addition of the solidification agent.

§335.328. *Alternate Methods of Dry Weight Determination.*

(a) Generators may select other test methods for the purpose of calculating the dry weight of their hazardous waste where one of the methods provided in §335.326 of this title (relating to *Dry Weight Determination*) is not applicable. Technical justification must be sent to the executive director, demonstrating that the proposed method will produce an accurate determination of the dry weight ratio of the waste unless the executive director has provided written approval for use of the alternate method. Use of an evaporation temperature above 75 degrees Celsius will be allowed only on demonstration that the waste stream contains appreciable volatile compounds that exhibit higher evaporation

temperatures. Where practicable, results from the proposed test methods and the required method should be compared. Applicability of this item to such dry weight determinations is subject to review by the executive director.

(b) Generators may elect to declare the total wet weight of the hazardous waste as the dry weight.

§335.329. *Fees Payment.*

(a) Hazardous waste generation and facility fees are payable each year for all hazardous waste generators, permittees, facilities, and applicants. Fees must be paid by check, certified check, or money order payable to the Texas Water Commission. Annual facility fees are payable by permittees and applicants regardless of whether the facility is in actual operation. All annual generation and facility fees shall be due by a date to be established by the Texas Water Commission at the time payment is requested.

(b) Quarterly disposal fees are payable for each operator of a land disposal facility. Fees must be paid by check, certified check, or money order to the Texas Water Commission and shall be due by a date to be established by the Texas Water Commission at the time payment is requested.

(c) Commercial facility fees are to be paid monthly by each operator of a commercial hazardous waste storage, processing, or disposal facility for wastes received or managed in that month. Fees must be paid by check, certified check, or money order to the Texas Water Commission and shall be due by the 25th day following the end of the month for which payment is due.

§335.330. *Records and Reports.*

(a) Generators of hazardous waste are required to keep records of the amount of hazardous waste they generate and the dry weight amount of each hazardous waste which is designated for land disposal. In addition, generators are required to provide each operator of a land disposal facility a certificate of computation of the dry weight to be disposed. For each off-site shipment, the dry weight amount of each hazardous waste is to be recorded in Item J of the uniform hazardous waste manifest as required in §335.30 of this title (relating to Appendix I).

(b) Generators are to submit the appropriate reports under §335.13(b) of this title (relating to *Recordkeeping and Reporting Procedures Applicable to Generators Shipping Hazardous Waste or Class I Waste and Primary Exporters of Hazardous Waste*) on forms furnished or approved by the executive director.

(c) Operators of hazardous waste off-site or commercial hazardous waste storage, processing, and disposal facilities are required to keep records of the amount of each hazardous waste received and its disposition. Such records shall include: the dry weight amount of each hazardous waste disposed in each hazardous waste land disposal unit at the facility; and documentation of the basis for the assessment of any applicable commercial hazardous waste fee as determined under §335.326 of this title (relating to *Commercial Fee Assessment*).

(d) Operators of hazardous waste off-site or commercial hazardous waste storage, processing, and disposal facilities are to submit the appropriate reports required under §335.15(2) of this title (relating to *Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities*) and subsection (e)(3) of this section, for hazardous wastes generated at an off-site or commercial facility, on forms furnished or approved by the executive director.

(e) Operators of hazardous waste on-site land disposal facilities shall:

(1) keep records of the dry weight amount of each hazardous waste disposed in each hazardous waste land disposal unit at the facility. Records pertaining to on-site disposal of hazardous waste shall include, at a minimum, information regarding the waste character, classification and dry weight quantity, and the method as described in Appendix I, Table 2 "Handling Codes for Storage, Processing and Disposal Methods" in 40 Code of Federal Regulations Parts 264 or 265 and location of disposal;

(2) retain such records required by paragraph (1) of this subsection for a minimum of three years from the date of reporting in §335.323 of this title (relating to *Hazardous Waste Generation Fee Assessment*); and

(3) submit a quarterly on-site land disposal summary on forms furnished or approved by the executive director containing such information for each quarter of the fiscal year as is specified in paragraph (1) of this subsection to the Texas Water Commission on or before the dates indicated in the schedule following this paragraph. An operator must keep a copy of each summary for a period of at least three years from the due date of the summary. An operator required to comply with this subsection shall continue to prepare and submit quarterly summaries, regardless of whether any disposal was made during a particular quarter, by preparing and submitting a summary indicating that no disposal was made during that quarter.

<u>Fiscal Year Quarter</u>	<u>Report Due Date</u>
1st: September 1 - November 30	December 25
2nd: December 1 - February 28	March 25
3rd: March 1 - May 31	June 25
4th: June 1 - August 31	September 25

(d) The periods of record retention required by this section are automatically extended during the course of any unresolved enforcement action regarding the regulated activity.

§335.331. Cancellation, Revocation, and Transfer.

(a) Cancellation or revocation of a permit, or termination of interim status, whether by voluntary action on the part of the applicant or permittee or as a result of involuntary proceedings initiated by the commission, will not constitute grounds for refund, in whole or in part, of any annual or quarterly fee paid by the permittee or applicant.

(b) Transfer of facility ownership will not entitle the transferring permittee, applicant, or generator to a refund, in whole or in part of any annual or quarterly fee already paid by the permittee, applicant, or generator. The transferring permittee,

applicant, or generator remains liable for any unpaid portion of fee assessed which accrued during his ownership. Any permittee, applicant, or generator to whom facility ownership or a permit is transferred shall be liable for any of the annual and quarterly fees assessed after date of transfer. Payment by either the transferring permittee, applicant, or generator, or by the permittee, applicant, or generator to whom the ownership was transferred shall constitute full payment for any fees assessed.

(c) A generator who ceases generation of hazardous waste due to a change of process or closing of operations shall not be eligible for a refund, in whole or in part, of any annual fee paid.

§335.332. Failure to Make Payment or Report.

(a) Failure to make payment in accordance with this subchapter constitutes a violation of the Texas Solid Waste

Disposal Act which is subject to enforcement pursuant to the Act, §361.137 and §361.252.

(b) Generators and operators of a facility failing to make payment of the fees imposed under the Texas Solid Waste Disposal Act shall be assessed interest at an annual rate of 15% of the amount of the fee due accruing from the date on which the fee is due.

(c) Operators of hazardous waste disposal facilities submitting late reports concerning the disposal of hazardous waste under the Texas Solid Waste Disposal Act, §361.137, are subject to a civil penalty of \$100 for each day the violation continues.

(d) Any interest or penalties collected by the commission shall be deposited in the appropriate fund.

§335.333. Appendices I and II. The following appendices will be used for the purposes of this subchapter.

APPENDIX I
 DRY WEIGHT DETERMINATION FOR SOLIDS
 BASED HAZARDOUS WASTE

The dry weight determination provisions of §335.327 of this title (relating to Dry Weight Determination) specify that the generator must determine the dry weight of each hazardous waste stream designated for land disposal. This appendix outlines the method to be used by the generator.

1. Collect a representative sample by grab or composite. Collection methods and sample preservation shall be by methods to minimize volatilization.
2. An aliquot of about 100 grams or more shall be weighed in a tared evaporating dish, casserole or similar container. Record tare weight as "A": and container plus sample as "B".

3. This sample shall be evaporated at 73° to 75°C for two hours. Cool and weigh the sample plus container and record weight as "C".

4. Evaporate sample again in a drying oven at 103° to 105°C per "Standard Methods", 15th Edition, Method 209A. Cool and weigh sample plus container and record weight as "D".

All work should be done with all laboratory precautions necessary, including use of fume hoods and absence of ignition sources as appropriate.

$$\begin{aligned} \text{Weight of Water} &= C-D \\ \text{Weight of Water Free Waste} &= (B-A) - (C-D) \\ &= \text{Weight of original sample} \\ &\quad \text{minus weight of water} \\ \text{Dry Weight Ratio} &= \frac{(B-A) - (C-D)}{(B-A)} \\ &= \frac{\text{Weight of water free waste}}{\text{Weight of original sample}} \end{aligned}$$

APPENDIX II
DRY WEIGHT DETERMINATION FOR OIL
AND ORGANIC BASED HAZARDOUS WASTE

The dry weight determination provisions of §335.327 of this title (relating to Dry Weight Determination) specify that the generator must determine the dry weight of each hazardous waste stream designated for land disposal. This appendix outlines the method to be used by the generator.

1. Collect a representative sample by grab or composite. Collection methods and sample preservation shall be by methods to minimize volatilization.

2. An aliquot of about 25 grams or more shall be weighed to the nearest 0.1 mg in a tared evaporating dish or beaker. Record tare weight as "A" and container plus sample as "B".

3. Dilute sample with 100 ml of hexane. Filter sample through a crucible with a glass fiber filter (Whatman grade 934AH and 984H; Gelman Type A/E; millipore type AP40; or equivalent. Available in diameters of 2.2 cm to 4.7 cm.). Rinse evaporating dish or beaker with two 20 ml portions of hexane and filter through the crucible. Discard the solids and filter and save the filtrate.

4. Weigh approximately 25 grams of predried, anhydrous magnesium sulfate (MgSO_4) in a 400 ml beaker to the nearest 0.1 mg. Record the weight of the beaker and MgSO_4 as "C". Add the filtrate from Step 3 and stir for a few minutes with a glass rod. (Caution: Heat may be generated upon addition of filtrate.) Carefully decant the liquid portion in the beaker.

5. Dry the beaker at $73^\circ - 75^\circ\text{C}$ for one hour. Cool and weigh the beaker and record the weight as "D".

All work shall be done with all laboratory precautions necessary, including use of fume hoods and absence of ignition sources as appropriate.

$$\begin{aligned}
 \text{Weight of Water} &= D-C \\
 \text{Weight of Water Free Waste} &= (B-A) - (D-C) \\
 &= \text{Weight of original sample} \\
 &\quad \text{minus weight of water} \\
 \text{Dry Weight Ratio} &= \frac{(B-A) - (D-C)}{(B-A)} \\
 &= \frac{\text{Weight of water free waste}}{\text{Weight of original sample}}
 \end{aligned}$$

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

Issued in Austin, Texas on May 21, 1990.

TRD-9005013 Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: June 25, 1990

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

◆ ◆ ◆
• 31 TAC §§335.326-335.332

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

§335.326. *Dry Weight Determination.*

§335.327. *Alternate Methods of Dry Weight Determination.*

§335.328. *Fees Payment.*

§335.329. *Records and Reports.*

§335.330. *Cancellation, Revocation, and Transfer.*

§335.331. *Failure to Make Payment or Report.*

§335.332. *Appendices I and II.*

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

Issued in Austin, Texas on May 21, 1990.

TRD-9005012 Jim Haley
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: June 25, 1990

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

◆ ◆ ◆
TITLE 34. PUBLIC
FINANCE
Part IV. Employees
Retirement System

Chapter 85. Flexible Benefits

• 34 TAC §§85.1, 85.3, 85.5, 85.7,
85.9, 85.13

The Employees Retirement System of Texas proposes amendments to §§85.1, 85.3, 85.5, 85.7, 85.9, and 85.13, concerning flexible benefits. Amendments to the Flexible Benefits (cafeteria plan) Program rules are

required to: add a new family status change event to the premium conversion plan, and implement plan design changes to minimize risk of losses resulting from compliance with proposed regulations governing health care reimbursement accounts established under an Internal Revenue Code, §125 Plan. The regulations are applicable to flexible benefits programs beginning September 1, 1990.

William S. Nail, general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Nail also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the minimization of any adverse effects which the new IRS regulations may have upon the Flexible Benefits Program. There will be no effect on small businesses as a result of enforcing the sections. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to William S. Nail, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207.

The amendments are proposed under the Texas Insurance Code, §4(k) of Article 3.50-2, which provides the Board of Trustees of the Employees Retirement System of Texas with the authority to promulgate all rules and regulations necessary to implement and to administer a flexible benefits (cafeteria plan) program for state employees.

§85.1. Introduction and Definitions.

(a) (No change.)

(b) Applicability of rules.

(1) These rules are applicable only to employees of the State of Texas, and terminated employees, as described in §85.3(c)(1)(B) and (C), of this title (relating to Eligibility and Participation), who may continue to file claims for eligible expenses incurred within the eligible employee's period of coverage in the plan year to exhaust account balances.

(2) (No change.)

(c) Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise, and wherever appropriate, the singular includes the plural, the plural includes the singular, and the use of any gender includes the other gender.

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

(13) Eligible employee—An employee of the State of Texas who has satisfied the conditions for eligibility to participate in the plan in accordance with the plan and §85.3(a)(1), [and] (b)(1), and (c)(1) of this title (relating to Eligibility and Participation), and, to the extent necessary, a retired or terminated employee who is entitled to benefit payments under the plan.

(14)-(19) (No change.)

(20) Health care expenses—Any expenses incurred by a participant, or by a spouse or dependent of such participant, for health care as described in the Code, §213, but only to the extent that the participant or other person incurring the expense is not reimbursed for the expense by insurance or other means. The type of expenses includes, but are not limited to, amounts paid for hospital bills, doctor bills, prescription drugs, hearing exams, vision exams, and eye exams [and premiums for accident and health insurance].

(21)-(37) (No change.)

§85.3. Eligibility and Participation.

(a) Premium conversion.

(1) (No change.)

(2) Participation.

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

(C) An employee who is otherwise eligible to participate in the Uniform Group Insurance Program but who declined participation in premium conversion prior to the beginning of a plan year, but who has a change in family status as defined in §85.7(c)(1)(A) of this title (relating to Enrollment), after the beginning of the plan year, may elect to participate in premium conversion, if the change is consistent with the change in family status, by completing and submitting a TexFlex election form in a manner consistent with the Uniform Group Insurance Program rules.

(D) (No change.)

(3) Duration of participation.

(A) (No change.)

(B) A[n] terminated employee returning to state employment[,] or an employee returning to active duty from an approved leave of absence without pay, or transferring from one state agency to another, within the same plan year, may not change and shall retain [the existing participation elections] for the remainder of the plan year, the election in existence on the participant's last active duty date.

(C)-(D) (No change.)

(4) (No change.)

(b) [Health care and dependent] Dependent care reimbursement plan[s].

(1) Eligibility. Any employee eligible to participate in the Uniform Group Insurance Program, except seasonal and temporary employees, may elect to partici-

pate in the [health care and] dependent care reimbursement plan[s].

(2) Participation.

(A) (No change.)

(B) An employee who was otherwise eligible to participate in the Uniform Group Insurance Program but who declined participation in the dependent care reimbursement account [reimbursement accounts] prior to the beginning of a plan year, but who after the beginning of a plan year has a change in family status, as defined in §85.7(c)(1)(C) of this title (relating to Enrollment), may elect to participate in the dependent care reimbursement account [reimbursement accounts] if the change is consistent with the change in family status, by completing and submitting a TexFlex election form within 30 days from the date [of the occurrence of] the change in family status event occurs. The effective date will be the first day of the following month, unless the change in family status event occurs on the first day of the month and the employee makes an election on the first day of the month and designates that day to be the effective date.

(C) A change in family status, as defined in §85.7(c)(1)(C) of this title (relating to Enrollment), will permit a change or revocation of participation during the plan year. A TexFlex election form must be submitted within 30 days from [of] the date [of] the change in family status event occurs. The effective date will be the first day of the following month, unless the family status change event occurs on the first day of the month and the employee makes an election on the first day of the month and designates that to be the effective date.

(D) (No change.)

(3) Duration of participation.

(A) An employee's election to participate or to waive participation in the [health care and] dependent care reimbursement plan[s] shall be irrevocable during the plan year unless there is a change in family status as defined in §85.7(c)(1)(C) of this title (relating to Enrollment).

(B) A[n] terminated employee returning to state employment[,] or an employee returning to active duty from an approved leave of absence without pay, or transferring from one state agency to another, within the same plan year, may not change and shall retain [the existing participation elections] for the remainder of the plan year, the election in existence on the participant's last active duty date.

(c) Health care reimbursement plan.

(1) Eligibility.

(A) Any employee eligible to participate in the Uniform Group Insurance Program, except seasonal and temporary employees, who has completed six continuous months of full-time State of Texas employment and who is classified as a full-time employee on September 1 of the plan year, may elect to participate in a health care reimbursement account. Those employees who are participants in a health care reimbursement account on August 31, 1990, are exempt from these eligibility rules for Plan Year 1991 enrollment only, and may elect to participate in a health care reimbursement account.

(B) An employee whose employment has been terminated, voluntarily or involuntarily (other than for gross misconduct), and who had a health care reimbursement account at the time of termination, may retain the health care reimbursement account. A formal continuation coverage notification on a TexFlex election form provided by the Employees Retirement System of Texas must be completed and returned to the Employees Retirement System of Texas within 60 days from the date coverage is lost. Eligibility to participate is contingent upon payment of the election amount, plus a 2.0% service charge on the elected amount, and the administrative fee on a monthly basis for the remainder of the plan year. Payments are due on the 1st of each month and must be received no later than the 30th of the month. Failure to pay will automatically cancel enrollment and future eligibility.

(C) An employee whose employment has been terminated, voluntarily or involuntarily (other than for gross misconduct) except for those persons not eligible pursuant to subparagraph (A) of this paragraph, and who has health insurance continuation coverage under the Public Health Services Act on September 1, may elect to participate in a health care reimbursement account during annual enrollment. A formal election must be made on a TexFlex election form prior to the beginning of a new plan year. Eligibility to participate is contingent upon payment of the elected amount, plus a 2.0% service charge on the elected amount, plus the administrative fee on a monthly basis for the plan year. Payments are due on the 1st of each month and must be received no later than the 30th of the month. Failure to pay will automatically cancel enrollment and future eligibility.

(2) Participation.

(A) An employee who is eligible under paragraph (1)(A) and (C) of this subsection may elect to participate by completing and submitting a TexFlex election form only during the annual enrollment period or prior to the beginning of a new plan year. The effective date of the election will be September 1 of the plan year.

(B) An employee who was eligible but who declined participation in the health care reimbursement account prior to the beginning of a plan year, but who after the beginning of a plan year has an eligible change in family status, as defined in §85.7(c)(1)(B) of this title (relating to Enrollment), may not elect to participate in a health care reimbursement account until the next annual enrollment period.

(C) A new hire after the start of a plan year, who meets the eligibility requirements under paragraph (1)(A) of this subsection, may not elect to participate in a health care reimbursement account until the next annual enrollment period.

(D) A change in family status, as defined in §85.7(c)(1)(B) of this title (relating to Enrollment) will permit a change in the election amount or revocation of participation during the plan year. A TexFlex election form must be submitted within 30 days from the date the change in family status event occurs. The effective date of change will be the first day of the following month, unless the change occurs on the first day of the month and the employee completes a TexFlex election form on the 1st of the month and designates that to be the effective date.

(E) Eligible active employees and terminated employees with continuation health coverage under the Public Health Service Act on September 1 and terminated employees with a health care reimbursement account on August 31 prior to the beginning of a new plan year will be eligible to enroll or to change benefit options during the annual enrollment period. The annual enrollment period will be prior to the beginning of a plan year. Employees on approved leave of absence without pay during the annual enrollment period and who return to work after the start of a new plan year may not enroll until the next annual enrollment period.

(3) Duration of participation.

(A) An active or terminated employee's election to waive participation in the health care reimbursement account shall be irrevocable for the plan year.

(B) An active or terminated employee's election to participate in the health care reimbursement account shall be irrevocable for the plan year, unless there is an eligible change in family status as defined in §85.7(c)(1)(B) of this title (relating to Enrollment).

(C) An employee returning to active duty from an approved leave of absence without pay or transferring from one state agency to another within the same plan year must retain the election in existence on the last active duty date or the date of transfer for the remainder of the plan year.

(D) An employee who is enrolled in a health care reimbursement account at the time of termination may retain the health care account for the remainder of the plan year by continuing to contribute after-tax dollars on a monthly basis, as described in paragraph (1)(B) of this subsection.

§85.5. *Benefit.*

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

(c) Health care reimbursement plan.

(1) (No change.)

(2) Maximum benefit available. Subject to the limitations set forth in these sections and in the plan, to avoid discrimination, the maximum amount of flexible benefit dollars which a participant may receive in any plan year for health care expenses under the health care reimbursement plan is \$1,800 [\$5,000]. In no event shall the monthly maximum salary reduction amount, exclusive of administrative fees, exceed \$150 [\$416].

(d) (No change.)

§85.7. *Enrollment.*

(a) Election of benefits.

(1) An eligible active duty or terminated employee may elect to participate in the flexible benefits plan by making an election and executing a TexFlex election form prior to the first day of an applicable period of coverage.

(2) An employee who becomes eligible after the beginning of a plan year for the dependent care reimbursement plan or the premium conversion plan has 30 days from the date of eligibility to elect benefits and execute a TexFlex election form.

(3) By executing a TexFlex election form, the participant [employee] agrees to a reduction in compensation or agrees to after-tax payments equal to the participant's [employee's] share of the cost and any fees for [of] each optional benefit selected.

(4) An election to participate in a [each] reimbursement plan must be for a specified dollar amount plus the administrative fee and an additional 2.0% service charge on the elected amount for continuation coverage authorized under the Public Health Service Act [of not less than \$15 per month plus the administrative fee and no more than \$416 per month plus the administrative fee].

(5) An annual enrollment period will be designated by the Employees Retirement System of Texas and will be prior to the beginning of the next plan year. The annual enrollment period will provide active duty employees and eligible terminated employees with continuation coverage under the Public Health Service Act with an opportunity to change and to elect benefit options.

(b) (No change.)

(c) Benefit election irrevocable except for change in family status.

(1) An election to participate shall be irrevocable during the plan year unless a change in family status has occurred. The allowable change in election must be consistent with the change in family status event. Documentation, as prescribed by the plan administrator, must be submitted in support of the change in family status event [A change in family status includes marriage, divorce, death of spouse or dependent, birth or adoption of a child, termination of or obtaining employment by a spouse, change from full-time to part-time or part-time to full-time employment status by employee or spouse, significant change in health insurance coverage attributable to spouse gaining employment and such events as may be determined by the plan administrator and the Employees Retirement System of Texas].

(A) Premium conversion plan. A change in family status includes marriage, divorce, death of a spouse, dependent, or loss of legal custody, birth, adoption, or gaining legal custody of a child, termination or gaining employment by a spouse, change from full-time to part-time or part-time to full-time employment status by employee or spouse, significant change in health insurance coverage attributable to spouse gaining employment, and dependent covered under the Uniform Group Insurance Program gains employment. A change in family status permits a participant to change Uniform Group

Insurance Program coverages or to change TexFlex premium conversion election consistent with the change in family status event.

(B) Health care reimbursement plan. A change in family status includes marriage, divorce, death of a spouse, dependent, or loss of legal custody, and birth, adoption, or gaining custody of child. An eligible change in family status permits a participant to increase or decrease election amounts consistent with the change in family status event.

(C) Dependent care reimbursement plan. A change in family status includes marriage, divorce, death of spouse, dependent, or loss of legal custody, birth, adoption, or gaining custody of a child, termination or gaining of employment by a spouse, and change from full-time to part-time or part-time to full-time employment status by employee or spouse. An eligible change in family status permits a participant to change election or to increase or decrease the election amount consistent with the change in family status event.

(2)-(4) (No change.)

(d) Payment of flexible benefit dollars.

(1) Flexible benefit dollars from active duty participants shall be recovered by the State of Texas through payroll withholding at least monthly during the plan year and remitted by the State of Texas to the Employees Retirement System of Texas for the purpose of purchasing benefits. For the health care reimbursement account only, flexible benefit dollars from employees on leave without pay status or who have insufficient funds for any month shall be recovered through direct after-tax payment from the participant or upon the return of the employee to active duty status from payroll withholding within the same plan year, for the total amount due. Terminated employees with health care reimbursement account continuation coverage shall remit after-tax dollars, on a monthly basis, directly to the Employees Retirement System of Texas for the plan year.

(2) A participant's flexible benefit dollars with respect to any month during the plan year shall be equal to [the actual reduction in compensation resulting from] the authorization on the participant's TexFlex election form plus any fees.

(3) Flexible benefit dollars recovered by the State of Texas or from participants and received by [transmitted to] the Employees Retirement System of Texas shall be credited to the participant's dependent care reimbursement account, health care reimbursement account, and/or

[to] premium conversion account, as appropriate.

(e) (No change.)

(f) Forfeiture of account[s] balances.

(1) The amount credited to a participant's reimbursement account for each benefit election for any plan year will be used to reimburse or pay qualified expenses incurred during the eligible employee's period of coverage in such plan year, if the participant files a correctly completed claim for reimbursement on or before December 31 following the close of the plan year.

(2) Any balances remaining after payment of all timely and correctly filed claims postmarked no later than December 31 following the close of the plan year shall be forfeited by the participant and be available to pay administrative expenses of the Flexible Benefits Program.

(g) (No change.)

§85.9. Payment of Claims from Reimbursement Accounts.

(a) Claim for reimbursement.

(1) Claims for reimbursement of expenses incurred during an eligible employee's period of coverage in the [a] plan year may be submitted at any time during the plan year, but not later than December 31 following the close of the plan year.

(2) (No change.)

(3) Expenses incurred prior to becoming a participant shall not be covered by this plan. A terminated participant may continue to file claims for eligible expenses incurred during the eligible employee's period of coverage within the plan year to exhaust reimbursement account balances.

(4)-(5) (No change.)

(6) The dependent care and health care reimbursement accounts are separate accounts, and funds from one account may not be used to reimburse expenses of the other.

(b) Reimbursement of participants.

(1) (No change.)

(2) Reimbursements shall be for a minimum of \$50 [\$25] of eligible expenses. The plan administrator may waive the minimum payment at the end of the plan year or more frequently as deemed necessary.

(3) (No change.)

(4) Dependent care reimbursement [Reimbursement] shall at no time exceed the balance of the participant's [applicable reimbursement] account for the plan year, at the time of the reimbursement.

(5) Health care reimbursement shall at no time exceed the eligible employee's election for the eligible period of coverage in the plan year.

(c) (No change.)

(d) Participant's responsibility.

(1) An employee or former employee will be held liable for any overpayments of benefits as a participant in the reimbursement accounts [resulting from insufficient salary redirected amounts]. The method of repayment shall be determined by the plan administrator and until full restitution is made by the participant, no further claims payment from any TexFlex accounts will be made to the participant by the plan administrator.

(2) A health care reimbursement account participant who goes on leave without pay or has insufficient funds during the plan year is liable for the monthly health care election amount and must pay for it with after-tax dollars. Should the participant fail to contribute to the account with after-tax dollars, upon the participant's return to active duty within the same plan year, payroll deduction will be required to recover the redirected amount due.

§85.13. Funding.

(a) (No change.)

(b) Contributions.

(1) Contributions to the flexible benefits plan by active duty employees may be made only through payroll redirection. An employee who elects to participate in the health care and dependent care reimbursement plans must authorize in writing, on a TexFlex election form, the exact amount of reduction from his monthly compensation, in addition to the monthly administrative fee.

(2) Eligible health care reimbursement account participants on inactive employment status may continue to contribute to their health care reimbursement account with after-tax dollars paid directly to the Employees Retirement System of Texas in the exact amount of the election, plus 2.0% service charge on election amount and administrative fees. [A monthly administrative fee for each reimbursement account will be redirected from each participant's salary to pay the expenses of administering the Flexible Benefits Program.] The amount of the monthly administrative fee for each reimbursement account is \$3.00.

(3) The minimum amount a participant may redirect monthly for each reimbursement account is \$15. The maximum amount a participant may redirect monthly for each reimbursement account is limited to the amount stipulated in

§85.5(c) and (d) of this title (relating to Benefits) [\$416]. The administrative fee for each reimbursement account is in addition to these minimum and maximum amounts.

(4) When a participant receives no salary in a pay period, no redirection will be made for that pay period and no catch-up redirection will subsequently be permitted, except as described in §85.9(d)(2) of this title (relating to Payment of Claims from Reimbursement Accounts) for health care reimbursement account participants.

(5) In situations where there are insufficient salary dollars to fund the amount of the salary redirections and fees, no salary redirection will be made, except as indicated in paragraph (6) of this subsection, for that pay period and no catch-up redirection will subsequently be permitted, except as described in §85.9(d)(2) of this title (relating to Payment of Claims from Reimbursement Accounts) for health care reimbursement account participants. The after-tax payment by the employee for insurance premiums may be permitted in accordance with Uniform Group Insurance Program rules.

(6) (No change.)

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

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

TRD-9004969

Clayton T. Garrison
Executive Director
Employees Retirement
System of Texas

Earliest possible date of adoption: June 25, 1990

For further information, please call: (512) 476-6431, ext. 213

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 33. Early and Periodic Screening, Diagnosis, and Treatment

Subchapter I. Periodicity

The Texas Department of Human Services (DHS) proposes amendments to §§33.122, 33.123, and 33.124, concerning periodicity, to §§33.131 and 33.134, concerning medical phase, and new §33.132, concerning medical phase, in its Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) chapter. The purpose of the amendments is to clarify and update the sections to conform with the federal mandates in the Omnibus Budget Reconciliation Act of 1989 (OBRA '89). The new section is proposed to enable the

department or its designee to pay for certain services the department is allowed to provide with Medicaid/Title XIX federal matching funds. The services are those required to diagnose or treat a condition identified during an EPSDT medical screening performed on or after April 1, 1990, whether or not the service is currently included in the Title XIX state plan.

Burton F. Raiford, chief financial officer, has determined that for the first five-year period the proposed sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections are in effect is an estimated additional cost of \$4,288,931 in fiscal year (FY) 1990; \$29,737,855 in FY 1991; \$46,323,152 in FY 1992; \$63,981,246 in FY 1993; and \$85,884,065 in FY 1994. There will be no fiscal implications for 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 increased amount, duration, and scope of Medicaid services to EPSDT eligible individuals who are found at an EPSDT medical screen to have conditions in need of diagnosis and/or treatment. 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 Sharon Boatman at (512) 388-6932 in DHS's EPSDT Program section. Comments on the proposal may be submitted to Cathy Rossberg, Policy Communication Services-317, 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 §§33.122-33.124

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.

§33.122. Periodicity.

(a) The department [DHS] provides Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services requested by recipients according to the recipient's periodic eligibility for service. [Medical screening services are available to eligible recipients based on the recipient's age in years and months. Dental services are available based on the last date of dental service.]

(b) (No change.)

[(c) Recipients under two years old are eligible for a maximum of six screening visits.]

(c)[(d)] Periodic routine dental services are available to eligible recipients three years of age and older once every 12 months based on the last date of den-

tal services [a year].

[(e) The department requires prior authorization for all dental services, except emergencies.]

[(f) All eligible recipients three years old and older for whom dental services are requested are referred to a dentist for an examination.]

§33.123. Periodic Rescreening Due Date.

[(a)] The due date for periodic screening is defined as the starting date of a new period of eligibility for medical screening or for dental services.

[(b) Periodic dental examination and treatment are available once a year.]

§33.124. Exceptions to Periodicity. State office must approve all exceptions to periodicity. Exceptions must not be authorized more often than every 12 months unless there is medical necessity.

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

Issued in Austin, Texas, on May 21, 1990.

TRD-9004998 Cathy Rossberg Agency liaison, Policy Communication Services Texas Department of Human Services

Proposed date of adoption: August 1, 1990

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

Subchapter J. Medical Phase

• 40 TAC §33.131, §33. 134

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.

§33.131. Medical Screening Services. Medical screening services are provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program to ensure that Medicaid recipients under 21 years of age have continuous preventive health care. The objectives of screening are the early detection of suspected health problems and the referral for definitive diagnosis/treatment if indicated by the screening. The components of [The following] medical screening services are [available to eligible recipients]:

- (1) health and developmental history;
(2) unclothed physical examination;
(3) developmental assessment;

(4) immunizations appropriate for age and health history;

(5) assessment of nutritional status;

(6) vision testing;

(7) hearing testing;

(8) laboratory tests [procedures] appropriate to [for] age and risk [population groups];

(9) health education (includes anticipatory guidance);

(10) [(9) dental services furnished by referral] Referral to a dentist for diagnosis and treatment, for recipients three years old and older.

§33.134. Primary Responsibilities of Medical Screening Providers. The primary responsibilities of medical screening providers are:

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

(4) to make referrals for needed follow-up diagnosis and treatment services.

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

Issued in Austin, Texas, on May 21, 1990.

TRD-9004999 Cathy Rossberg Agency liaison, Policy Communication Services Texas Department of Human Services

Proposed date of adoption: August 1, 1990

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

• 40 TAC §33.132

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.

§33.132. Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Medical Diagnosis and Treatment Services.

(a) The department or its designee will consider payment on an exception basis for any service the department is allowed to provide with Medicaid/Title XIX federal matching funds when required to diagnose or treat a condition identified during an EPSDT medical screening performed on or after April 1, 1990, whether or not the service is currently included in the Title XIX state plan. Services exceeding the Title XIX state plan coverage are subject to the following limitations.

(1) Service coverage is determined on an individual basis, requires prior approval for payment by the

department or its designee, and is subject to periodic reassessment.

(2) Services must be medically necessary.

(3) Clients must be under age 21 and eligible for Medicaid on the date of service.

(4) Payment for services will be made only to approved providers enrolled in the Texas Medicaid Program.

(b) Reimbursement for EPSDT medical diagnosis and treatment services will be based on existing Medicare and Medicaid fee schedules/profiles.

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

Issued in Austin, Texas, on May 21, 1990.

TRD-9005000 Cathy Rossberg Agency liaison, Policy Communication Services Texas Department of Human Services

Proposed date of adoption: August 1, 1990

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

Part V. Veterans Land Board

Chapter 175. General Rules

• 40 TAC §175.4

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

The Veterans Land Board proposes the repeal of §175.4, concerning Land Descriptions. The repeal of this section is proposed to allow the adoption of a new §175.4, which will more clearly define the requirements for surveying tracts to be purchased through the Veterans Land Program.

David Gloier, deputy commissioner of the Veterans Land Board, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Gloier also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be a new section which will more clearly and precisely define the requirement for surveying a tract of land to be purchased through the Veterans Land Program. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Jim Phillips, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The repeal is proposed under the Natural Resources Code, §161.061 and §161.063, which provides the Veterans Land Board with the authority to adopt rules it considers necessary or advisable.

§175.4. Land Description.

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

Issued in Austin, Texas, on May 17, 1990.

TRD-9005007 Garry Mauro
Chairman
Veterans Land Board

Earliest possible date of adoption: June 25, 1990

For further information, please call: (512) 463-5009

◆ ◆ ◆
The Veterans Land Board proposes new §175.4, concerning land description. The new section will more clearly define the requirements for surveying tracts to be purchased through the Veterans Land Program. Under the new section, tracts must be described by a legally sufficient description with tie calls to an original grant or survey if locatable or if not impractical to obtain. Such survey must also describe any necessary road easement, and bear the seal and original signature of the surveyor preparing the same.

David Gloier, deputy commissioner of the Veterans Land Board, 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. There will be no local employment impact as a result of enforcing or administering the section.

Mr. Gloier 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 as proposed will be a more clearly and precisely defined requirement for surveying a tract of land to be purchased through the Veterans Land Program. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Jim Phillips, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The new section is proposed under the Natural Resources Code, §161.061 and §161.063, which provides the Veterans Land Board With the authority to adopt rules it considers necessary or advisable.

§175.4. Land Description.

(a) Land selected to be purchased by the board must be described by a legally

sufficient metes and bounds description. The property description must:

(1) contain a general description of the land, specifying the acreage contained, the original survey(s) or grant(s) with abstract number(s) and survey number(s) and block designation if applicable, and the county in which the tract is located (if the tract is divided by a county line the appropriate abstract numbers and acreage on each side of the county line will be shown). The general description shall also contain the deed reference to the parent tract including grantor, grantee, date of instrument, and volume and page of recording. Additional references to other instruments in the chain of title may be referred to if appropriate;

(2) contain a specific description of the land, defining each side of the tract by course and distance or appropriate and complete curve data, identifying and describing monuments at each corner, and further identifying the land by calls for other natural and artificial objects on and along the boundaries and by calls for and reference to adjoining properties where appropriate;

(3) be tied to a corner of an original grant or survey if such corner is locatable and if the tie is not impractical to obtain. If it is impossible or impractical to tie to a corner of an original grant or survey then the tract should tie to a locatable corner of the parent tract or any of the adjoiners; and

(4) include a description, either by metes and bounds or center line, of the access easement from the tract to an existing public road for all tracts which do not abut a public road.

(b) If the tract selected is in a subdivision, a lot and block description of the tract may be substituted for the metes and bounds description. If a lot and block description is to be used, the board must be furnished a copy of the recorded subdivision plat. This plat must show the recording information and the required signatures of the governmental entity (commissioners court, city council, etc.) authorized to accept such subdivision plat. Easements as necessary for access to a public road from all tracts must be clearly shown on the subdivision plat together with appropriate language dedicating such easement to the public or to the owners of tracts in the subdivision. All the data required in subsection (a) of this section should be shown on the face of the plat, including courses and distances for all lot lines and areas for each lot. All plats accepted subsequent to the adoption of this section shall identify the size and type of the monument set at each corner of every

lot. If a lot is part of a subdivision already of record where monumentation is not shown, a survey plat shall be furnished indicating monuments set or found at all corners of the tract together with sufficient ties to locate the lot within the subdivision.

(c) All metes and bounds descriptions and survey plats shall bear the seal and original signature of the surveyor preparing the same.

(d) Metes and bounds descriptions must be prepared from a survey of the property made on the ground. The survey should be made in such manner to be generally acceptable to title companies in the State of Texas for the purpose of deleting the survey exception clause.

(e) Each corner of the tract of land shall be marked by concrete or metal monuments or other durable monuments generally used in the area. A description of each monument set or found and its location, with witnesses as available, shall be incorporated into the metes and bounds description of the property.

(f) When a roadway or easement crosses a tract, it shall be described sufficiently to enable its location throughout the tract and its area to be determined.

(g) Property descriptions and subdivision plats will be examined by the board for acreage, closure and sufficiency. The board's determination of these items will control.

(h) The surveyor should be instructed to do a proper boundary survey of the land to be conveyed according to the record boundaries of the tracts involved. Any encroachments by existing perimeter fences into the subject tract or into adjacent tracts should be shown together with the area of any lands lying between the record boundaries and the existing occupation. Any occupation on the ground not conforming to the record boundaries should be shown on a plat of survey and fully explained in an accompanying surveyors report.

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

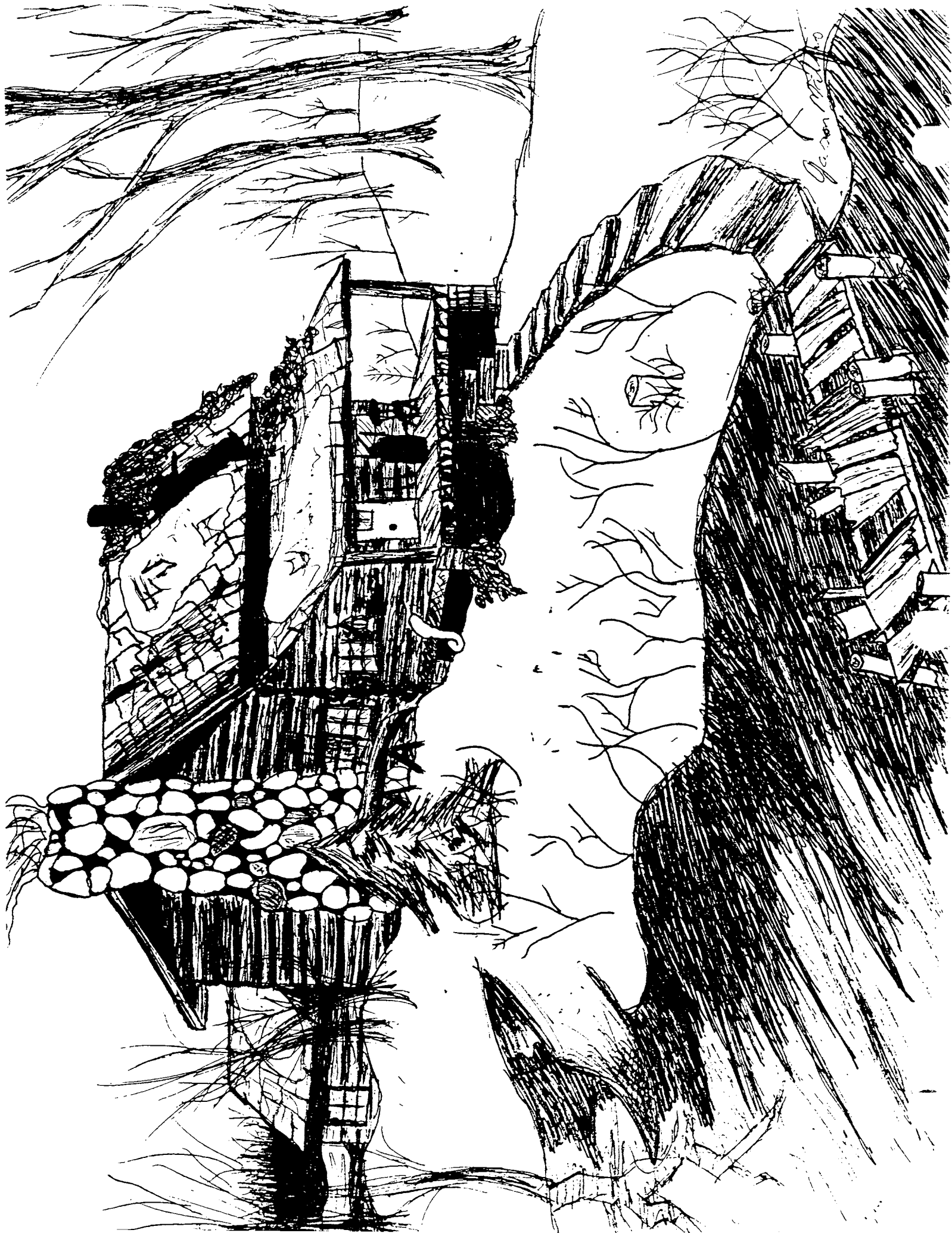
Issued in Austin, Texas, on May 17, 1990.

TRD-9005010 Garry Mauro
Chairman
Veterans Land Board

Earliest possible date of adoption: June 25, 1990

For further information, please call: (512) 463-5009

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Jason Miller

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 4. AGRICULTURE

Part VII. Texas

Agriculture Resources Protection Authority

Chapter 105. Procedures for Appeal

• 4 TAC §§105.1-105.10

The Texas Agriculture Resources Protection Authority has withdrawn from consideration for permanent adoption a proposed new §§105.1-105.10 which appeared in the December 1, 1989, issue of the *Texas Register* (14 TexReg 6231). The effective date of this withdrawal is May 18, 1990.

Issued in Austin, Texas, on May 18, 1990

TRD-9004977

Richard M. Lannen
Legal Counsel
Texas Agriculture
Resources Protection
Authority

Effective date: May 18, 1990

For further information, please call: (214)
969-0090

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 29. Purchased Health Services

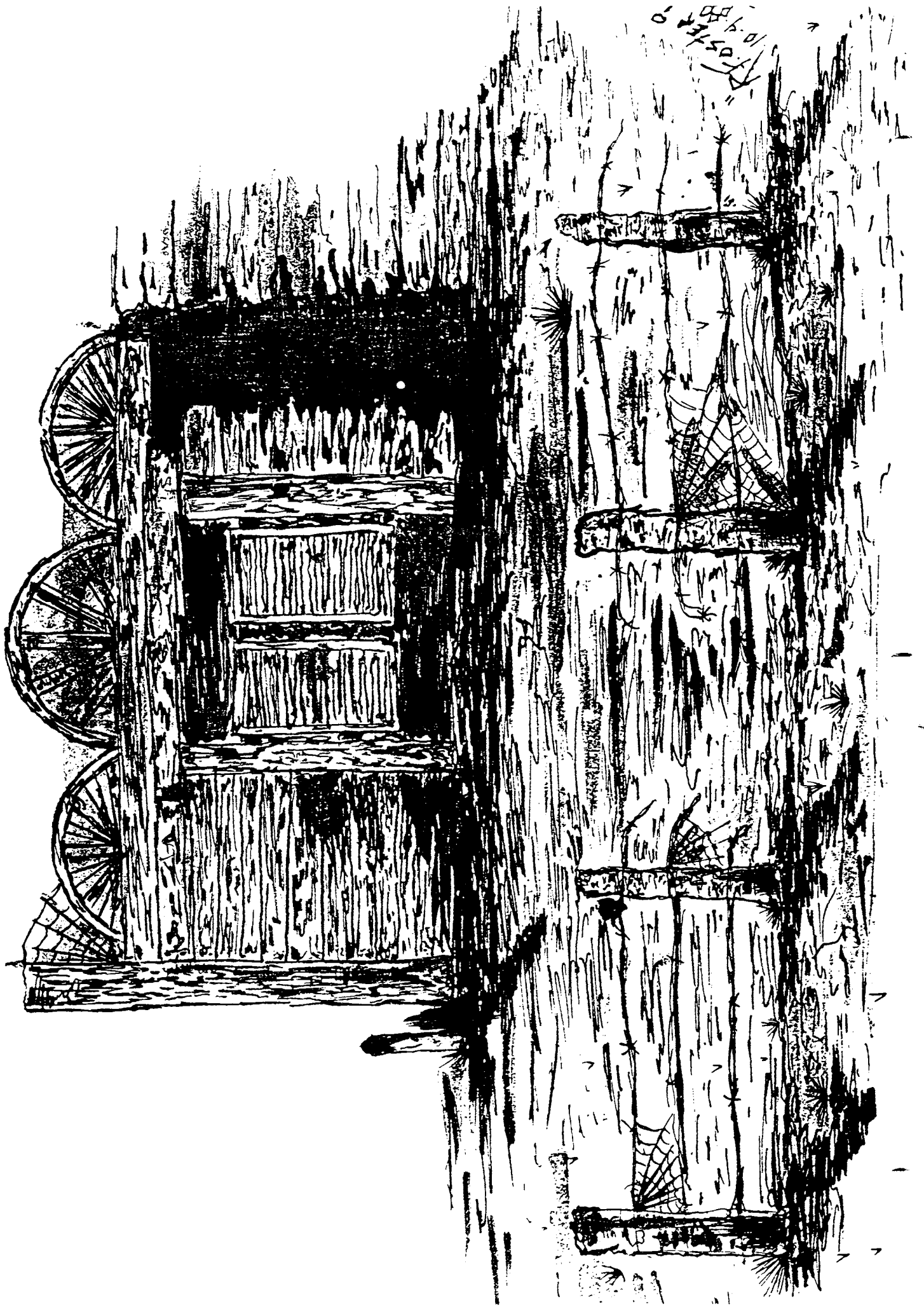
Subchapter V. Certified Regis- tered Nurse Anesthetist's Services

• 40 TAC §§29.2101-29.2103

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed new sections to §§29.2101-29.2103, submitted by the Texas Department of Human Services has been automatically withdrawn, effective May 22, 1990. The new sections as proposed appeared in the November 17, 1989, issue of the *Texas Register* (14 TexReg 6070).

TRD-9005066





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 19. EDUCATION Part I. Texas Higher Education Coordinating Board

Chapter 21. Student Services

Subchapter N. License Plate Insignia Scholarship Program

• 19 TAC §§21.430-21.438

The Texas Higher Education Coordinating Board adopts new §§21.430-21.438, without changes to the proposed text as published in the December 5, 1989, issue of the *Texas Register* (14 TexReg 6339).

The new sections are adopted because they will provide additional funding for higher education.

The new sections allow the Texas Department of Highways and Public Transportation to collect an additional fee for school insignia license plates to be set aside for financial assistance for needy students. The new sections will allow \$25 of the extra \$30 charged for the insignia plates to revert to the institutions of higher education for awarding scholarships.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Chapter 88, General Laws, Acts of 41st Legislature, Second Called Session, Texas Civil Statutes, 1929 Article 6675a-1, §5j, which provide the Coordinating Board with the authority to adopt rules and regulations regarding the License Plate Insignia Scholarship 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 May 16, 1990.

TRD-9004936 James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Effective date: June 7, 1990

Proposal publication date: December 5, 1989

For further information, please call: (512)
462-6420



TITLE 28. INSURANCE Part I. State Board of Insurance

Chapter 1. General Administration

Subchapter B. Fees, Charges, and Costs

• 28 TAC §1.301

The State Board of Insurance adopts the repeal of §1.301, without changes to the proposed text as published in the March 20, 1990, issue of the *Texas Register* (15 TexReg 1580).

Section 1.301 concerns cost of copies of and access to public records. The repeal of this section is necessary to enable the board simultaneously to adopt a new section, which replaces the repealed section with similar provisions.

The new section, which this repeal permits, establishes procedures for charges for open records information pursuant to the regulations of the State Purchasing and General Services Commission. Notification appears elsewhere in this issue of the *Texas Register* of the adoption of the new section which replaces this repealed section.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Insurance Code, Article 4.07, which provides that the State Board of Insurance shall set and collect a charge for making copies of any record in an amount deemed sufficient to reimburse the state for the actual expense, and under Texas Civil Statutes, Article 6252-17a, which provide that charges for information under the Texas Open Records Act will be established by agencies subject to the rules and regulations of the State Purchasing and General Services Commission.

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

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

TRD-9004919 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 6, 1990

Proposal publication date: March 20, 1990

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



• 28 TAC §1.301, §1.302

The State Board of Insurance adopts new §1.301 and an amendment to §1.302, without changes to the proposed text as published in the March 20, 1990, issue of the *Texas Register* (15 TexReg 1581).

Section 1.301 and §1.302 concern the cost of copies of and access to public and non-public records of the board and charges for specified publications and insurance-related legislation. The adoption of new §1.301, concerning cost of copies of and access to public and non-public records, is simultaneous with the proposed repeal of §1.301, concerning cost of copies and access to public records. Notice of the repeal appears elsewhere in this issue of the *Texas Register*. The new section and amendment are necessary to establish procedures for charges for open records information pursuant to the regulations of the State Purchasing and General Services Commission and to establish charges which reflect changes in the costs of producing copies of certain publications.

New §1.301 defines the method by which costs for copies of public and non-public records will be determined within the agency pursuant to the rules of the State Purchasing and General Services Commission. The amendment to §1.302 increases the charge for certain specified publications and includes charges for additional publications.

No comments were received regarding adoption of the new section and amendment.

The new section and amendment are adopted under the Insurance Code, Article 4.07, which provides that the State Board of Insurance shall set and collect a charge for making copies of any record in an amount deemed sufficient to reimburse the state for the actual expense, and under Texas Civil Statutes, Article 6252-17a, which provide that charges for information under the Texas Open Records Act will be established by agencies subject to the rules and regulations of the State Purchasing and General Services Commission.

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

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

TRD-9004918 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 6, 1990

Proposal publication date: March 20, 1990

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



Subchapter C. Maintenance Taxes

• 28 TAC §1.408

The State Board of Insurance adopts new §1.408, without changes to the proposed text as published in the March 20, 1990, issue of the *Texas Register* (15 TexReg 1581).

Section 1.408 concerns assessment of maintenance taxes for 1990. This new section is necessary in order to record rates of assessment for 1990 for maintenance taxes which the Insurance Code and the Texas Health Maintenance Organization Act require the board to determine annually on various types of insurance and related activities. Timely payment of the taxes is necessary to provide adequate support for the proper functioning of administrative regulation of insurance and related activities in Texas.

The new section assesses maintenance taxes for 1990 on the basis of gross premiums for calendar year 1989 or on some other statutorily designated basis. New §1.408 sets rates of assessment, and applies those rates to life, accident, and health insurance; motor vehicle insurance; casualty and fidelity insurance and guaranty and surety bonds; fire and allied lines insurance, including inland marine; workers' compensation; title insurance; health maintenance organizations; third party administrators; and corporations issuing prepaid legal services contracts.

No comments were received regarding adoption of the new section.

The new section is adopted under the Insurance Code, Articles 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 21.07-6, and 23.08; and the Texas Health Maintenance Organization Act, §33, which provides authorization for the State Board of Insurance to assess maintenance taxes for the lines of insurance and related activities specified in §1.408.

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

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

TRD-9004917 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 6, 1990

Proposal publication date: March 20, 1990

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

Chapter 7. Corporate and Financial Regulation

Subchapter A. Examination and Corporate Custodian and Tax

• 28 TAC §7.50

The State Board of Insurance adopts new §7.50, without changes to the proposed text as published in the April 6, 1990, issue of the *Texas Register* (15 TexReg 1933).

Section 7.50 concerns election by a reciprocal exchange or by an interinsurance exchange, pursuant to the Insurance Code, Article 4.11C, to be taxed under the Insurance Code, Article 4.10. Adoption of this section is necessary to provide reciprocal exchanges and interinsurance exchanges the opportunity to file such elections.

Section 7.50 adopts by reference the election form, with instructions, to be used by reciprocal exchanges and interinsurance exchanges. The form provides that the election shall remain in effect for all subsequent tax years until withdrawn by written notice, as provided by Article 4.11C. The board has filed with the Office of the Secretary of State, Texas Register Section, a copy of the form adopted by reference. Other copies of the form are available from the Tax Collection Division, Mail Code 009-4, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

No comments were received regarding adoption of the new section.

The new section is adopted under the Insurance Code, Article 1.04, and Article 4.11C. Article 1.04 authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. Article 4.11C allows reciprocal exchanges or interinsurance exchanges to elect to be taxed under the Insurance Code, Article 4.10, and requires that the election be made on forms adopted by the State Board of Insurance.

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

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

TRD-9004916 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 6, 1990

Proposal publication date: April 6, 1990

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

• 28 TAC §7.1008

The State Board of Insurance adopts new §7.1008, without changes to the proposed text as published in the March 20, 1990, issue of the *Texas Register* (15 TexReg 1582).

Section 7.1008 concerns rates of assessments and charges to meet the expenses of examining insurance companies in 1990. This new section is necessary to provide rates of assessment and charges sufficient to meet the expenses of performing the board's statutory responsibilities for examining insurance companies.

Under the proposed section, the board levies rates of assessment and collects from each domestic insurance company on the basis of admitted assets and gross premium receipts for the 1989 calendar year, and from each foreign insurance company under examination during the 1990 calendar year on the basis of a percentage of the gross salary the board paid to an examiner for each month or part of a month during the examination. The

expenses and charges assessed under authority of this section are additional to and not in lieu of any other charge which may be made under law, including the Insurance Code, Article 1.16. The commissioner of insurance has certified the rates of assessment and charges set out in this section to be just and reasonable.

No comments were received regarding adoption of the new section.

The new section is adopted under the Insurance Code, Article 1.16, which authorizes and requires the State Board of Insurance to make assessments and charges to meet all expenses and disbursements required by law and necessary to comply with the provisions of the Insurance Code, Articles 1.16-1.18, relating to the examination of insurance companies.

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

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

TRD-9004914 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 6, 1990

Proposal publication date: March 20, 1990

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

Chapter 25. Insurance Premium Finance

Subchapter H. Annual Reports, Examinations, and Assessments

• 28 TAC §25.714

The State Board of Insurance adopts new §25.714, without changes to the proposed text as published in the March 20, 1990, issue of the *Texas Register* (15 TexReg 1583).

Section 25.714 concerns assessment of insurance premium finance companies in 1990. This section is necessary to provide a rate of assessment sufficient to meet the expenses of performing the board's statutory responsibilities for examining, investigating, and regulating insurance premium finance companies.

Under new §25.714, the board levies a rate of assessment for 1990 to cover general administrative expense and collects from each insurance premium finance company on the basis of a percentage of total loan dollar volume for the 1989 calendar year.

No comments were received regarding adoption of the new section.

The new section is adopted under the Insurance Code, Article 24.06(c) and Article 24.09. Article 24.06(c) provides that each insurance premium finance company licensed by the board shall pay an amount assessed by the board to cover the direct and indirect cost of examinations and investigations and a proportionate share of general expense attributable to regulation of

insurance premium finance companies. Article 24.09 authorizes the State Board of Insurance to adopt and enforce rules necessary to carry out provisions of the Insurance Code concerning the regulation of insurance premium finance companies.

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

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

TRD-9004915 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 6, 1990

Proposal publication date: March 20, 1990

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

TITLE 31. NATURAL RESOURCES AND CON- SERVATION

Part III. Texas Air Control Board

Chapter 101. General Rules

• 31 TAC §§101.1, 101.7, 101.24-101.26

The Texas Air Control Board (TACB) adopts amendments to §§101.1, 101.7, 101.24, and 101.25, and new §101.26. Sections 101.1, 101.7, and 101.26 are adopted with changes to the proposed text as published in the January 2, 1990, issue of the *Texas Register* (15 TexReg 17). Sections 101.24 and 101.25 are adopted without changes and will not be republished.

The amendment to §101.1, concerning definitions, adds four new definitions regarding oil-based fuels and revises one definition to reflect the incorporation of the Texas Clean Air Act (TCAA) into the Texas Health and Safety Code (THSC). The amendment to §101.7, concerning requirements for operation and maintenance, retitles the section and adds a requirement for facilities to maintain and operate air pollution control equipment in good working order. The amendments to §101.24, concerning inspection fees, and §101.25, concerning fees for registration of non-permitted facilities, involve only Legislative citation changes. The new §101.26, concerning surcharge on fuel oil in specified Boilers, imposes a \$0.20 per million British thermal unit (Btu) surcharge on fuel oil used between April 15 and October 15 of each year in industrial and utility boilers with a heat input capacity of greater than 10.0 million Btu per hour. The section is applicable to all boilers capable of using natural gas and which are located in consolidated metropolitan statistical areas, or metropolitan statistical areas with populations of 350,000 or more which have not met the national ambient air quality standards for ozone.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(C)(1), requires categorization of comments as being for or against a proposal. A commenter who suggested any changes in

the proposal is categorized as against the proposal, while a commenter who agreed with the proposal in its entirety is categorized as being for the proposal.

Fifteen commenters testified against the proposals: two individuals, Occidental Chemical Corporation (Occidental), Texas Mid-Continent Oil and Gas Association (TMOGA), Sterling Chemicals, Inc. (Sterling), United States Environmental Protection Agency (EPA), Ethyl Corporation (Ethyl), Texas Eastman Company (Eastman), Exxon Chemical Americas (Exxon), Union Carbide Corporation (UCC), BP Chemicals (BP), Kaneka Texas Corporation (Kaneka), Texas Chemical Council (TCC), Advanced Aromatics Chemical Company (Advanced), and Valero Refining Company (Valero). There were no commenters in favor of the proposals.

A summary of comments and discussion of issues follows. Copies of the written testimony and hearing transcript are available for inspection at the TACB office, 6330 Highway 290 East, Austin, Texas 78723.

Two private citizens and EPA commented that the proposed definition for hazardous wastes in §101.1, concerning definitions (and by reference, hazardous waste-derived oil defined in §101.26, concerning surcharge on fuel oil in specific boilers), should be consistent with the Federal Resource Conservation and Recovery Act (FRCRA), the Texas Water Commission (TWC), and the Texas Department of Health (TDH).

The proposed definition of hazardous wastes was intended to parallel TWC's definition, except to include liquid wastes. In response to the comments, however, revision of the proposed definition may be appropriate. The revised definition would duplicate TWC's definition and would be consistent with the FRCRA and the TDH.

Two individuals and EPA recommended clarifying the meaning of "good working order," "operated properly," and "normal facility operations," as used in §101.7, concerning requirements for operation and maintenance. One of the individuals suggested that the TACB incorporate operation and maintenance requirements for specific types of control devices into the rule language to ensure consistent enforcement of the rule. TMOGA, TCC, Ethyl, Exxon, UCC, BP, and Kaneka expressed concern that "good working order" and "operated properly" may be interpreted too strictly and not allow for any reasonable variations in operation and maintenance or intermittent operation when that mode of operation is considered normal.

Further clarification of "good working order," "operated properly," and "normal facility operations" appears to be warranted. "Good working order" and "operated properly" can be clarified by establishing that this is accomplished when a facility is operating in accordance with limits provided in the permit and/or by TACB regulations. Normal facility operations can be clarified as any operation other than start-up or shutdown.

The staff is seeking an improved enforcement tool against the owners or operators of facilities whose operation and maintenance practices with air pollution control equipment significantly diminish the equipment's efficiency. There is no attempt to restrict variations in

operation and maintenance that are considered normal.

Two individuals suggested that recordkeeping requirements be included in §101.7, concerning requirements for operation and maintenance, to document proper operation and maintenance.

Notification of some types of maintenance is already required by §101.7(b). Requiring additional recordkeeping would seem to be of limited value under the circumstances. Furthermore, additional recordkeeping requirements may be considered in future rulemaking concerning the upset and maintenance provisions of the general rules.

Occidental expressed concern that the location of the requirement for proper operation and maintenance implies that notification of the agency would be required at least 10 days in advance of any maintenance activity that would take any emission abatement equipment out of service. Occidental suggested that an exception be made to the reporting requirement for situations where the emissions expected during abatement equipment downtime would not exceed permit limits for the facility or emissions limits in the applicable TACB regulation.

The rule language referred to by the commenter has been a requirement of the general rules since 1979. The only change to the previous rule language is the insertion of the subsection (b) designating maintenance notification as the second subsection in the section.

TMOGA requested that the rule language be modified to apply only to the emission capture and abatement equipment required by TACB permit, standard exemption, or the emissions control requirements of other regulations. TMOGA expressed concern that abatement equipment installed strictly for economic reasons, rather than regulatory compliance, would be required to be operated properly during normal facility operations even if the equipment was no longer economically justified.

The vast majority of abatement equipment is installed for regulatory compliance, not economic or other reasons. The recordkeeping necessary to determine whether a piece of control equipment is required by permit, regulation, or exemption seems unjustified in light of the amount of control equipment maintained for regulatory compliance.

TCC, Ethyl, Exxon, UCC, BP, Kaneka, Eastman, and Sterling supported the TACB's actions in improving maintenance and operation of pollution control equipment, but expressed concern that §101.7(a) presented a potential interpretation conflict with §101.6, concerning notification requirements for major upsets, and §101.11, concerning exemptions from rules and regulations, by requiring that a facility shut down at any time pollution control equipment is not operating at its permitted performance level. The commenters believed that the location of the proposed language with the maintenance provision increases the likelihood that the change was intended to alter current maintenance provisions. TCC, Ethyl, Exxon, UCC, BP, and Kaneka recommended that the language be promulgated as a separate rule within the general rules.

Additionally, TCC, Ethyl, Exxon, UCC, BP, Kaneka, Eastman, and Valero asserted that, in most cases, shutting down and restarting a facility would result in higher air emissions than would occur during a period of upset or maintenance. The commenters argued that shutdowns and start-ups can cause strains on equipment and off-specification production, which must be disposed of as waste. They also suggested that such a requirement would be expensive in lost production time and potential equipment damage. The commenters proposed alternate rule language deleting the requirement that a facility shut down if control equipment is not operating properly.

While it is expected that in many cases shutdowns and start-ups would not cause inordinate stress on the equipment and higher emissions than during upset conditions, there may be circumstances where this is true. Furthermore, the rule as written does appear to be in conflict with §101.11. Therefore, the staff is recommending that the proposed language concerning the requirement for shutting down be deleted. Future rulemaking on all general rules related to this subject may be warranted.

TCC, Ethyl, Exxon, UCC, BP, and Kaneka expressed concern that §101.7 will be used to assess more than one violation for a single permit violation, making the provision duplicative and unnecessary.

It is common for more than one regulation to be violated in a single incident. For example, an opacity violation is often a violation of the facility's permit, as well as TACB Regulation I. In these cases, penalties are assessed according to the seriousness and impact of the incident, not the number of rules violated.

A private citizen stated that the fuel oil surcharge should be levied year round. He felt that the TACB should consider other regulations like the surcharge rule to encourage reductions in carbon dioxide (CO₂) and chlorofluorocarbon (CFC) emissions.

The intent of the proposed language was to respond to Senate Bill 769, which requires that the surcharge be assessed only from April 15 to October 15, the most common period of high ozone levels. Rulemaking for CO₂ and CFC emissions in response to concerns about possible global warming due to the greenhouse effect or stratospheric ozone depletion is not possible at this time based on the staff's conclusion that changes to the TCAA would be needed to establish agency jurisdiction in these areas.

Sterling supported §101.26, but recommended that the waste fuel exemption be expanded to encourage energy recovery from all solid wastes. Sterling expressed concern that some nonhazardous waste liquids might be construed as fuel oils and be subject to the surcharge.

Additionally, TCC, Ethyl, Exxon, UCC, BP, and Kaneka questioned the combining of waste oil and used oil into one definition and exemption because Senate Bill 769 expressly exempts three categories of oil from the fuel surcharge. According to TCC, the term "waste oil" was inserted in the bill to address the situation where a facility produces a particular by-product or co-product stream which does not meet the specifications of traditional commercial fuels. Disposal of these oils

would result in increased emissions from loading and unloading during the transportation process and could result in their burning at an incinerator or other facility without energy recovery capabilities. TCC, Ethyl, Exxon, UCC, BP, Kaneka, and Advanced recommended alternate rule language approved by Land Commissioner Garry Mauro defining waste oil as any by-product resulting from crude oil refining or petrochemical production which is used for energy recovery on site, provided such use does not exceed 5.0% of the manufacturing complex's fuel consumption and any by-product oil that has no commercial value.

Senate Bill 769 does exempt three categories of oil from the fuel surcharge, and the General Land Office staff confirmed the commissioner's agreement with the commenter's definition. Therefore, the proposed language should be revised to include a separate waste oil exemption which includes by-products or co-products burned for energy recovery to ensure consistency with the legislative intent.

Sterling questioned the necessity of applying for an exemption from the surcharge. Application for an exemption, in cases of natural gas curtailments or catastrophic events, would be unreasonable because operators have insufficient notice of such curtailments. The requirements for exemption applications are a regulatory burden on the operator of an exempt facility.

Application for an exemption does not seem necessary in light of the reporting requirements outlined in the section. Revision of the rule language is appropriate.

The amendments and new section are adopted under the TCAA, §382.017(a), which provides the TACB with the authority to make rules and regulations 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.

Act—The Texas Clean Air Act, the Texas Health and Safety Code, Chapter 382.

Fuel oil—Any oil meeting the American Society for Testing and Materials (ASTM) specifications for fuel oil in ASTM D 396-86, Standard Specifications for Fuel Oils. This includes fuel oil grades 1, 2, 4 (Light), 4, 5 (Light), 5 (Heavy), and 6.

Hazardous wastes—Any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency (EPA) pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code 6901 et seq., as amended.

Industrial boiler—A boiler located on

the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes.

Utility boiler—A boiler used to produce electric power, steam, or heated or cooled air, or other gases or fluids for sale.

§101.7. Requirements for Operation and Maintenance.

(a) All pollution emission capture equipment and abatement equipment shall be maintained in good working order and operated properly during normal facility operations. Emission capture and abatement equipment shall be considered in good working order and operated properly when operated in a manner such that the facility is capable of operating within limitations established by permit and/or Texas Air Control Board regulations. Normal facility operations include any operation other than start-up or shutdown.

(b) The executive director and the appropriate local air pollution control agency shall be notified in writing at least 10 days prior to any planned maintenance, start-up, or shutdown which will or may cause an excessive emission that contravenes the intent of the Texas Clean Air Act or the regulations of the board. If 10 days notice cannot be given due to an unplanned occurrence, notice shall be given as soon as practical prior to the shutdown.

§101.26. Surcharge on Fuel Oil in Specified Boilers.

(a) **Applicability.** The owner or operator of an industrial or utility boiler as defined in §101.1 of this title (relating to Definitions), with a heat input capacity of greater than 10.0 million British thermal units (Btu) per hour capable of using natural gas shall remit to the Texas Air Control Board (TACB) a clean fuel incentive surcharge of \$0.20 per million Btu on fuel oil used on or between April 15 and October 15 of each year. Provisions of this section apply only to industrial and utility boilers located in consolidated metropolitan statistical areas or metropolitan statistical areas with a population of 350,000 or more which have not met the national ambient air quality standard for ozone.

(b) **Exemptions.** The owner or operator of an industrial or utility boiler affected by subsection (a) of this section is exempt from the surcharge in the following circumstances:

(1) burning of the following oils as defined for purposes of energy recovery or disposal, provided that such burning activities are approved or permitted by the TACB, Texas Water Commission, and/or the United States Environmental Protection Agency.

(A) Used oil—Any oil that has been refined from crude oil, has been used, and, as a result of such use, is contaminated by physical or chemical impurities.

(B) Hazardous waste-derived oil—Any oil that has been produced by processing, blending, or other treatment using hazardous wastes, as defined in §101.1 of this title (relating to Definitions).

(C) Waste oil—Any by-product or co-product oil resulting from crude oil refining or petrochemical production, which is used for energy recovery on-site, provided such use does not exceed 5.0% of the manufacturing complex's fuel consumption, and any by-product oil resulting from crude oil refining or petrochemical production, which is used for energy recovery onsite, if the material has no commercial value and would otherwise be Class I industrial solid waste or hazardous waste. For purposes of this definition, the term "on-site" includes facilities which are adjacent, contiguous, or physically interconnected;

(2) fuel oil use during documented periods of full or partial natural gas curtailment or during documented periods when insufficient natural gas is available to satisfy contractual obligations, or in the event of catastrophic events as defined in the Texas Clean Air Act (TCAA), §382.063(j);

(3) fuel oil use in equipment testing or personnel training if limited to an aggregate of the equivalent of 48 hours full-load operation between April 15-October 15; or

(4) fuel oil use under a fixed-price contract with a public works agency entered into prior to August 28, 1989.

(c) Recordkeeping. The owner or operator of an industrial or utility boiler as defined in §101.1 of this title (relating to Definitions), with a heat input capacity of greater than 10.0 million Btu per hour capable of using natural gas shall maintain records of fuel usage, including amounts and types of fuels used during April 15 to October 15 of each year. Provisions of this section apply only to industrial and utility boilers located in consolidated metropolitan statistical areas, or metropolitan statistical areas with a population of 350,000 or more which have not met the national ambient air quality standard for ozone. The fuel usage record should include documentation of any fuel oil burned as allowed by subsection (b) of this section. The fuel usage record for each year shall be maintained for two years and made available to authorized representatives of the TACB and/or local air pollution control agencies upon request.

(d) Payment. Surcharges shall be remitted in the form of a check or money

order made payable to the TACB annually by December 31, beginning in 1990. A fuel usage report documenting the amount and types of fuel used during April 15-October 15 for each boiler affected by subsection (a) of this section shall accompany any surcharge remitted. The fuel usage report shall also include the company name, mailing address, property address, TACB account number, and the name and telephone number of the person to contact in case questions arise regarding the surcharge payment

(e) Nonpayment of surcharge. Failure to remit the fuel surcharge payment by December 31 shall result in action under the TCAA, §382.088 or §382.082.

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

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

TRD-9004949 Lane Hartscock
Acting Director, Planning
and Development
Program
Texas Air Control Board

Effective date: June 8, 1990

Proposal publication date: January 2, 1990

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 13. Controlled Substances Regulations

Precursor Chemical Regulations

• 37 TAC §§13.71-13.88

The Texas Department of Public Safety adopts new §§13.71-13.88, without changes to the proposed text as published in the April 10, 1990, issue of the *Texas Register* (15 TexReg 2025).

Adoption of the new sections will ensure the public's health and welfare are not jeopardized by the proliferation of these chemical substances by their use in the illicit manufacture of a controlled substance or controlled substance analogue.

The new sections promulgate regulations to be followed by distributors and purchasers of statutory chemical precursors. These regulations establish the department procedures for reporting sales or transactions, obtaining proper permits, and maintaining inventories and records. Peace officers have statutory authority to conduct audits, inspect records, and make complete copies of all such records pertaining to chemical precursors.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Health and Safety Code, §481.077(b) and §481.078(b)(e), which provides the Texas Department of Public Safety with the authority to file rules with the secretary of state regarding named chemical precursors, reporting of sales or transfers, required permitting, required inventories, and authorizing peace officers to conduct inspections, audits, and copying of any and all records.

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

Issued in Austin, Texas, on May 14, 1990.

TRD-9004908 Joe E. Milner
Director
Texas Department of
Public Safety

Effective date: June 6, 1990

Proposal publication date: March 10, 1990

For further information, please call: (512) 465-2000

Part VI. Texas Department of Criminal Justice

Chapter 152. General Allocation Provisions

Subchapter A. Institutional Division Admissions

• 37 TAC §152.1, §152.2

The Texas Board of Criminal Justice adopts amendments to §152.1 and §152.2. Section 152.2 is adopted with changes to the proposed text as published in the March 2, 1990, issue of the *Texas Register* (15 TexReg 1136). Section 152.1 is adopted without changes and will not be published.

Article 6166a-4 requires the board to adopt an allocation formula to fairly and equitably allocate to each county the available institutional division admissions until sufficient capacity is available to accept all prisoners ready for transport from the counties to the Institutional Division. The board certified on February 23, 1990, that insufficient capacity is available and adopted emergency language clarifying the purpose and definitions for the allocation formula to ensure continued orderly admissions of prisoners.

The adopted sections, as amended, require the Board of Criminal Justice to annually determine that an Allocation Formula is necessary, clarify the calculation of available admissions, and define the available capacity of the Institutional Division.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6166a-4, which provide the Texas Board of Criminal Justice with the authority to adopt and enforce a formula to allocate available institutional division admissions among the counties.

§152.2. Definitions and Exceptions.

(a) The following words and terms,

when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Available institutional division admissions—The total number of beds available with the Institutional Division for intake of prisoners is based upon the estimated rate of release of prisoners from the Institutional Division, minus .03333 of those beds which is adequate to allow the Institutional Division to expeditiously receive from the counties any new prisoners who are sentenced to death, or who are recaptured escapees, pre-parole violators, Institutional Division prisoners returning from federal bench warrants, interstate corrections compact transfers, and out-of-state parole violators. Therefore, the number of admissions available is based upon an estimated rate of prisoner flow through the Institutional Division to maintain the Institutional Division capacity.

(2) Institutional division capacity—The total number of beds available for use within the Institutional Division, in accordance with the limitations on capacity and its use imposed by federal court orders in *Ruiz vs. Lynaugh*, Number H-78-987 (Southern District Texas, Houston Division). Available Institutional Division capacity at the time of the adoption of this section will be no more than 47,273. When the Lewis unit is populated and in operation, available Institutional Division capacity will be no more than 49,331.

(b) The Institutional Division may suspend or cancel admissions when the acceptance or transport of prisoners would be unsafe, such as in cases of extremely severe weather or civil disturbance, or would cause non-compliance with federal court orders. The Institutional Division is not required to make up for admissions so suspended or canceled. On days that the Institutional Division is closed due to holidays, the number of admissions is decreased by the number of days of closure multiplied by the current number of daily admissions. The balance of admissions for the week is prorated out to the counties based upon their allocated percentage of intake.

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

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

TRD-9005004 Carl Reynolds
General Counsel
Texas Department of
Criminal Justice

Effective date: June 11, 1990

Proposal publication date: March 2, 1990

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

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

Support Documents

• 40 TAC §16.9801

The Texas Department of Human Services (DHS) adopts an amendment to §16.9801, concerning nurse aide preparation costs in its section about reimbursement methodology for intermediate care facilities and skilled nursing facilities.

The amendment is necessary to comply with the Omnibus Budget Reconciliation Act of 1989.

The amendment extends the period nursing facilities may claim payment for costs of preparing nurse aides for competency evaluation testing. The new expiration date is September 30, 1990.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The section is adopted in compliance with federal requirements to be effective December 19, 1989.

§16.9801. Reimbursement Methodology for Intermediate Care Facilities and Skilled Nursing Facilities.

(a)-(f) (No change.)

(g) Rate setting methodology.

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

(5) Nurse aide preparation costs. DHS reimburses nursing facilities for the reasonable and necessary costs of preparing nurse aides for the competency evaluation testing required under the Omnibus Budget Reconciliation Act of 1987 (OBRA '87). Reimbursement is limited to the Medicaid portion of the costs allowed under OBRA '87. Payments are based on cost reimbursement vouchers. Allowable costs are limited to the actual expenses incurred from January 1, 1989, through September 30, 1990, for:

(A)-(D) (No change.)

(h) (No change.)

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

Issued in Austin, Texas on May 21, 1990.

TRD-9005003 Cathy Rossberg
Agency liaison, Policy
Communication
Services
Texas Department of
Human Services

Effective date: December 19, 1989

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

Chapter 29. Purchased Health Services

Subchapter X. Diagnostic Services for Persons with Potential of Mental Retardation

• 40 TAC §§29.2301-29.2306

The Texas Department of Human Services (DHS) adopts new §§29.2301-29.2306, without changes to the proposed text as published in the April 13, 1990, issue of the *Texas Register* (15 TexReg 2155).

The justification for the new sections is to comply with the Appropriations Act passed by the 71st Texas Legislature.

The new sections will function by allowing more Medicaid-eligible individuals to receive diagnostic services to determine if they are mentally retarded.

During the public comment period, the department received one written comment supporting the proposed amendments.

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

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

Issued in Austin, Texas, on May 21, 1990.

TRD-9005001 Cathy Rossberg
Agency liaison, Policy
Communication
Services
Texas Department of
Human Services

Effective date: June 15, 1990

Proposal publication date: April 13, 1990

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

Chapter 31. Case Management Services

Case Management for Persons with Chronic Mental Illness

• 40 TAC §§31.201-31.205

The Texas Department of Human Services (DHS) adopts new §§31.201-31.205, without changes to the proposed text as published in the April 13, 1990, issue of the *Texas Register* (15 TexReg 2159).

The justification for the new sections is to comply with the Appropriations Act passed by the 71st Texas Legislature.

The new sections will function by allowing chronically mentally ill individuals to receive

services in the community and avoid hospitalization.

No comments were received regarding adoption of the new sections.

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

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

Issued in Austin, Texas, on May 21, 1990.

TRD-9005002
Cathy Rossberg
Agency liaison, Policy
Communication
Services
Texas Department of
Human Services

Effective date: June 15, 1990

Proposal publication date: April 13, 1990

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

Part V. Veterans Land Board

Chapter 175. General Rules

Application Procedures

• 40 TAC §175.2

The Veterans Land Board adopts an amendment to §175.2, without changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1402). The amendment will change the definition of a veteran to include members of the Texas National Guard, the Public Health Service, and those who have completed 20 years of active or reserve military service, which is creditable for retirement under applicable federal military service and federal law.

The amendment reflects changes made to the definition of veteran in House Bill 2262, 71st Legislature, 1989.

Under this amendment, members of the Texas National Guard, the United States Public Health Service, and those individuals who have completed 20 years of active or reserve military service, which is creditable for retirement under applicable federal law, will be eligible for a loan through the Veterans Land Program.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the provisions of the Natural Resources Code, §161.061 and §161.063, which authorizes the Veterans Land Board to adopt rules that it considers necessary or advisable.

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

Issued in Austin, Texas on May 10, 1990.

TRD-9005009
Garry Mauro
Chairman
Veterans Land Board

Effective date: June 11, 1990

Proposal publication date: March 13, 1990

For further information, please call: (512) 463-5009

Chapter 177. Veterans Housing Assistance Program

• 40 TAC §177.5

The Veterans Land Board adopts an amendment to §177.5, with changes to the proposed text as published in the March 13, 1990, issue of the *Texas Register* (15 TexReg 1402). The amendment changes the definition of eligible veterans in the housing program to include members of the United States Public Health Service. Subsection (d), dealing with eligibility of surviving spouses of deceased veterans has been deleted completely.

The section is amended to reflect changes made to the definition of veteran in the laws of the United States.

The adoption will allow members of the United States Public Health Service to participate in all aspects of the Veterans Housing Assistance Programs, including the home improvement loan component. This adoption will also put an end to any confusion over the eligibility of unmarried surviving spouses of veterans who, under federal laws, are not eligible for veterans housing benefits.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the provisions of the Natural Resources Code, §162.001 and §162.003, which authorizes the Veterans Land Board to change the definition of a veteran in response to changes in the laws of the United States, and to adopt rules to govern the program.

§177.5. Loan Eligibility Requirements.

(a) (No change.)

(b) A veteran loan applicant is eligible to participate in the program if he or she:

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

(3) has completed 90 continuous days of active duty, unless sooner discharged by reason of a service connected disability, in the Army, Navy, Air Force, Coast Guard, Marine Corps, or United States Public Health Service, after September 16, 1940.

(4)-(6) (No change.)

(c) (No change.)

(d) Notwithstanding anything in these rules to the contrary, the board, in its discretion, may waive the requirement that an applicant is only entitled to one of each kind of loan available through the Veterans Housing Assistance Program. An applicant wishing to participate in the program who has previously obtained a loan of the kind which is being applied for shall submit to the board an affidavit setting forth the circumstances for the board to consider in granting a waiver. Reasons for being permitted to participate in the program again may include, but are not limited to, loss of a board financed home by reason of change in employment, or any condemnation action not the fault of the applicant.

(e) If both a husband and wife are individually eligible to participate in the program, nothing herein shall be construed to prohibit each of them from applying for a loan to jointly purchase the same home. Therefore, the board may make two loans for the purchase of the same home by two veterans who are husband and wife, but only in the event that both spouses together satisfy the loan qualification requirements of the participating lending institution.

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

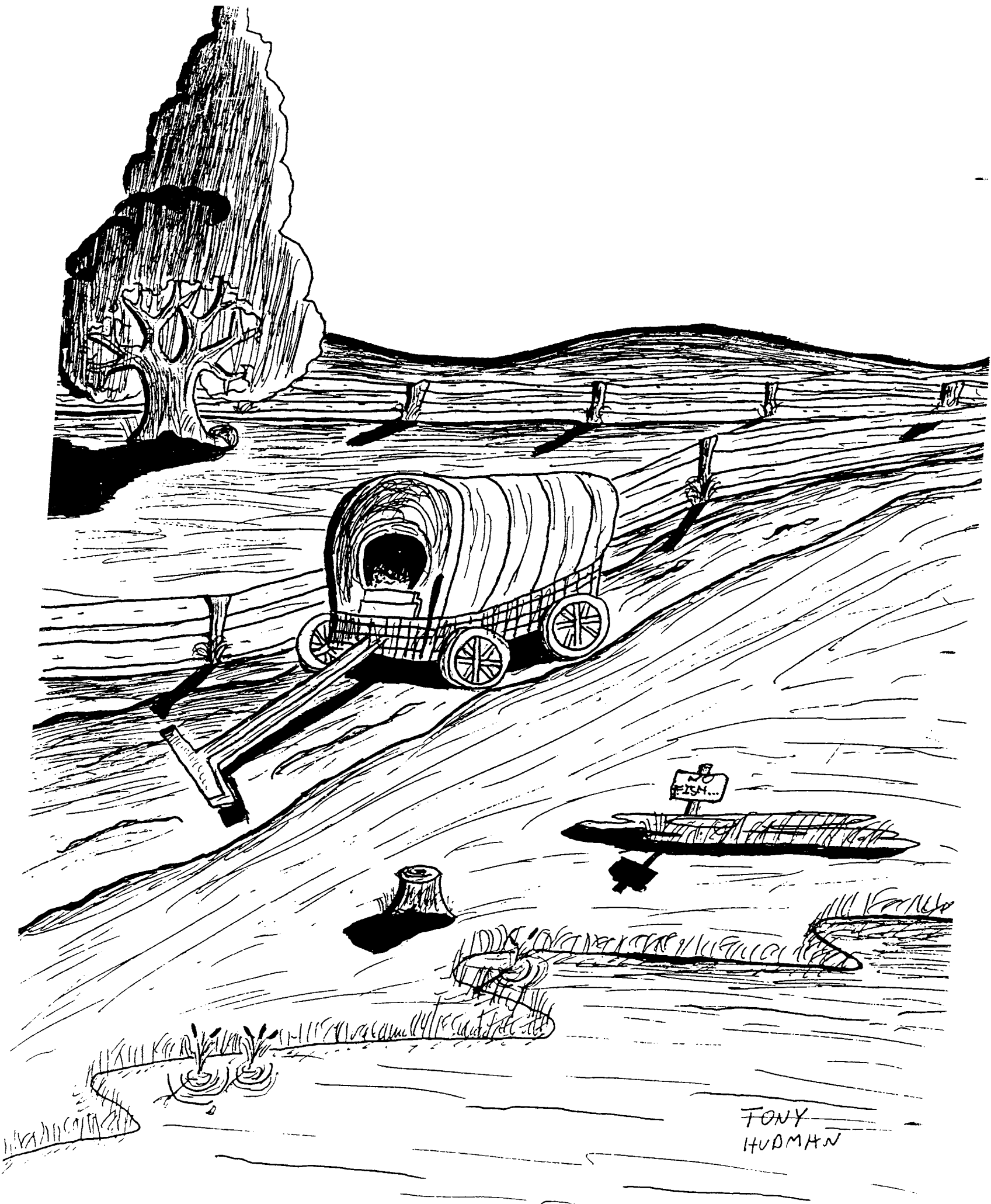
Issued in Austin, Texas on May 17, 1990.

TRD-9005008
Garry Mauro
Chairman
Veterans Land Board

Effective date: June 11, 1990

Proposal publication date: March 13, 1990

For further information, please call: (512) 463-5009



TONY
HUDMAN

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Texas Department of Agriculture

Tuesday, June 5, 1990, 10 a.m. The Texas Department of Agriculture will meet at 1700 North Congress Avenue, Stephen F. Austin Building, 9th Floor Conference Room, Austin. According to the complete agenda, the department will conduct an administrative hearing to review alleged violation of Texas Agriculture Code Annotated, §103.001, et. seq. by Seguin Produce Company as petitioned by C. L. Patillo Company.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: May 17, 1990, 1:52 p.m.

TRD-9004940

Tuesday, June 12, 1990, 10 a.m. The Texas Department of Agriculture will meet at 122 Heiman Street, 1st Floor, San Antonio. According to the complete agenda, a administrative hearing to review: alleged violation of Texas Agriculture Code, §103.001 et. seq. by Jose M. Rios doing business as Rio Fruit Sales as petitioned by Progreso Produce Company.

Contact: Bruce B. Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: May 21, 1990, 1:59 p.m.

TRD-9005041

Tuesday, June 12, 1990, 1 p.m. The Texas Department of Agriculture will meet at 122 Heiman Street, 1st Floor, San Antonio. According to the complete agenda, a administrative hearing to review: alleged violation of Texas Agriculture Code, §103.001 et. seq. by M. A. Vargas Farms as petitioned by S & S Produce Company.

Contact: Bruce B. Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: May 21, 1990, 1:59 p.m.

TRD-9005042

Thursday, June 14, 1990, 1 p.m. The Produce Recovery Fund Board of the Texas Department of Agriculture will meet at 1700 North Congress Avenue, Stephen F.

Austin Building, 9th Floor Conference Room, Austin. According to the complete agenda, a administrative hearing before the board to review: contest of determination issued by the department in the case of Mark Seitz doing business as Rancho Vista Farms vs. Carl P. Weidenbach.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: May 21, 1990, 1:59 p.m.

TRD-9005040

Thursday, June 14, 1990, 3 p.m. The Produce Recovery Fund Board of the Texas Department of Agriculture will meet at 1700 North Congress Avenue, Stephen F. Austin Building, 9th Floor Conference Room, Austin. According to the complete agenda, the board will deliberate and act on docket number 36-87-APA, C. E. Duncan Produce vs. Pat Womack, Inc., doing business as Quality Valey Growers, Inc., heard on April 4, 1990; and discuss and act on proposed operating rules.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: May 21, 1990, 2 p.m.

TRD-9005039

Friday, June 15, 1990, 9 a.m. The Produce Recovery Fund Board of the Texas Department of Agriculture will meet at 1700 North Congress Avenue, Stephen F. Austin Building, 9th Floor Conference Room, Austin. According to the complete agenda, a administrative hearing before the board to review: contest of determination issued by the department in the case of Jesus Alfaro vs. Ruiz Produce Company and Richard Ruiz.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: May 21, 1990, 2 p.m.

TRD-9005038

Friday, June 15, 1990, 1 p.m. The Produce Recovery Fund Board of the Texas Department of Agriculture will meet at

1700 North Congress Avenue, Stephen F. Austin Building, 9th Floor Conference Room, Austin. According to the complete agenda, a administrative hearing before the board to review: contest of determination issued by the department in the case of Obst Brothers Farms vs. A-W Produce Company.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: May 21, 1990, 2 p.m.

TRD-9005037

Texas Department of Aviation

Wednesday, May 30, 1990, 11:30 a.m. The Texas Board of Aviation of the Texas Department of Aviation will meet at Louis B's Restaurant, 601 East 6th Street, Austin. According to the agenda summary, the members plan to have lunch and although this function is primarily a social event and no formal action is planned, the members may discuss items on the board meeting agenda scheduled for 1:30 p.m.

Contact: Lydia Scarborough, 410 East 5th, Austin, Texas 78711, (512) 476-9262.

Filed: May 21, 1990, 10:11 a.m.

TRD-9005025

Wednesday, May 30, 1990, 1:30 p.m. The Texas Board of Aviation of the Texas Department of Aviation will meet at 410 East 5th Street, Anson Jones Building, Room 221, Austin. According to the complete agenda, the board will approve minutes of March 8, 1990 meeting; facilities development program; consideration of five-year Capital improvement program; consideration of Texas facilities development program policies and standards; consideration of revisions to fiscal year 1990-1991 federal/state funded projects; cancellation of City of Weslaco fiscal year 1990-1991 federal/state-funded project; additional fiscal year 1990-1001 funding for federal/state-funded projects for Arlington, Coleman, Dimmitt, Georgetown, Pampa and Gainsville; consideration of

Resolution 90-5-1 authorizing the executive director or his designee to execute all contracts entered into by the department; consideration of proposed fiscal year 1992-1993 biennium appropriations request and directors report.

Contact: Lydia Scarborough, 410 East 5th, Austin, Texas 78711, (512) 476-9262.

Filed: May 21, 1990, 2:14 p.m.

TRD-9005035

State Board of Barber Examiners

Tuesday, June 5, 1990, 8:30 a.m. The Board Members of the Texas State Board of Barber Examiners will meet at 9101 Burnet Road, Suite 103, Austin. According to the agenda summary, the board will approve minutes of previous meeting, sign teacher and school certificates, hear reports by the executive director, read letters to the board, vote on permanent adoption of proposed rules 22 TAC §§51.28, 51.31, 51.34, 51.39, and 51.53; hear presentations from two licensed barbers and one student barber; review a proposed personnel policy, and meet in executive session to evaluate the executive director.

Contact: Jo King McCrorey, 9101 Burnet Road, Suite 103, Austin, Texas 78758, (512) 835-2040.

Filed: May 21, 1990, 3:02 p.m.

TRD-9005045

Texas School for the Blind and Visually Impaired

Thursday, May 31, 1990, 9 a.m. The Board of Trustees-Finance Committee of the Texas School for the Blind and Visually Impaired will meet at 1100 West 45th Street, Superintendent's Office, Austin. According to the agenda summary, the committee will call to order, discuss the operating budget for Fiscal Year 1991; review biennial budget for Fiscal Years 1992 and 1993; reviews investment policy (CDA); discuss state auditor's report; and discuss internal auditor's position.

Contact: Jennifer Ratcliff, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, ext. 133.

Filed: May 18, 1990, 3 p.m.

TRD-9004980

Thursday, May 31, 1990, 10 a.m. The Board of Trustees-Curriculum Committee of the Texas School for the Blind and Visually Impaired will meet at 1100 West 45th Street, Auditorium Conference Room, Austin. According to the agenda summary, the committee will call to order; hear a summary of the advisory committee meeting; discuss vocational continuum; review

plans for field testing curriculum; discussion of orientation and mobility (O&M) and adapted communications course plan; and multihandicapped (MH) curriculum planing.

Contact: Jennifer Ratcliff, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, ext. 133.

Filed: May 18, 1990, 3:02 p.m.

TRD-9004981

Thursday, May 31, 1990, 10 a.m. The Board of Trustees-Personnel Committee of the Texas School for the Blind and Visually Impaired will meet at 1100 West 45th Street, Superintendents Conference Room, Austin. According to the agenda summary, the committee will call to order; hear report from the committee chairman regarding the superintendent/executive director's position; deliberations by the committee recommending the hiring of the superintendent/executive director; and discussion of the position of or assistant principal for life skills program.

Contact: Jennifer Ratcliff, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, ext. 133.

Filed: May 18, 1990, 3:03 p.m.

TRD-9004982

Thursday, May 31, 1990, 11 a.m. The Board of Trustees of the Texas School for the Blind and Visually Impaired will meet at 1100 West 45th Street, According to the agenda summary, the board will call to order; approve minutes of March 9, and May 18, 1990 board meetings; recognize 1990 graduates of TSBVI; audiences with individuals or committees wishing to make a report or request; consideration of the hiring of the superintendent/executive director; report and presentation of business requiring board approval; discuss business for informational purposes; hear report by special committees; and discussion from board members.

Contact: Jennifer Ratcliff, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, ext. 133.

Filed: May 18, 1990, 3:03 p.m.

TRD-9004983

Interagency Council on Early Childhood Intervention

Tuesday, May 29, 1990, 9 a.m. The Interagency Council on Early Childhood Intervention will meet in Room M-652, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the council will approve minutes of previous meeting; review and approve fiscal year 1991 request for proposal process and issues; federal application for funding under public law 99-457; purchase of service policy; discuss proposed rules;

legislative appropriation request; fiscal year 1990 and 1991 budgets.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2671.

Filed: May 17, 1990, 10:39 a.m.

TRD-9004937

Texas Department of Commerce

Thursday, May 31, 1990, 8:30 a.m. The State Job Training Coordinating Council of the Texas Department of Commerce will meet at the Bahia Mar, 6300 Padre Boulevard, South Padre Island. According to the agenda summary, the council will consider policies for programs under the job training partnership act; action will be taken by the council on the following items: PY90 Title IV-C veterans state plan; PY90 Title IIA (3%) older workers recommendations for continuation of funding; revision of definition of family income; PY90 Title IIA SDA plans; PY90 Title III SSA plans; PY90 performance standards and six percent incentives policy; ratification of PY90 Title III state plan; ratification of CY90 Title IIB SDA plans; ratification of PY90-PY91 governor's coordination and special services plan; and ratification of PY90 Wagner-Peyser 7(a) and 7(b) state plan.

Contact: Leslie Ross Froeschle, P.O. Box 12728, Austin, Texas 78711, (512) 320-9464.

Filed: May 17, 1990, 3:43 p.m.

TRD-9004946

Texas Department of Community Affairs

Tuesday, June 5, 1990, 9 a.m. the Interagency Council for Services for the Homeless of the Texas Department of Community Affairs will meet at 8317 Cross Park Drive, Room 1-96, Austin. According to the complete agenda, the council will call to order and welcome; discuss and approve minutes; information sharing from each agency; hear services survey committee report; services monitoring committee report; report on homeless sensitization experience; Nancy Mattox Ulmer, regional coordinator, Interagency Council on the Homeless; appointment of additional ad-hoc council members; and adjourn.

Contact: Eddie Fariss, 8317 Cross Park Drive, Austin, Texas 78754, (512) 834-6022.

Filed: May 18, 1990, 10:31 a.m.

TRD-9004965

Advisory Commission on State Emergency Communications

Friday, May 25, 1990, 10 a.m. The Policy Subcommittee of the Administration (Committee) of the Advisory Commission on State Emergency Communications will meet at 1101 Capital of Texas Highway S. Suite B-100 Austin. According to the complete agenda, the subcommittee will call to order and recognize guests; hear public comment; discuss legislative issues related to health and safety code, chapter 771.001; discuss long-term goals and objectives; hear any new business; and adjourn.

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

Filed: May 17, 1990, 12:55 p.m.

TRD-9004938

Texas Employment Commission

Tuesday, May 29, 1990, 8:30 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will discuss prior meeting notes; consideration and approval of contract for interior renovation of Amarillo agency-owned building; consideration and approval of contract to replace roof, add additional insulation and acoustic tile in Conroe agency-owned building; consideration and approval of contract to construct conference room and relocate manager's office in Weslaco agency-owned building; consideration and approval of contract to renovate agency-owned building in McAllen; consideration and approval to expand the scope of architectural contract to renovate agency-owned building in Beaumont; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on commission docket 22; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: May 21, 1990, 4:11 p.m.

TRD-9005048

Texas State Board for Professional Engineers

Wednesday, May 30, 1990, 11 a.m. The Ad Hoc Committee of the Texas State Board of Registration for Professional Engineers will meet at 1917 IH 35 South, Board Room, Austin. According to the complete agenda, the committee will begin with roll call; recognize and welcome visi-

tors; meet with representatives of the Board of Architectural Examiners to discuss current practices; discuss interpretation of Texas Instrument's questions; and adjourn.

Contact: Charles E. Nemir, 1917 IH 35 South, Austin, Texas 78741, (512) 440-7723.

Filed: May 22, 1990, 9:12 a.m.

TRD-9005072

Wednesday, May 30, 1990, 2 p.m. The Ad Hoc Committee of the Texas State Board of Registration for Professional Engineers will meet at 1917 IH 35 South, Board Room, Austin. According to the complete agenda, the committee will begin with roll call; recognize and welcome visitors; discuss the future of the professional development program; and adjourn.

Contact: Charles E. Nemir, 1917 IH 35 South, Austin, Texas 78741, (512) 440-7723.

Filed: May 22, 1990, 9:13 a.m.

TRD-9005071

Texas Guaranteed Student Loan Corporation

Thursday, May 31, 1990, 9 a.m. The Board of Directors of the Texas Guaranteed Student Loan Corporation will meet at 12015 Park 35 Circle, Colonnade Building, Suite 300, Austin. According to the complete agenda, the board will call to order; approve minutes; discuss old business: executive directors report, schedule of future board meetings, and committee structure of board; discuss new business: policy recommendations, schedule of future board meetings, and committee structure of board; meet in executive session; and adjourn.

Contact: Joe L. McCormick, P.O. Box 15996, Austin, Texas 78761-5996, (512) 835-1900.

Filed: May 21, 1990, 5:03 p.m.

TRD-9005067

Texas Department of Health

Thursday, May 31, 1990, 9 a.m. The Municipal Solid Waste Management and Resource Recovery Advisory Council of the Texas Department of Health will meet at Room T-607, 1100 West 49th Street, Austin. According to the agenda summary, the council will approve minutes of previous meeting; consider new appointments; organization and staffing; fees; rules (scrap tires, sludge/septic waste transporters, fees and reports, health care facility waste, TDH/TACB joint rules on landfills); regional planning; commissioner's comments; legislative needs; report on last conference; conference plans.

Contact: T. A. Outlaw, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7271.

Filed: May 18, 1990, 3:41 p.m.

TRD-9004989

Friday, June 15, 1990, 10 a.m. The On-Site Sewerage Facility Installer Advisory Committee of the Texas Department of Health will meet at Room T-604, 1100 West 49th Street, Austin. According to the agenda summary, the committee will introduce members; consider committee purpose; overview of on-site sewerage facility installer rules; elect vice-chair; consider on-site installer registration program activities; department of health procedures for approving installer registration training courses and instructors; installer registration training courses submitted for approval; examination used for registration of on-site sewerage facility installers; other business and not not requiring committee action.

Contact: Charles McEntire, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7536.

Filed: May 18, 1990, 3:40 p.m.

TRD-9004991

State Department of Highways and Public Transportation

Wednesday, May 23, 1990 4 p.m. The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation met at the Dewitt C. Greer State Highway Building, 11th and Brazos Streets, Room 101-A (Red Room), 1st Floor, Austin. According to the emergency revised agenda summary, the commission held a discussion of the department's present funding conditions; its project development plan (PDP); construction fund limitations; and proposed strategies for selecting projects for monthly lettings; and consideration and adoption of a highway improvement letting strategy for the remainder of Fiscal Year 1990 and for Fiscal Year 1991. The emergency status was necessary because the notice of the meeting was previously and timely posted, but due to a typographical error specifying Tuesday, May 23, 1990, instead of Wednesday, May 23, 1990, emergency action was required to prevent undue hardship on persons who attempt to attend the incorrect day of the week because of the date/day discrepancy.

Contact: Lois Turner, Dewitt C. Greer Building, 11th and Brazos, Room 203, Austin, Texas 78701, (512) 463-8618.

Filed: May 18, 1990, 1:48 p.m.

TRD-9004968

Thursday, May 24, 1990, 9:30 a.m. The State Highway and Public Transportation

Commission of the State Department of Highways and Public Transportation met at the Dewitt C. Greer State Highway Building, 11th and Brazos Streets, Room 101 and 101-A, 1st Floor, Austin. According to the emergency revised agenda summary, the commission held public hearings on highway matters in Jefferson, Hidalgo, and Denton Counties; approved minutes; executed contract awards, routine minute orders and resolutions; authorized: construction, bridge and rehabilitation projects/programs; right of way leases; anti-litter advertising; membership in minority engineer alliance (TAME); public transportation section 18 allocations, park and ride programs, and state funds for Fort Worth transportation authority; considered highway feasibility studies; heard presentation by Moka Transportation Corporation emergency and proposed adoption of 43 TAC §1.300 et seq. (sick leave pool), and amendments to §17.60 et seq. (dealer license); received and discussed staff reports; went into executive session: received advice from counsel on litigation, including save Barton Creek, Austin transportation study, and Glenshire community association cases; attorney-client matters; real property acquisitions; and conferred with staff to receive information. The emergency status was necessary because the notice of the meeting was previously and timely posted, but due to a typographical error specifying Wednesday, May 24, 1990, instead of Thursday, May 24, 1990, emergency action was required to prevent undue hardship on persons who attempt to attend the incorrect day of the week because of the date/day discrepancy.

Contact: Lois Turner, Dewitt C. Greer Building, 11th and Brazos, Room 203, Austin, Texas 78701, (512) 463-8618.

Filed: May 18, 1990, 1:48 p.m.

TRD-9004967

Texas Commission on Human Rights

Thursday, May 31, 1990, 11 a.m. The Texas Commission on Human Rights will meet at 105 West 15th Street, Room 103, John H. Reagan Building, Austin. According to the agenda summary, the commission will discuss and vote on agenda items covered in executive session as necessary or required; welcoming of guests; approval of minutes; review of commissioners and executive directors responsibilities; third quarter cash flow statement; submission of requested proposal for HUD capacity; building funds; personnel matters; administrative reports (executive directors report, complaint monitoring report, operations report, finance report); update report on audit by state auditors; report from administrative oversight committee, spreadsheet on 1992-1993 biennium budget request; amendment to fair housing rules;

commissioner issues and unfinished business.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 837-8534.

Filed: May 21, 1990, 10:52 a.m.

TRD-9005026

Texas Department of Human Services

Friday, May 25, 1990, 1 p.m. The Vendor Drug Dispensing Fee Work Group of the Texas Department of Human Services will meet at 701 West 51st Street, 6th Floor, West Tower, Conference Room 6W, Austin. According to the complete agenda, the group will hear opening comments; introduction of members and staff; history of issues; discussion on reasonable profit factor and dispensing fee; next meeting date; adjournment.

Contact: Geri Menchaca Willems, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4798.

Filed: May 17, 1990, 10:12 a.m.

TRD-9004935

State Board of Insurance

Tuesday, May 29, 1990, 9 a.m. The State Board of Insurance will meet at 1110 San Jacinto, Room 460, Austin. According to the complete agenda, the board will hear request by MNW Properties for hearing concerning calculation and application of experience modifier applicable to workers compensation insurance premium.

Contact: Pat Wagner, 1110 San Jacinto, Austin, Texas 78701, (512) 463-6328.

Filed: May 21, 1990, 2:52 p.m.

TRD-9005044

Tuesday, May 29, 1990, 9 a.m. The Commissioners Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto, Room 342, Austin. According to the complete agenda, a public hearing on docket number 10810 to consider whether disciplinary action should be taken against James W. Allen also known as Kennis Hermann Frederick Mees, Dallas, who holds a group I, legal reserve life insurance agent license and a group II, insurance agent license.

Contact: Will McCann, 1110 San Jacinto, Austin, Texas 78701, (512) 463-6526.

Filed: May 21, 1990, 4:06 p.m.

TRD-9005058

Tuesday, May 29, 1990, 9 a.m. The Commissioners Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto, Room 353, Austin. According to

the complete agenda, the commission will reopen a public hearing on docket number 10607 to consider whether disciplinary action should be taken against Western Employers Insurance Company, Fullerton, California which holds a certificate of authority to transact business in this state.

Contact: J.C. Thomas, 1110 San Jacinto, Austin, Texas 78701, (512) 463-6526.

Filed: May 21, 1990, 4:06 p.m.

TRD-9005059

Tuesday, May 29, 1990, 9 a.m. The State Board of Insurance will meet at 1110 San Jacinto, Room 460, Austin. According to the complete agenda, the board will hear a request by Goettee Construction Company, Inc. for hearing concerning calculation and application of experience modifier applicable workers' compensation insurance premium.

Contact: Pat Wagner, 1110 San Jacinto, Austin, Texas 78701, (512) 463-6328.

Filed: May 21, 1990, 5:09 p.m.

TRD-9005065

Tuesday, May 29, 1990, 1:30 p.m. The Commissioners Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto, Room 342, Austin. According to the complete agenda, the commission will reopen a public hearing on docket number 10653 to consider whether disciplinary action should be taken against Guillermo Alcoser doing business as Alcoser Insurance Agency, San Antonio who holds a group I, legal reserve life insurance agents license and a local recording agents license.

Contact: O.A. Cassity, III, 1110 San Jacinto, Austin, Texas 78701, (512) 463-6526.

Filed: May 21, 1990, 4:06 p.m.

TRD-9005060

Tuesday, May 29, 1990, 1:30 p.m. The Commissioners Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto, Room 353, Austin. According to the complete agenda, a public hearing on docket number 10828 to consider the application of Thomas Stuart Walker, Dallas for a group I, legal reserve life insurance agents license.

Contact: Lisa Lyons, 1110 San Jacinto, Austin, Texas 78701, (512) 463-6526.

Filed: May 21, 1990, 4:06 p.m.

TRD-9005061

Texas Department of Mental Health and Mental Retardation

Thursday, May 31, 1990, 10 a.m. The Board Personnel Committee of the Texas Department of Mental Health and Mental Retardation will meet at 909 West 45th

Street, Central Office, Auditorium, Austin. According to the complete agenda, the committee will consider the approval of appointment of superintendent of Vernon State Hospital; and recommendations on organizational structure of central office.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 454-3761.

Filed: May 21, 1990, 3:34 p.m.

TRD-9005055

Thursday, May 31, 1990, 11 a.m. The Board Planning and Policy Development of the Texas Department of Mental Health and Mental Retardation will meet at 909 West 45th Street, Central Office, Auditorium, Austin. According to the complete agenda, the board will consider the emergency adoption of amendments to section in rules governing interagency agreements; and consideration of proposed strategic plan. If deaf interpreters are required, notify TDMHMR, Ernest Fuentes 72 hours prior to the meeting, (512) 465-4585.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 454-3761.

Filed: May 21, 1990, 3:35 p.m.

TRD-9005056

Thursday, May 31, 1990, 1 p.m. The Board Business and Asset Management Committee of the Texas Department of Mental Health and Mental Retardation will meet at 909 West 45th Street, Central Office, Auditorium, Austin. According to the complete agenda, the board will approve 1990 operating budget adjustments; selection of architect for Adolescent Residential Services (ARS) program at Fort Worth State School; approve fiscal year 1990-1991 CMHMRC allocations; directions for preparation of fiscal year 1992-1993 appropriations request and lease for West 38th Street planned unit development. If deaf interpreters are required, notify TDMHMR, Ernest Fuentes 72 hours prior to the meeting, (512) 465-4585.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 454-3761.

Filed: May 21, 1990, 3:35 p.m.

TRD-9005057

Friday, June 1, 1990, 9 a.m. The Board of Mental Health and Mental Retardation of the Texas Department of Mental Health and Mental Retardation will meet at 909 West 45th Street, Central Office, Auditorium, Austin. According to the agenda summary, the board will hear citizens comments (limited to three minutes); and other issues to be considered. If deaf interpreters are required, notify TDMHMR, Ernest Fuentes 72 hours prior to the meeting, (512) 465-4585.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512)

454-3761.

Filed: May 21, 1990, 3:34 p.m.

TRD-9005054

Texas Department of Criminal Justice Board of Pardons and Paroles

Monday-Friday, May 29-June 1, 1990 10 a.m. The Texas Department of Criminal Justice Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Karin Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: May 18, 1990, 11:09 a.m.

TRD-9004966

Texas Surplus Property Agency

Friday, June 1, 1990, 10:30 a.m. The Governing Board of the Texas Surplus Property Agency will meet at the Holiday Inn North-35 West, (N2540 Meacham Boulevard), Fort Worth. According to the complete agenda, the board will approve minutes of April 17, 1990 board meeting; discussion of TSPA fiscal year 1992-1993 budget; TSPA Houston district construction project; general public presentations and executive directors report.

Contact: Marvin J. Titzman, P.O. Box 8120, San Antonio, Texas 78208, (512) 661-2381.

Filed: May 21, 1990, 8:58 a.m.

TRD-9005005

Texas State Board of Examiners of Psychologists

Tuesday-Friday, May 29-June 1, 1990, 8 a.m. The Texas State Board of Examiners of Psychologists will meet at 9101 Burnet Road, Suite 212, Austin. According to the complete agenda, the board will consider complaints, proposed rules, budget, legislative matters, applications, minutes, opinion letters, hearings, exam issues, reports and planning issues and conduct a public hearing to consider proposed rule 465.18.

Contact: Patricia S. Bizzell, 9101 Burnet Road, Suite 212, Austin, Texas (512) 835-2036.

Filed: May 21, 1990, 1:58 p.m.

TRD-9005043

Texas Public Finance Authority

Tuesday, May 22, 1990, 2 p.m. The Texas Public Finance Authority met at 1201 Brazos, Room 314, State Archives and Library Building, Austin. According to the complete agenda, an emergency meeting was held to approve minutes, consider report from executive director and financial advisor regarding interviews with underwriter firms; consider next action regarding SPGSC request for financing; status report on 1990B GO bond issue; and executive session regarding personnel. The emergency status was necessary because of the need to receive underwriter recommendations regarding bond financing.

Contact: Shannon Needham, 1201 Brazos, #313, (512) 463-5544.

Filed: May 18, 1990, 9:24 a.m.

TRD-9004951

Public Utility Commission of Texas

Thursday, May 31, 1990, 10 a.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in docket number 9506, application of Poka-Lambro Telephone Cooperative, Inc. to revise tariff to reflect rates for new custom calling service.

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

Filed: May 18, 1990, 3:49 p.m.

TRD-9004988

Tuesday, June 5, 1990, 1:30 p.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, a prehearing conference will be held on docket number 9534, application of Sam Rayburn G&T Electric Cooperative, Inc. to revise tariff for the addition of experimental interruptible service rider to schedule SRG&T 80689.

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

Filed: May 21, 1990, 3:21 p.m.

TRD-9005052

Tuesday, June 5, 1990, 1:30 p.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, a prehearing

conference will be held on docket number 9533, application of Sam Houston Electric Cooperative, Inc. to revise tariff for the addition of large power service schedule HLF and interruptible service rider to schedule HLF.

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

Filed: May 21, 1990, 3:21 p.m.

TRD-9005053

Friday, July 20, 1990, 9 a.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in docket number 9531, application of Tatum Telephone Company, Inc. for authority to change certain rates and make other revisions in its tariff.

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

Filed: May 18, 1990, 3:50 p.m.

TRD-9004987

Friday, August 3, 1990, 10 a.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in docket number 9516, petition of Magic Valley Electric Cooperative, Inc. for authority to change lighting tariffs.

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

Filed: May 18, 1990, 3:50 p.m.

TRD-9004986

Texas National Research Laboratory Commission

Wednesday, May 30, 1990, 1:15 p.m. The Texas National Research Laboratory Commission will meet at the Worthington Hotel, Trinity Ballroom Central, Fort Worth. According to the complete agenda, the commission will convene meeting; have roll call of members; approve April 19, 1990, meeting minutes; hear chairman's report-Morton H. Meyerson; special report on status of federal funding-Randall H. Erben; executive director's report-Edward C. Bingler; counselor's report-J. Fred Bucy; committee reports: budget, finance, and bonding-Peter O'Donnell, Jr. personnel-Jerome Johnson, land acquisition-Charles R. Perry, regional planning-Warren G. Woodward; commissioner reports: R & D-Martin Goland, Ellis County-Kenneth A. McCrady, regional funding-Warren Woodward, minority affairs-Warren Woodward; old business; new business;

public comment; executive session (personnel/land acquisition); reconvene; adjourn.

Contact: Karen L. Chrestay, 1801 North Hampton Road #400, DeSoto, Texas 75115, (214) 709-6481.

Filed: May 17, 1990, 2:23 p.m.

TRD-9004950

Senate of the State of Texas

Friday, June 1, 1990 1 p.m. and 6:30 p.m. The Select Committee on Legislative Redistricting of the Senate of the State of Texas will meet at the University of Houston Hilton, 2nd Floor, South Wing Ballroom, Houston. According to the complete agenda, the committee will meet to take written and oral testimony on congressional, legislative, and state board of education redistricting, with special emphasis on redistricting in the Houston area and surrounding counties. The hearing is one of a series of joint regional hearings being conducted by the Senate Select Committee on Legislative redistricting and the House Redistricting Committee to gather information from around the state to assist the legislature in redistricting after publication of the 1990 census.

Contact: Doris Boedeker, P.O. Box 12128, Austin, Texas 78711, (512) 463-0964.

Filed: May 21, 1990, 3:47 p.m.

TRD-9005051

Teacher Retirement System of Texas

Thursday, June 7, 1990, 3:30 p.m. The Retirees Advisory Committee of the Teacher Retirement System of Texas will meet at 1000 Red River, 4th Floor, Room 420E, Austin. According to the complete agenda, the committee will recognize guests; approve minutes of October 10, 1989 meeting; hear administrative remarks; legislative update; fund status report; plan status report; update on pre-existing condition situations; proposed plan design changes; TRS-care data management project 11; and adjournment.

Contact: Stan Blake, 1000 Red River, Austin, Texas 78701-2698, (512) 370-0550.

Filed: May 22, 1990, 9:46 a.m.

TRD-9005073

The Texas A&M University System Board of Regents

Wednesday, May 23, 1990, 1 p.m. The Committee for strategic Objectives of the Texas A&M University System Board of Regents met at the MSC Annex, Texas

A&M University, College Station. According to the complete agenda the committee received reports from consultants.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843-1122, (409) 845-9600.

Filed: May 18, 1990, 9:34 a.m.

TRD-9004957

Thursday, May 24, 1990, 9:30 a.m. The Committee for Service Units of the Texas A&M University System Board of Regents met at the Board of Regents Annex, Texas A&M University, College Station. According to the agenda summary, the committee heard status reports on the Texas Transportation Institute and the Texas Engineering Experiment Station.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843-1122, (409) 845-9600.

Filed: May 18, 1990, 9:40 a.m.

TRD-9004955

Thursday, May 24, 1990, 1:30 p.m. The Planning and Building Committee of the Texas A&M University System Board of Regents met at the Board of Regents Annex, Texas A&M University, College Station. According to the agenda summary, the committee took action on bids; appropriation for detailed design for the veterinary medical center; appropriation for preliminary design to overlay runway at Easterwood airport; appropriation for design for the chemistry building; presentation of the master plan for the animal science center; appropriation for preliminary design for beef center; appropriation for design for dormitories for renovation; appropriation for design for facilities expansion; initiation of major construction projects; report of contract actions by chancellor and presidents; report of construction project appropriations/authorizations by the chancellor; presentation of the underground storage tanks compliance study; presentation of the statement of work for the campus master plan.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843-1122, (409) 845-9600.

Filed: May 18, 1990, 9:36 a.m.

TRD-9004956

Thursday, May 24, 1990, 3:30 p.m. The Committee for Academic Campuses of the Texas A&M University System Board of Regents met at the Board of Regents Annex, Texas A&M University, College Station. According to the agenda summary, the committee considered adoption for policy for awarding honorary degrees, doctorates; approval of new mission statement; approval of fees; authorization to create center; establishment of quasi endowment; granting titles of emeritus.

Contact: Vickie Running, The Texas A&M

University System, College Station, Texas 77843-1122, (409) 845-9600.

Filed: May 18, 1990, 9:40 a.m.

TRD-9004954

Thursday-Friday, May 24-25, 1990, 4:30 p.m. and 8:30 a.m. respectively. The Executive Committee of the Texas A&M University System Board of Regents will meet at the Board of Regents Annex, Texas A&M University, College Station. According to the agenda summary, the committee will discuss a resolution recommending emergency funding by the governor of the State of Texas; appropriation of funds report of appropriations from unappropriated sources and reserves; approval of system investment policy; approval of guidelines for 1992-1993 legislative budget requests; approval of budgets of the athletic councils for FY 1990-1991; approval of operating budgets for FY 1990-1991; confirmation of budget and fiscal transfers; gifts, grants, loans and bequests; terminations; academic tenure; appointments and promotions; early retirement program; drug policy; consideration of proposed sublease by the former students association and all other matters relating to the negotiation of this sublease; appointment of interim president; revised legislative affairs policy; adoption of revised bylaws; appointment of Bush Presidential Library steering committee; approval to seek authorization to lease university property to Texas A&M University; appointment of dean of education.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843-1122, (409) 845-9600.

Filed: May 18, 1990, 9:43 a.m.

TRD-9004952

Friday, May 25, 1990, 2:30 p.m. The Board of Regents of the Texas A&M University System will meet at the MSC Annex, Texas A&M University, College Station. According to the agenda summary, the board will discuss action on bids; appropriations; presentation of master plan for animal center; initiation of major construction projects; report of contract actions; report of construction project appropriations/authorizations; presentation of the underground storage tanks compliance study; presentation of the statement of work for campus master plan; resolution recommending emergency funding by governor; report of appropriations; approval of system investment policy; approval of guidelines for 1992-1993 legislative budget requests; approval of budgets of the athletic councils for FY 1990-1991; approval of operating budgets for FY 1990-1991; confirmation of budget and fiscal transfers; gifts, grants, loans, and bequests; terminations; academic tenure; appointments and promotions; early retirement program; drug policy; consideration of proposed sublease by the

former students association and all other matters relating to the negotiation of this sublease; appointment of interim president; revised legislative affairs policy; adoption of revised bylaws; appointment of Bush Presidential Library steering committee; appointment of dean of education; status reports on the Texas transportation institute and the Texas engineering experiment station; adoption of the Texas A&M University system policy for awarding honorary degrees; adoption of Texas A&M University policy for awarding honorary doctorates; approval of new mission statement (role and scope); approval of construction profession, establishment of a quasi-endowment, granting titles of emeritus approval to seek authorization to lease university property to Texas A&M University.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843-1122, (409) 845-9600.

Filed: May 18, 1990, 9:41 a.m.

TRD-9004953

◆ ◆ ◆ Texas State University System Board of Regents

Thursday, May 24, 1990, 9:30 a.m. The Selection Advisory Committee of the Texas State University System Board of Regents met in the Big Bend Room, Hyatt Regency Hotel, 208 Barton Springs, Austin. According to the complete agenda, the committee discussed any and all matters relating to the employment of a president for Sul Ross State University.

Contact: Lamar Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, (512) 463-1808

Filed: May 18, 1990, 10:19 a.m.

TRD-9004962

Thursday, May 24, 1990, 1 p.m. The Building Committee of the Texas State University System Board of Regents met in the Big Bend Room, Hyatt Regency Hotel, 208 Barton Springs, Austin. According to the complete agenda, the committee reviewed construction projects and documents for the four universities in the system including: contract awards for the Dena street parking lot and fire alarm system at Angelo State University; contract awards for bathroom repairs in Smith-Kirkley dormitory, nine buildings modifications, Thomason building addition and library basement modifications; purchase order approval for dormitory reroofing and repairs; preliminary plan approval for Peabody building renovation-phase II at Sam Houston State University; contract awards for the College Inn renovation and Carson property purchase; master plan approval; purchase order approval for Arnold Hall work, Commons hall chiller and psychology building modifications at Southwest Texas State University. (Where appropriate and permitted by law, executive

sessions may be held for the above listed subjects.)

Contact: Lamar Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, (512) 463-1808

Filed: May 18, 1990, 10:18 a.m.

TRD-9004964

Thursday, May 24, 1990, 2 p.m. The Curriculum Committee of the Texas State University System Board of Regents met in the Big Bend Room, Hyatt Regency Hotel, 208 Barton Springs, Austin. According to the complete agenda, the committee reviewed curriculum needs and requests for the four universities in the system including: twelfth and fourth day class reports; new degree programs or program changes; new course offerings; course deletions and course changes; off campus, out-of-state and out-of-country course offerings. (Where appropriate and permitted by law, executive sessions may be held for the above-listed subjects.)

Contact: Lamar Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, (512) 463-1808

Filed: May 18, 1990, 10:19 a.m.

TRD-9004959

Thursday, May 24, 1990, 2:30 p.m. The Finance Committee of the Texas State University System Board of Regents met in the Big Bend Room, Hyatt Regency Hotel, 208 Barton Springs, Austin. According to the complete agenda, the committee reviewed financial matters of the system office of the four universities in the system including: operating budgets for fiscal year 1990-1991 for the system office, Angelo State University, Sam Houston State University, Southwest Texas State University and Sul Ross State University. (Where appropriate and permitted by law, executive sessions may be held for the above listed subjects.)

Contact: Lamar Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, (512) 463-1808

Filed: May 18, 1990, 10:19 a.m.

TRD-9004960

Thursday, May 24, 1990, 3 p.m. The Rules and Regulations Committee of the Texas State University System Board of Regents met in the Big Bend Room, Hyatt Regency Hotel, 208 Barton Springs, Austin. According to the complete agenda, the committee reviewed proposed amendments to the rules and regulations of the system including the board policies on current employment contracts, indemnification of regents and employees and a policy prohibiting racial harassment.

Contact: Lamar Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, (512) 463-1808

Filed: May 18, 1990, 10:19 a.m.

TRD-9004961

Thursday-Friday, May 24-25, 1990, 1 p.m. and 8 a.m. respectively. The Texas State University System Board of Regents will meet in the Big Bend Room, Hyatt Regency Hotel, 208 Barton Springs, Austin. According to the complete agenda, the board will review matters of the board and the four universities in the system including: all matters reviewed by the building committee and submitted to the full board; all matters reviewed by the curriculum committee and submitted to the full board; all matters reviewed by the finance committee and submitted to the full board; all matters reviewed by the rules and regulations committee and submitted to the full board; personnel actions including new employees, promotions, resignations, terminations, and special appointment for any system employee including the presidents and chancellor; discussion of litigation; budgetary changes at each university and the system office; contract approvals at each university and the system office; computer upgrades, international education, faculty workload policy, food service rates, solid waste disposal agreements and acceptance of gifts. (Where appropriate and permitted by law, executive sessions may be held for the above listed subjects).

Contact: Lamar Urbanovsky, 505 Sam Houston Building, Austin, Texas 78701, (512) 463-1808

Filed: May 18, 1990, 10:18 a.m.

TRD-9004963

Toxic Substances Coordinating Committee

Thursday, June 7, 1990, 9 a.m. The Toxic Substances Coordinating Committee will meet in Room M-652, 1100 West 49th Street, Austin. According to the agenda summary, the committee will approve minutes of previous meeting; consider Texas Air Control Board expansion and federal clean air act action; regional enforcement pilot project of EPA Region VI; fish sampling advisory commission update; and schedule next meeting.

Contact: Dennis Perrotta, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7268.

Filed: May 18, 1990, 3:41 p.m.

TRD-9004990

Texas Turnpike Authority

Wednesday, May 30, 1990, 10 a.m. The Board of Directors of the Texas Turnpike Authority will meet at Hobby Airport Hilton, 8181 Airport Boulevard, Houston. According to the agenda summary, the board will consider the following items: approval of minutes of last board meeting;

feasibility study of toll tunnel; with respect to Dallas North Tollway Extension Phase 2, statement on planned route, acceptance of engineering and traffic and revenue reports, authorizing issuance of Series 1990 Revenue Bonds; adoption of toll rates; contract with trustee, purchase of right-of-way, and acceptance of supplemental agreement; consulting agreement with Robert Neely; payment of legal fees for attorneys; analysis of DNT Barrier Plaza 1; rate study on Houston Ship Channel Bridge; acceptance of additional traffic engineering reports on Sam Houston Tollway East project; additional Sunset Review Policy issues; adoption of affirmative action plan and an executive session.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: May 22, 1990, 8:56 a.m.

TRD-9005070

University of North Texas/Texas College of Osteopathic Medicine

Thursday, May 24, 1990, 1 p.m. The Facilities Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met in the Board Room, Administration Building, University of North Texas, Denton. According to the complete agenda, the board discussed UNT: pave parking lots 11 and 27; renovation of historical building; renovation of women's gymnasium; college inn balcony repair; project status report; Sheraton Hotel and conference center status report; fraternity lease and discussed TCOM: project status report.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: May 18, 1990, 1:56 p.m.

TRD-9004973

Thursday, May 24, 1990, 1 p.m. The Facilities Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met in the Board Room, Administration Building, University of North Texas, Denton. According to the revised agenda, the board added to the UNT agenda, discussion of a construct machine shop.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: May 18, 1990, 1:57 p.m.

TRD-9004970

Thursday, May 24, 1990, 2 p.m. The Role and Scope Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met in Room 201 Administration Building, University of North Texas, Denton. According to the complete agenda, the board discussed UNT:

routine academic reports; University of North Texas Regents Professorships; faculty development leaves; promotion and tenure; personnel transactions; award of honorary degree; assistance to faculty whose primary language is not English; holiday schedule; enrollment management; commencement speaker; athletics; and discussed TCOM: appointments to TCOM advisory council; faculty development leave; name change of academic department; promotion and tenure recommendations; assistance to faculty whose primary language is not English; holiday schedule; draft of affiliation agreement with John Peter Smith Hospital; and admissions update.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: May 18, 1990, 1:56 p.m.

TRD-9004974

Thursday, May 24, 1990, 3 p.m. The Advancement Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met in the Board Room, Administration Building, University of North Texas, Denton. According to the complete agenda, the board discussed UNT: summary of gifts to date; details and progress report on capital campaign; collegiate license plates. The board discussed TCOM development update.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: May 18, 1990, 1:56 p.m.

TRD-9004975

Thursday, May 24, 1990, 4 p.m. The Budget and Finance Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met in Room 213, Administration Building, University of North Texas, Denton. According to the complete agenda, the board will discuss UNT: gift report; student ID card fee and student ID card replacement fee; room and board rate increases; computer services fee; investment report; statement of proposition II transactions; audit update; debt financing; fraternity lease; life insurance policies for president's council; College Inn balcony repair and discussed TCOM: gift report; report of interest earnings; statement of proposition II transactions.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: May 18, 1990, 1:56 p.m.

TRD-9004972

Friday, May 25, 1990, 8 a.m. The Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine will meet at Diamond Eagle Suite, University Union, University of North Texas, Denton. According to the complete agenda, the board will discuss UNT: approve minutes; meet in executive

session to discuss compensation for selected key personnel; legislative update; liability insurance; John Peter Smith Hospital affiliation; animal rights; enrollment management; governance issues; promotions for certain personnel; dean, college of business; athletic director contract; fraternity lease; TWU lease; current UNT lawsuits; drug search lawsuit; Clark v. UNT; student legal issue; TCOM vice president and dean; pathology department personnel; public health and preventive medicine personnel; TCOM lawsuits; Manning v. TCOM; academic reports; honorary degree; holiday schedule; regents professorships; faculty development leaves; promotion and tenure; faculty whose primary language is not English; personnel transactions; gift report; student ID cards; room and board rates; computer service fee; parking lots 11 and 27; renovation of historical building; renovation of women's gym; College Inn balcony repair; project status report; Sheraton Hotel and conference center; national science foundation-industry/university center on nanostructure materials; and discuss TCOM: approve minutes; advisory council appointments; faculty development leave; name change of academic department; promotion and tenure; faculty whose primary language is not English; holiday schedule; gift report; project status report; new adventure in Indonesia; opening of DNA lab; animal research issue.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: May 18, 1990, 1:56 p.m.

TRD-9004971

Friday, May 25, 1990, 8 a.m. The Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine will meet at Diamond Eagle Suite, University Union, University of North Texas, Denton. According to the revised agenda, the board added an executive session to discuss professional development institute and UNT foundation contracts for support of extravaganza.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: May 21, 1990, 4:05 p.m.

TRD-9005049

West Texas State University

Wednesday, May 30, 1990, 11 a.m. The Board of Regents of West Texas State University will meet at Old Main 317, West Texas State University, Canyon. According to the agenda summary, the board will call to order; hear reports; approve minutes; discuss panhandle-plains historical museum; finance and administrative items; meet in executive session; hold annual review of the university president's compensation; academic affairs items; and adjourn.

Contact: Sylvia F. Emerick, West Texas State University, P.O. Box 997 Canyon, Texas 79016, (806) 656-2100.

Filed: May 18, 1990, 9:32 a.m.

TRD-9004958

Texas Water Commission

Thursday, June 7, 1990, 8:30 a.m. The Waste Reduction Advisory Committee of the Texas Water Commission will meet at 105 West 15th Street, Room 102, John H. Reagan Building, Austin. According to the complete agenda, the committee shall continue discussion of committee focus and model legislation as well as issues previously identified. The committee will discuss model legislation; mission statement; identified issues and new items.

Contact: Priscilla Seymour, P.O. Box 13087, Austin, Texas 78711, (512) 463-7761

Filed: May 21, 1990, 10 a.m.

TRD-9005011

Wednesday, June 27, 1990, 3 p.m. The Texas Water Commission will meet at 1700 North Congress Avenue, Room 118, Stephen F. Austin Building, Austin. According to the complete agenda, the commission will review notice of application by City of Denton, application number 08-2335A to amend certificate of adjudication number 08-2335 to also authorize use of the water currently authorized for diversion for hydroelectric purposes at Lake Ray Roberts on the Elm Fork Trinity River, tributary of the Trinity River, Trinity River Basin in Denton, Cook and Grayson Counties.

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

Filed: May 17, 1990, 3:29 p.m.

TRD-9004942

Wednesday, June 27, 1990, 3 p.m. The Texas Water Commission will meet at 1700 North Congress Avenue, Room 118, Stephen F. Austin Building, Austin. According to the complete agenda, the commission will review notice of application by City of Dallas, application number 08-2456C to amend certificate of adjudication number 08-2456, as amended, to also authorize use of the water currently authorized for diversion for hydroelectric purposes at the Lewisville Reservoir on the Elm Fork Trinity River, tributary of Trinity River, Trinity River Basin, in Denton County.

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

Filed: May 17, 1990, 3:30 p.m.

TRD-9004943

Wednesday, June 27, 1990, 3 p.m. The Texas Water Commission will meet at 1700 North Congress Avenue, Room 118, Stephen F. Austin Building, Austin. According to the complete agenda, the commission will review notice of application by City of Dallas, application number 08-2455A, to amend certificate of adjudication number 08-2455 to also authorize use of the water currently authorized for diversion for hydroelectric purposes at Lake Ray Roberts on the Elm Fork Trinity River, tributary of Trinity River, Trinity River Basin, in Denton, Cook and Grayson Counties.

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

Filed: May 17, 1990, 3:30 p.m.

TRD-9004944

Wednesday, July 11, 1990, 3 p.m. The Texas Water Commission will meet at 1700 North Congress Avenue, Room 118, Stephen F. Austin Building, Austin. According to the complete agenda, the commission will review notice of application by Maintenance Committee of Lakeside Village Subdivision, application number 5026, for an extension of time to commence and complete modifications of the dam and/or spillways for the reservoir authorized by permit number 5026 (A-5026) located on Crooked Creek, tributary of Long King Creek, tributary of the Trinity River, Trinity River Basin, approximately three miles southwest of Livingston in Polk County.

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

Filed: May 17, 1990, 3:29 p.m.

TRD-9004941

Wednesday, August 1, 1990, 3 p.m. The Texas Water Commission will meet at 1700 North Congress Avenue, Room 118, Stephen F. Austin Building, Austin. According to the complete agenda, the commission will review notice of application by Thomas A. Mallan, application number 23-983A to combine certificate numbers 23-983 and 23-984 under certificate number 23-983 and that certificate number 983, as combined, be amended to include 7 tracts of leased land approximately 4 river miles upstream of the land authorized by certificate number 23-983 and is located in the Secundino Lujan Survey, Abstract number 1686, Presidio County, approximately 13 miles southeast of Presidio, Texas.

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

Filed: May 17, 1990, 3:30 p.m.

TRD-9004945

Texas Workers' Compensation Commission

Saturday, May 19, 1990, 1 p.m. The Special Advisory Committee on Physician Utilization of the Texas Workers' Compensation Commission met at the Bevington A. Reed Building, 200 East Riverside Drive, Room 209, Austin. According to the complete agenda, the commission will hold under the Open Meeting Act, Article 6252-17, Vernons Texas Civil Statutes, a meeting of the Special Advisory Committee on Physician Utilization for the purposes of discussion and making recommendations pertaining to the following issues: call to order; approval of minutes; discussion of open meeting act requirements; discussion of a letter from chair of special advisory committee diagnostic procedures and treatment guidelines (Gregory W. Hanson, M.D.); review system (Bryon Ward); discussion of the creation of additional subcommittees, subcommittee to identify treatments requiring preauthorization, subcommittee to develop guidelines for second opinions for spine surgery, subcommittee to identify treatments with highest total costs; next committee and subcommittee meeting dates; and adjourn.

Contact: Nancy Kozak, 200 East Riverside Drive, Austin, Texas 78704-1287, (512) 448-7974.

Filed: May 16, 1990, 4:16 a.m.

TRD-9004926

Regional Meetings

Meetings Filed May 17, 1990

The Austin-Travis County Mental Health Mental Retardation Center Finance and Control Committee met at 1430 Collier Street, Austin, May 23, 1990, at noon. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764, (512) 447-4141.

The Austin-Travis County Mental Health Mental Retardation Center Board of Trustees met at 1430 Collier Street, Austin, May 24, 1990, at 7 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764, (512) 447-4141.

The Dallas Area Rapid Transit Minority Affairs Committee met at 601 Pacific Avenue, Dallas, May 22, 1990, at 2 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit Governmental Relations Committee met at 601 Pacific Avenue, Dallas, May 22, 1990, at 3 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Gulf Bend Mental Health Mental Retardation Center Board of Trustees met at 1404 Village Drive, Victoria, May 24, 1990, at noon. Information may be obtained from Donald L. Polzin, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611.

The Hays County Appraisal District Appraisal Review Board will meet at 102 1/2 Old Fitzhugh Road, Dripping Springs, May 25, 1990, at 9 a.m. Information may be obtained from Lynnell Sedlar, 632 "A" East Hopkins, San Marcos, Texas 78666, (512) 754-7400.

The Jasper County Appraisal District Board of Directors met at 116 North Austin Street, Jasper, May 24, 1990, at 7 p.m. Information may be obtained from David W. Luther, P.O. Box 1300, Jasper, Texas 75951, (409) 384-2544.

The Pecan Valley Mental Health Retardation Region Board of Trustees met at 104 Charles Street, Granbury, May 23, 1990, at 8 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

The Tarrant Appraisal District Appraisal Review Board met at 2309 Gravel Road, Fort Worth, May 22-23, 1990, at 8:30 a.m. Information may be obtained from Vernon Evans, 2309 Gravel Road, Fort Worth, Texas 76118, (817) 284-8884.

The Tarrant Appraisal District Appraisal Review Board met at 2309 Gravel Road, Fort Worth, May 24, 1990, at 8:30 a.m. Information may be obtained from Vernon Evans, 2309 Gravel Road, Fort Worth, Texas 76118, (817) 284-8884.

The West Central Texas Municipal Water District met at Fairway Country Club Penthouse, 34 Fairway Oaks Boulevard, Abilene, May 24, 1990, at 10 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254.

TRD-9004934

Meetings Filed May 18, 1990

The Alamo Area Council of Governments Area Judges met at 118 Broadway, Suite 420, San Antonio, May 23, 1990, at 11:30 a.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The Alamo Area Council of Governments Budget and Workplan Committee met at 118 Broadway, Suite 441, San Antonio, May 23, 1990, at noon. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The Alamo Area Council of Governments Executive Committee met at 118 Broadway, Suite 420, San Antonio,

May 23, 1990, at 1 p.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The Austin Travis County Mental Health Mental Retardation Center Executive Committee met at 1430 Collier Street, Board Room, Austin, May 24, 1990, at 7 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141.

The Central Texas Council of Governments Executive Committee met at 302 East Central, Belton, May 24, 1990, at 12:45 p.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1801.

The Coastal Bend Council of Governments Membership will meet at 901 Leonard Street, Corpus Christi, May 25, 1990, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743.

The Dallas Area Rapid Transit Board of Directors met at 601 Pacific Avenue, Board Room, Dallas, May 22, 1990, at 4:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Eastland County Appraisal District Appraisal Review Board will meet at the Commissioner's Courtroom, Eastland County Courthouse, Main Street, Eastland, May 30, 1990, at 10 a.m. Information may be obtained from Steve Thomas, Box 914, Eastland, Texas 76448, (817) 629-8597.

The Hunt County Appraisal District Board of Directors met at the Hunt County Appraisal District, Board Room, 4801 King Street, Greenville, May 23, 1990, at 11:30 a.m. Information may be obtained from Joe P. Davis or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Hunt County Tax Appraisal District Appraisal Review Board will meet at the Hunt County Tax Appraisal District Board Room, 4801 King Street, Greenville, Tuesday-Friday, May 29-July 20, 1990, at 8 a.m. Information may be obtained from Joe P. Davis, or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Lavaca County Central Appraisal District Appraisal Review Board will meet at the Lavaca County Central Appraisal District, 113 North Main, Hallettsville, June 7, 1990, at 9 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Lower Colorado River Authority Energy Operations Committee met at 3700 Lake Austin Boulevard, Austin, May 23, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority Finance and Administration Committee met at 3700 Lake Austin Boulevard, Austin, May 23, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority Audit and Budget Committee met at 3700 Lake Austin Boulevard, Austin, May 23, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority Natural Resources Committee met at 3700 Lake Austin Boulevard, Austin, May 23, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, Austin, May 23, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

The Lower Colorado River Authority Board of Directors met at 3700 Lake Austin Boulevard, Austin, May 24, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3250.

Mental Health and Mental Retardation Authority of Brazos Valley Board of Trustees met at the Brazos Center, 3232 Briarcrest Drive, Bryan, May 24, 1990, 1:30 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805 (409) 822-6467.

The North Central Texas Council of Governments Executive Board met at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, May 24, 1990, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

The North Texas Private Industry Council, Incorporated will meet in Room 215, Wichita Falls Activity Center, 10th and Indiana, Wichita Falls, May 30, 1990, at 12:15 p.m. Information may be obtained from Art Frerich, 4515 Allendale Road, Wichita Falls, Texas 76310, (817) 322-5281.

The Panhandle Regional Planning Commission Board of Directors met at 2736 West Tenth, Board Room, Amarillo, May 24, 1990, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381.

TRD-9004948

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Meetings Filed May 21, 1990

The Coryell County Appraisal District Appraisal Review Board met at the Coryell County Appraisal District Office, 113 North 7th Street, Gatesville, May 24, 1990, at 10 a.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593.

The Deep East Texas Council of Governments Grants Application Review Committee met at Citizens State Bank Community Room, Highway 190, Woodville, May 24, 1990, at 11 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704.

The Deep East Texas Private Industry Council, Inc. Worker Adjustment Committee will meet in Room 102, Lufkin City Hall, Lufkin, May 30, 1990, at 1 p.m. Information may be obtained from Charlene Meadows, 118 South First Street, Lufkin, Texas 75901, (409) 634-2247.

The Deep East Texas Private Industry Council, Inc. will meet in Room 102, Lufkin City Hall, Lufkin, May 30, 1990, at 2 p.m. Information may be obtained from Charlene Meadows, 118 South First Street, Lufkin, Texas 75901, (409) 634-2247.

The Erath County Appraisal District Appraisal Review Board will meet in the Board Room, 1390 Harbin Drive, Stephenville, May 29, 1990, at 9 a.m. Information may be obtained from Trecia Perales, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

The Hays County Appraisal District Appraisal Review Board will meet at 102 1/2 Old Fitzhugh Road, Dripping Springs, May 25, 1990, at 9 a.m. Information may be obtained from Karen Lockett, 632 "A"

East Hopkins, San Marcos, Texas 78666, (512) 754-7400.

The Jack County Appraisal District Appraisal Review Board held an emergency meeting at Los Creek Office Building, 216-D South Main, Jacksboro, May 24, 1990, at 8 a.m. The emergency status was necessary due to property owners previously notified of earlier time. Information may be obtained from Gary L. Zeitler, or Donna Hartzell, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

The South Plains Association of Governments Regional Review Committee will meet at the SPAG Offices, 1323 58th, Lubbock, May 25, 1990, at 2 p.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Lubbock, Texas 79452, (806) 762-8721.

The Tarrant Appraisal District Board of Directors will meet at 2301 Gravel Road, Fort Worth, May 25, 1990, at 9 a.m. Information may be obtained from Olive Miller, 2301 Gravel Road, Fort Worth, Texas 76118, (817) 595-6005.

TRD-9004993

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Meetings Filed May 22, 1990

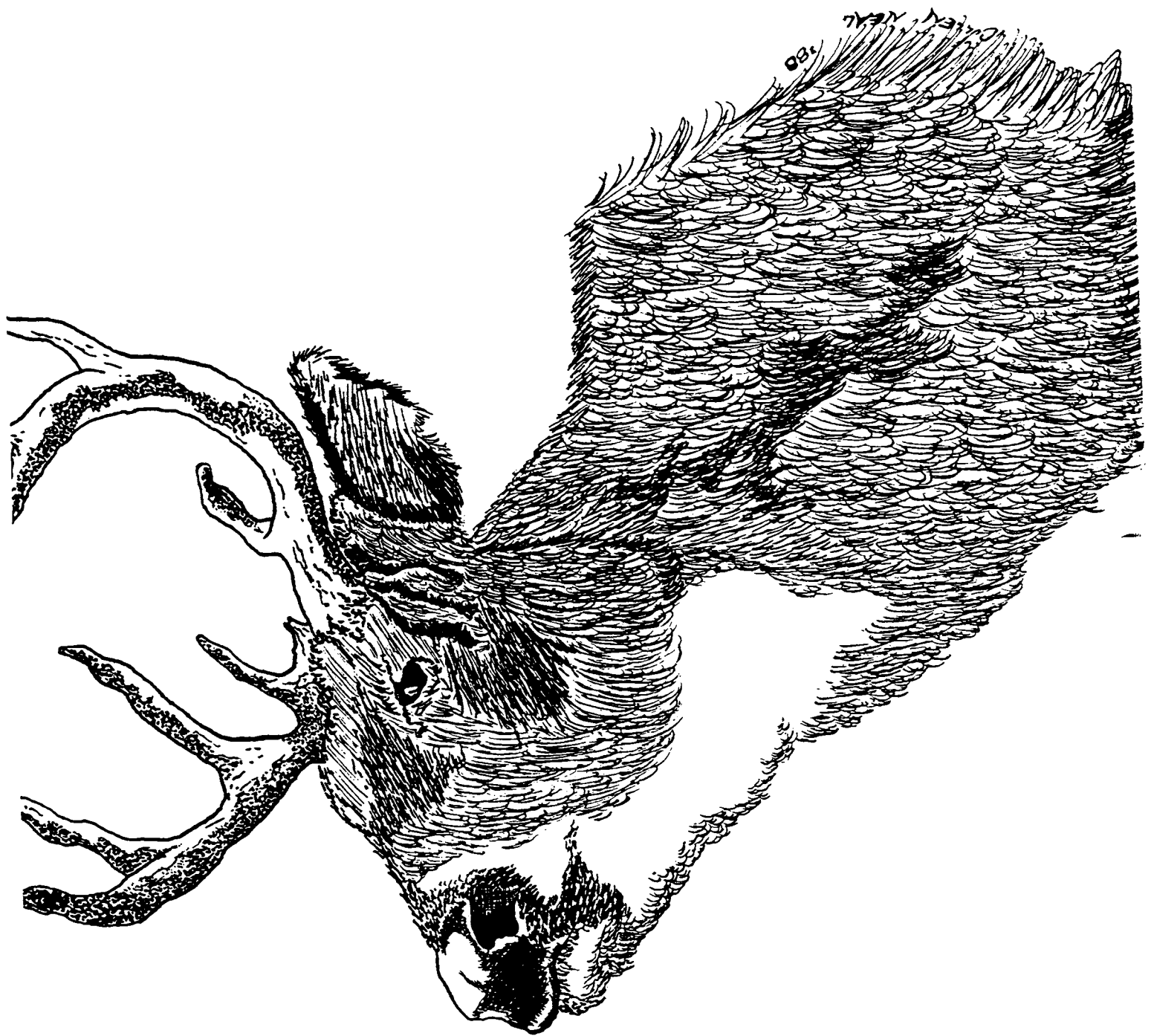
The Atascosa County Appraisal District Appraisal Review Board will meet at 4th and Avenue J, Poteet, May 31, 1990, at 8 a.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas, (512) 742-3591.

The Edwards County Appraisal District Appraisal Review Board will meet at the New County Annex Building, Rocksprings, June 8, 1990, at 9 a.m. Information may be obtained from Natalie McNealy, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-4189.

The Erath County Appraisal District Appraisal Review Board will meet at 1390 Harbin Drive, Board Room, Stephenville, May 30, 1990, at 9 a.m. Information may be obtained from Trecia Perales, 1390 Harbin Drive, Stephenville, Texas, (817) 965-5434.

TRD-9005064





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 Department of Aviation Request for Proposals

The following request for proposals for providing professional engineering services is filed under the provision of Texas Civil Statutes, Article 6252-11c.

The scope of work consists of resurfacing runways and taxiways, installing taxiway signage, constructing taxiway and apron, installing approach slope indicator, and installing fencing, to be made over a period of five years. The total estimated cost of these improvements is approximately \$672,000.

The Texas Department of Aviation will solicit and receive proposals for professional engineering services for the design and construction administration phases at Mineral Wells Municipal Airport, TDA Project Number 91/12-4-1. Design and Construction are presently required for the resurfacing of Runway 13/31 and the south taxiway, and installation of taxiway signage.

Those interested consulting engineers should submit four copies of brief proposals consisting of the minimum number of pages sufficient to provide necessary information to: Texas Department of Aviation, Attention: Ed Oshinski, TDA Project Number 91/12-4-1, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262.

Proposals must be received by 5 p.m., June 15, 1990.

Procedures for award. Procedure for award will be in accordance with FAA Advisory Circular AC 150/5100-14B.

The total estimated project cost is approximately \$235,220.

The City of Mineral Wells reserves the right to reject any or all proposals received and to conduct new consulting engineer selection procedures for future projects.

The proposal shall include: firm name, address, phone number, and person to contact regarding the proposal; proposed project management structure identifying key personnel and subconsultants (if any); qualifications and recent experience of the firm, key personnel, and

subconsultants relative to the performance of similar services for FAA or TDA (TAC) projects; proposed project schedule, including major tasks and target completion dates; technical approach—a brief discussion of the tasks or steps to accomplish the project; list of in-state references including the name, address, and phone number of the person most closely associated with the firm's prior project performance; statement regarding an Affirmative Action Program; for projects with an estimated cost of \$250,000 or more, plans to utilize Disadvantaged Business Enterprises (DBEs) in contracting, subcontracting and procurement efforts associated with this project including: the names and addresses of DBE firms that will participate in the contract; a description of the work each named DBE firm will perform, and percentage of the contract amount to be contracted by each named DBE; and certification that all franchise taxes are paid or that consultant is not subject to franchise taxes.

Proposals will be reviewed by a consultant selection committee in order to identify from three to five consultants who will be interviewed by the committee. The final consultant selection will be made following completion of interviews.

Issued in Austin, Texas, on May 21, 1990.

TRD-9004996 Lydia Scarborough
Director, Support and Services
Texas Department of Aviation

Filed: May 21, 1990

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

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (3)/Agricultural/ Commercial (4) thru \$250,000</u>	<u>Commercial(4) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	05/21/90-05/27/90	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(1)	05/01/90-05/31/90	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	04/01/90-06/30/90	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11(3)	04/01/90-06/30/90	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d)(3)	04/01/90-06/30/90	15.13%	N.A.
Standard Annual Rate - Art. 1.04(a)(2)(2)	04/01/90-06/30/90	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11(3)	04/01/90-06/30/90	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail and Lender Credit Card Balances with Annual Implementation Dates from:	04/01/90-06/30/90	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	05/01/90-05/31/90	10.00%	10.00%

(1) For variable rate commercial transactions only. (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. (3) Credit for personal, family or household use. (4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on May 14, 1990.

TRD-9004913 Al Endsley
Consumer Credit Commissioner

Filed: May 16, 1990

For further information, please call: (512) 479-1280

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Texas Education Agency
Notice of Contract Award

Description. This notice is filed pursuant to Texas Civil Statutes, Article 6252-11c. After publication of a request for contractor continuance in the January 12, 1990, issue of the *Texas Register* (15 TexReg 233), the Texas Education Agency on May 7, 1990, executed a contract with National Evaluation Systems, Incorporated, 30 Gatehouse Road, Amherst, Massachusetts 01002, to develop additional test items and test forms for the Examination for the Certification of Educators in Texas (ExCET). The contract also provides for the convening of committees of Texas educators to review test items and to recommend passing standards to the State Board of Education.

Cost and Dates. The total amount of the contract is \$149,415. The beginning date of the contract is September 1, 1989, and the ending date is August 31, 1990.

Due Date of Documents. New test items, committee review of test items, and committee recommendations of passing standards are due from the contractor on or before August 31, 1990.

Issued in Austin, Texas, on May 17, 1990.

TRD-9004995 W. N. Kirby
Commissioner of Education

Filed: May 21, 1990

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

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Request for Applications

This request for application is filed in accordance with the Elementary and Secondary Education Act, Chapter 2.

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications (RFA #701-91-007) from regional education service centers for the development of a staff development model to provide training to master science educators who will, in turn, train teachers in grades one-six science content and instructional methods as they relate to new elementary science textbooks for 1991-1992.

Description. This project is designed as the initial year of a six-year teacher staff development effort which will be coordinated with the Texas textbook adoption cycle. It is subject to continued funding for each year with prior approval. The priority subject and grade levels selected for the 1990-1991 school year are Science, grades one-six. The ESEA, Title II elementary science inservice module will be used to deliver systematic, comprehensive teacher training. The training will instruct teachers about revised elementary science essential elements in the new science textbook adoptions. The ultimate result of this training will be the improvement of student mastery of academic skills through updating teachers' knowledge and increasing their effectiveness. The TEA will initially train as many as four elementary science educators per region. These trainees will then become trainers for as many elementary science teachers as possible in the same or adjacent regions. Process and product evaluations will be conducted according to criteria that have been developed in coordination with the Division of Program Evaluation.

Dates of Project. The Priority Staff Development Model for Increasing Student Mastery of Academic Skills will be implemented during the 1990-1991 school year. Applicants should plan for a starting date on or about July 27, 1990, and ending no later than June 30, 1991.

Project Amount. Funding will be provided for three, possibly four education service center projects. Each

project will receive funding for the 1990-1991 school year at a level not to exceed \$100,000.

Selection Criteria. Applications will be approved based upon the ability of each applicant to carry out all requirements contained in the request for application. Selection will be made based on the number of teachers trained in the project and qualification for advanced academic training credit.

Requesting the Application. A copy of the complete request for application (RFA #701-91-007) may be obtained by writing or calling the: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or call (512) 463-9304.

Further Information. For clarifying information about this request, contact Joyce Howard Miller, Division of Special Curricular Activities, Texas Education Agency, (512) 463-9590.

Deadline for Receipt of Applications. The deadline for submitting an application is 5 p.m., Friday, June 29, 1990.

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

TRD-9004994 W. N. Kirby
Commissioner of Education

Filed: May 21, 1990

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



This request for application is filed in accordance with Public Law 91-230, the Adult Education Act, as amended, and Public Law 100-77, the Stewart B. McKinney Homeless Assistance Act, Title VII-a Adult Education for the Homeless.

Eligible applicants. The Texas Education Agency (TEA) is requesting applications (RFA #701-91-012) from school districts or cooperatives of school districts, regional education service centers and public colleges and universities for the development of adult education special projects.

Description. The Adult Education Act, §353 provides that a minimum of 10% of the state allotment under that act be used for experimental demonstration projects and teacher training. In addition, the United States Department of Education is requiring an external evaluation of the state adult education for the homeless program. New adult education project descriptions were approved by the State Board of Education on May 12, 1990, for the period effective July 1, 1990-June 30, 1991. The TEA is accepting applications for the newly approved special projects. The titles, purposes, and costs of the projects are as follows.

Adult education through television technology. This project is designed as a three-year project to alleviate the limitations of materials and trainers by producing video-based training resources useful to local adult education programs in response to adult education surveyed needs. The cost of the project will not exceed \$100,000.

A study of adult education funding. This study has several purposes: identify current actual costs of adult education, including those that are being incurred in serving varied subpopulations of the target undereducated adult population; develop feasible ideal costs for comprehensive service delivery for the target undereducated populations; and conduct a study of the current adult education funding formula and make recommendations for satisfactory funding by which the state will appropriate

and allocate funds for adult education. The cost of the project will not exceed \$75,000.

Adult education programs. This project will develop a life planning curriculum for assisting Aid to Families with Dependent Children participants in achieving economic self-sufficiency. It will complement the Texas Department of Human Services' Survival Skills for Women training program through parallel components that infuse basic (literacy) skills into a life coping skills curriculum. The cost will not exceed \$60,000.

Local capacity building projects. The projects will allow adult education programs to propose innovative projects to meet local needs while building local capacity to respond to the diverse needs of the undereducated adult target population. Projects will be funded in the order of the average total scores of the applications, from the highest to the lowest, until funds for this category are exhausted. Applicants are encouraged to develop state and local financial and in-kind resources to contribute to the proposed projects. Applicants proposing matching and in-kind contributions to projects will receive priority. Projects will be funded in the following categories: family literacy implementation project. This project will allow seed money for the implementation of a family literacy program for educationally disadvantaged parents focused on improving literacy behaviors in the home. The implementation will consist of integrating basic skills and parenting skills to that parents' educational achievements can serve as a model for their children; workplace literacy partnership demonstration project: This category of projects will allow "seed money" for implementation of shared cost workplace literacy partnership demonstration projects between the public adult education system and the private sector; adult education curriculum development and instructional strategies development or adaption. This project will allow seed money for innovative delivery of adult education instruction in basic literacy, English as a second language, or adult secondary education, for hardware, including computer equipment, accompanying instructional materials and/or software, and training necessary for implementation of technology learning system. The total cost for all local adult education capacity building projects will not exceed \$218,000.

External evaluation of the adult education for the homeless program. Under the Stewart B. McKinney Homeless Assistance Act, states may compete for funds to implement literacy programs for homeless adults. This project will provide an external evaluation of the adult education for the homeless program funded in Texas. The cost of the project will not exceed \$15,000.

Selection criteria. Applications will be approved based upon the ability of each applicant to carry out all requirements contained in the request for application. Criteria for evaluating applications are as follows: budget amount is reasonable in relation to expected outcomes; program: goals and objectives, demonstrated capability in the field of adult education, qualified personnel, appropriate procedures, appropriate target population; coordination and cooperation; evaluation; and value to adult education.

Requesting the Application. a copy of the complete request for application may be obtained by writing or calling the Document Control Center, Room 6-108, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 463-9304.

Further Information. For clarifying information about this request, contact Dr. Deborah Stedman, Division of Adult and Community Education Programs, Texas Education Agency, (512) 463-9447.

Deadline for Receipt of Applications. The deadline for submitting an application is 5 p.m., June 29, 1990.

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

TRD-9004947 W. N. Kirby
 Commissioner of Education

Filed: May 17, 1990

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

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Texas Department of Health Radioactive Material License Amendment

Notice is hereby given by the Texas Department of Health that it has granted amendment number four to the following radioactive material license.

Radioactive Material License Number LO3907, issued to Syncor International Corporation for their facility located in Fort Worth (mailing address: Syncor International Corporation, 200 West Magnolia Street, Suite 203, Fort Worth, Texas 76104).

The amendment to this license changes the Radiation Safety Officer from Richard Sheriff to Mike Mettetal.

The Division of Licensing, Registration and Standards has determined that the licensee has met the standard(s) appropriate to this amendment: the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with the **Texas Regulations for Control of Radiation (TRCR)** in such a manner as to minimize danger to public health and safety or property; the licensee's equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property; the issuance of the license amendment will not be inimical to the health and safety of the public; and the licensee satisfies any applicable special requirements of the TRCR.

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by the Health and Safety Code, §401.116, and as set out in TRCR 13.6. A person affected is defined as a person who is a resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on May 17, 1990.

TRD-9004992 Robert A. MacLean, M.D.
 Deputy Commissioner for Professional
 Services
 Texas Department of Health

Filed: May 18, 1990

For further information, please call: (512) 835-7000

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

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on May 7, 1990, to amend a Certificate of Convenience and Necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number. Application of Lufkin-Conroe telephone exchange to amend certificate of convenience and necessity for a minor boundary change within Angelina County, Docket Number 9535 before the Public Utility Commission of Texas.

The Application. In Docket Number 9535, Lufkin-Conroe Telephone Exchange requests approval of its application to revise exchange area boundaries between its Hudson Exchange and its Lufkin Exchange in Angelina County.

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

Issued in Austin, Texas, on May 17, 1990.

TRD-9004985 Mary Ross McDonald
 Secretary of the Commission
 Public Utility Commission of Texas

Filed: May 18, 1990

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

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Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on May 9, 1990, to amend a Certificate of Convenience and Necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number. Application of Houston Lighting and Power for a certificate of convenience and necessity for a 138/69KV transmission line within Brazoria County, Docket Number 9540 before the Public Utility Commission of Texas.

The Application. In Docket Number 9540, Houston Power and Light Company request approval of its application to construct approximately 6.5 miles of 138/68kV transmission line six miles north of the City of West Columbia in Brazoria County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512)

458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas, on May 17, 1990.

TRD-9004964 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 18, 1990

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

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Texas Water Commission
Public Hearing Notices

The Texas Water Commission will conduct a public hearing beginning at 10 a.m. , July 10, 1990, Room 1149A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, in order to receive testimony concerning the waste load evaluation for the Neches River Above Lake Palestine in the Neches River Basin (Segment 0606). The public hearing shall be conducted in accordance with the Texas Water Code, §26.011 and §26.037.

The primary purpose of a waste load evaluation is to define treatment levels for wastewater dischargers to a segment and specify other program actions that need to be taken in order to attain and maintain the water quality standards, describe nonpoint source pollution from areas tributary to a segment, and identify treatment level alternatives using receiving stream water quality simulations. A section containing recommended treatment levels and other proposed recommended actions is also included.

The public is encouraged to attend the hearing and to present relevant evidence or opinions concerning the waste load evaluation. Written testimony which is submitted prior to or during the public hearing will be included in the record. The commission would appreciate receiving a copy of all written testimony at least five days before the hearing. Copies of written testimony and questions concerning the public hearing should be addressed to Daniel E. Beckett, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087 or call (512) 463-8452.

A limited number of copies of the draft waste load evaluation are available for review in the Texas Water Commission Library, Room B-20 of the Stephen F. Austin Building, 1700 North Congress Avenue in Austin; or may be obtained by writing to Dale White, P.O. Box 13087, Austin, Texas 78711-3087 or call (512) 463-8452. There are no charges for the pre-hearing draft copies of the waste load evaluation; however, a fee will be charged for the finalized post-hearing copies.

The date selected for this hearing is intended to comply with deadlines set by statute and regulation. Any publication or receipt of this notice less than 45 calendar days prior to the hearing date is due to the necessity of scheduling the hearing on the date selected.

Issued in Austin, Texas, on May 21, 1990.

TRD-9005023 James F. Haley
Director
Legal Division

Filed: May 21, 1990

For further information, please call: (512) 463-8452

◆ ◆ ◆
The Texas Water Commission will conduct a public hearing beginning at 10 a.m. , July 13, 1990, Room 1149A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, in order to receive testimony concerning the waste load evaluation for Plum Creek in the Guadalupe River Basin (Segment 1810). The public hearing shall be conducted in accordance with the Texas Water Code, §26.011 and §26.037.

The primary purpose of a waste load evaluation is to define treatment levels for wastewater dischargers to a segment and specify other program actions that need to be taken in order to attain and maintain the water quality standards, describe nonpoint source pollution from areas tributary to a segment, and identify treatment level alternatives using receiving stream water quality simulations. A section containing recommended treatment levels and other proposed recommended actions is also included.

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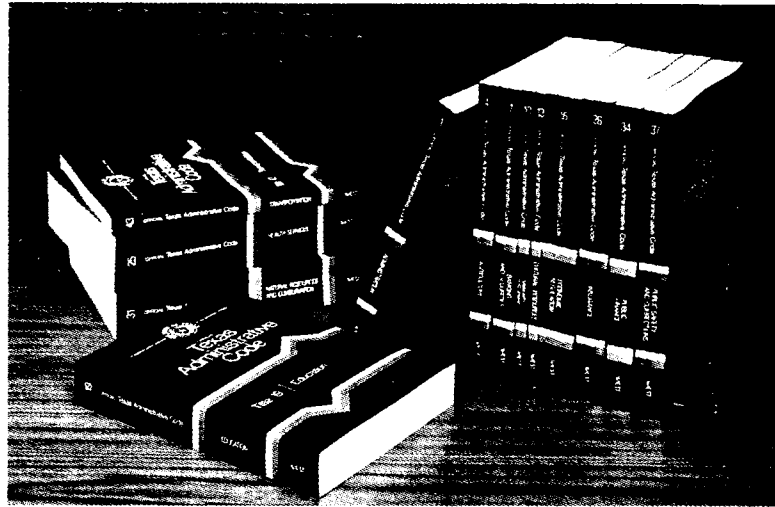
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