

# Texas Register

Volume 15, Number 45, June 15, 1990

Pages 3453-3533

## In This Issue...

### **Emergency Sections**

Texas Racing Commission

3463—Conduct and Duties of Individual Licensees

3463—Pari-Mutuel Wagering

### **Proposed Sections**

Texas Racing Commission

3465—Practice and Procedure

3466—Operation of Racetracks

3467—Conduct and Duties of Individual Licensees

3468—Officials and Rules of Horse Races

3468—Pari-Mutuel Wagering

State Board of Dental Examiners

3468—Dental Hygiene

3469—Dental Laboratories

Board of Vocational Nurse Examiners

3469—Administration

Texas Department of Mental Health and  
Mental Retardation

3470—System Administration

State Board of Insurance

3470—Property and Casualty Insurance

Texas Water Development Board

3473—Rules Relating to Financial Programs

Comptroller of Public Accounts

3474—Tax Administration

State Property Tax Board

3476—Tax Record Requirements

Texas Board of Pardons and Paroles

3476—Parole

3477—Mandatory Supervision

Texas Department of Criminal Justice  
[Texas Adult Probation Commission]

3477—General Allocation Rules

3484—Community Justice Standards

3485—State Aid Distribution and Monitoring

3490—Parole

3491—Mandatory Supervision

3492—Standards

### **Withdrawn Sections**

Texas Racing Commission

3493—Conduct and Duties of Individual Licensees

Texas State Board of Examiners of  
Psychologists

3493—Rules of Practice

State Property Tax Code

3493—Tax Record Requirements

### **Adopted Sections**

Texas Incentive and Productivity  
Commission

3495—Productivity Bonus Program Definitions

3495—Plan Submission and Approval Process

3495—Application for Award and Savings Transfer

3495—Award Approval

3496—Award Eligibility and Distribution

Texas Parks and Wildlife Department

3496—Fisheries

3496—Wildlife

CONTENTS CONTINUED INSIDE

## Texas Register

The *Texas Register* (ISSN0362-4781) is published semi-weekly 100 times a year except June 1, 1990, November 9 and 27, 1990, and December 28, 1990. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78711.

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

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

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

Governor-Appointments, executive orders, and proclamations

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

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

Proposed Sections-sections proposed for adoption

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

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

Open Meetings-notices of open meetings

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

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

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

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

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

### Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



## Texas Register Publications

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

Secretary of State  
**George S. Bayoud, Jr.**

Director  
**Dan Procter**

Assistant Director  
**Dee Wright**

Documents Section Supervisor  
**Patty Parris**

Documents Editors  
**Lisa Brull**  
**Janiene Hagel**

Open Meetings Clerk  
**Brenda J. Kizzee**

Production Section Supervisor  
**Ann Franklin**

Production Editor  
**Sharon Menger**

Typographers  
**Sherry Rester**  
**Janice Rhea**

Circulation/Marketing  
**Cheryl Converse**  
**Roberta Knight**

TAC Editor  
**Dana Blanton**

TAC Typographer  
**Madeline Chrisner**

---

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

## Texas Commission on Jail Standards

3513–Classification and Separation of Inmates

## Texas Department of Human Services

3513–Medicaid Programs–Children and Pregnant Women

3514–Community Care for Aged and Disabled

## Texas High-speed Rail Authority

3514–Administrative Procedures

3515–Franchise Application and Award Procedures

## **Open Meetings**

3519–Texas Department on Aging

3519–Texas Department of Agriculture

3519–Texas Alcoholic Beverage Commission

3519–Bond Review Board

3519–Credit Union Department

3520–Interagency Council on Early Childhood Intervention

3520–Fire Fighters’ Pension Commission

3520–Texas Department of Health

3520–State Department of Highways and Public Transportation

3520–University of Houston

3520–Texas Department of Human Services

3521–State Board of Insurance

3521–Texas Catastrophe Property Insurance Association

3521–Lamar University System

3521–Texas State Board of Medical Examiners

3522–Texas Board of Licensure for Nursing Home Administrators

3522–Texas Department of Criminal Justice Board of Pardons and Paroles

3522–Texas State Board of Public Accountancy

3522–Public Utility Commission of Texas

3522–Railroad Commission of Texas

3522–Texas Rehabilitation Commission

3523–State Securities Board

3523–Senate of the State of Texas

3523–State Committee of Examiners for Speech-Language Pathology and Audiology

3523–The Texas A&M University System

3523–Texas Health Insurance Risk Pool

3523–University of Texas System

3523–Texas Veterans Commission

3524–Texas Water Commission

3524–Texas Workers’ Compensation Commission

3524–Regional Meetings

## **In Addition**

## Texas Department of Commerce

3529–Notice of Consultant Contract Award

## Office of Consumer Credit Commissioner

2539–Notice of Rate Ceilings

## Interagency Council on Early Childhood Intervention

3530–Pilot Projects for Transitional Services for High-Priority Infant

## Texas Higher Education Coordinating Board

3530–Notice of Meeting

## Texas Department of Human Services

3531–Notice of Correction

3531–Notice of Public Hearing

3531–Request for Proposals

## State Board of Insurance

3531–Company Licensing

## Railroad Commission of Texas

3532–Invitation to Bid

## Texas State Technical Institute

3532–Consultant Proposal Request–Amendment

## Texas Water Commission

3532–Enforcement Order

3532–Meeting Notice

3533–Request for Proposals



# TAC Titles Affected

---

## TAC Titles Affected—June

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

### TITLE 1. ADMINISTRATION

#### **Part V. State Purchasing and General Services Commission**

1 TAC §§113.2-113.6, 113.9-113.12, 113.14—3121

1 TAC §113.16—3123

1 TAC §113.31—3124

1 TAC §113.73—3124

1 TAC §§113.81, 113.83, 113.85, 113.87—3124

1 TAC §§113.91, 113.93, 113.95, 113.99—3125

#### **Part XIII. Texas Incentive and Productivity Commission**

1 TAC §289.1—3495

1 TAC §§291.1, 291.3, 291.5—3495

1 TAC §§293.1, 293.3, 293.5—3495

1 TAC §295.1—3495

1 TAC §§297.1, 297.3, 297.5—3496

### TITLE 4. AGRICULTURE

#### **Part I. Texas Department of Agriculture**

4 TAC §17.32, §17.33—3081

4 TAC §§26.1, 26.5, 26.6, 26.8, 26.10, 26.12—3333

#### **Part II. Animal Health Commission**

4 TAC §35.2—3081, 3391

4 TAC §35.41—3081, 3392

4 TAC §§35.41-35.55—3081

4 TAC §35.42—3082

4 TAC §35.43—3083, 3392

4 TAC §35.44—3083, 3393

4 TAC §35.45—3083, 3393

4 TAC §35.46—3084, 3394

4 TAC §35.47—3084, 3395

4 TAC §35.48—3085

4 TAC §35.49—3085, 3395

4 TAC §35.50—3079

4 TAC §35.60—3396

4 TAC §35.61—3396

4 TAC §36.1—3397

4 TAC §36.2—3397

4 TAC §43.10—3398

4 TAC §43.11—3398

4 TAC §51.1—3399

4 TAC §51.2—3399

4 TAC §51.3—3085

4 TAC §55.4—3085

4 TAC §55.5—3086, 3400

4 TAC §55.6—3088

4 TAC §55.7—3088, 3400

4 TAC §55.8—, 3400

4 TAC §59.1—3088

4 TAC §59.2—3088, 3401

4 TAC §59.3—3089

### TITLE 10. COMMUNITY DEVELOPMENT

#### **Part IV. Texas Housing Agency**

10 TAC §§149.1-149.12—3285

10 TAC §§149.1-149.13—3285

### TITLE 16. ECONOMIC REGULATION

#### **Part I. Railroad Commission of Texas**

16 TAC §5.152—3401

#### **Part II. Public Utility Commission of Texas**

16 TAC §23.61—3333

#### **Part VI. Texas Motor Vehicle Commission**

16 TAC §107.8—3126

#### **Part VIII. Texas Racing Commission**

16 TAC §301.1—3049, 3127

16 TAC §305.37—3049, 3127

16 TAC §305.42—3050, 3127

16 TAC §305.43—3050, 3127  
 16 TAC §305.44—3050, 3128  
 16 TAC §305.45—3050, 3128  
 16 TAC §305.49—3051, 3128  
 16 TAC §305.63—3051, 3128  
 16 TAC §307.55—3465  
 16 TAC §307.201—3051, 3128  
 16 TAC §307.203—3465  
 16 TAC §307.206—3051, 3128  
 16 TAC §307.207—3052, 3128  
 16 TAC §307.208—3052, 3130  
 16 TAC §307.221—3052, 3130  
 16 TAC §307.222—3052, 3130  
 16 TAC §307.223—3465  
 16 TAC §307.224—3466  
 16 TAC §307.225—3466  
 16 TAC §309.18—3053, 3130  
 16 TAC §309.25—3053, 3131  
 16 TAC §309.26—3053, 3131  
 16 TAC §309.34—3054, 3131  
 16 TAC §309.53—3054, 3131  
 16 TAC §309.55—3054, 3132  
 16 TAC §309.61—3054, 3132  
 16 TAC §309.63—3466  
 16 TAC §309.64—3466  
 16 TAC §309.109—3467  
 16 TAC §309.115—3055, 3132  
 16 TAC §309.116—3055, 3133  
 16 TAC §309.198—3055, 3133  
 16 TAC §309.199—3056, 3133  
 16 TAC §309.200—3467  
 16 TAC §309.359—3056, 3079, 3133  
 16 TAC §311.4—3056, 3134  
 16 TAC §311.5—3056, 3134  
 16 TAC §311.10—3057, 3134  
 16 TAC §311.14—3463, 3467, 3493,  
 16 TAC §311.103—3057, 3134  
 16 TAC §311.105—3467  
 16 TAC §311.106—3057, 3135  
 16 TAC §311.151—3058, 3135  
 16 TAC §311.152—3058, 3135  
 16 TAC §311.154—3058, 3135  
 16 TAC §311.155—3059, 3136  
 16 TAC §311.156—3059, 3136  
 16 TAC §311.157—3059, 3136  
 16 TAC §311.158—3059, 3136  
 16 TAC §311.221—3059, 3137  
 16 TAC §313.1—3060, 3137  
 16 TAC §313.3—3468  
 16 TAC §313.6—3060, 3137  
 16 TAC §313.21—3060, 3138  
 16 TAC §313.22—3061, 3138  
 16 TAC §313.24—3061, 3138  
 16 TAC §313.25—3061, 3138  
 16 TAC §313.45—3061, 3139  
 16 TAC §313.50—3062, 3139  
 16 TAC §313.56—3062, 3139  
 16 TAC §313.101—3062, 3139  
 16 TAC §313.103—3062, 3140  
 16 TAC §313.107—3063, 3140  
 16 TAC §313.108—3063, 3140  
 16 TAC §313.110—3063, 3140  
 16 TAC §313.111—3063, 3141  
 16 TAC §313.132—3064, 3141  
 16 TAC §313.161—3064, 3141  
 16 TAC §313.166—3064, 3141  
 16 TAC §313.167—3065, 3142  
 16 TAC §313.301—3065, 3142  
 16 TAC §313.302—3065, 3142  
 16 TAC §313.303—3065, 3142  
 16 TAC §313.305—3065, 3143  
 16 TAC §313.306—3066, 3143

16 TAC §313.311—3066, 3143  
 16 TAC §313.312—3066, 3143  
 16 TAC §313.314—3066, 3144  
 16 TAC §313.401—3067, 3144  
 16 TAC §313.402—3067, 3144  
 16 TAC §313.403—3067, 3144  
 16 TAC §313.404—3067, 3145  
 16 TAC §313.405—3068, 3145  
 16 TAC §313.406—3068, 3145  
 16 TAC §313.407—3068, 3145  
 16 TAC §313.408—3068, 3146  
 16 TAC §313.409—3069, 3146  
 16 TAC §313.410—3069, 3146  
 16 TAC §313.411—3069, 3146  
 16 TAC §313.421—3069, 3147  
 16 TAC §319.3—3070, 3147  
 16 TAC §319.5—3070, 3147  
 16 TAC §319.101—3070, 3148  
 16 TAC §319.102—3070, 3148  
 16 TAC §319.106—3071, 3148  
 16 TAC §319.108—3071, 3148  
 16 TAC §319.302—3071, 3149  
 16 TAC §319.306—3071, 3149  
 16 TAC §321.34—3071, 3149  
 16 TAC §321.38—3072, 3149  
 16 TAC §321.39—3072, 3150  
 16 TAC §321.65—3072, 3150  
 16 TAC §321.70—3072, 3150  
 16 TAC §321.107—3331, 3463, 3468  
 16 TAC §321.108—3073, 3150  
 16 TAC §321.109—3073, 3151  
 16 TAC §321.110—3073, 3151  
 16 TAC §321.112—3073, 3151  
 16 TAC §321.113—3074, 3151  
 16 TAC §321.114—3074, 3152

## TITLE 19. EDUCATION

### **Part I. Texas Higher Education Coordinating Board**

19 TAC §5.4—3089  
 19 TAC §5.8—3089  
 19 TAC §§5.191-5.195—3297  
 19 TAC §§5.191-5.197—3297  
 19 TAC §§5.311-5.318—3089  
 19 TAC §§5.350-5.353—3296  
 19 TAC §9.77—3298  
 19 TAC §§9.270-9.283—3298  
 19 TAC §13.70, §13.71—3089  
 19 TAC §13.72, §13.73—3152  
 19 TAC §17.1—3153  
 19 TAC §§17.21-17.30—3153  
 19 TAC §§17.21-17.28, 17.31-17.33—3153  
 19 TAC §§17.41-17.44—3155  
 19 TAC §§17.61-17.65—3156  
 19 TAC §§17.61-17.67—3157  
 19 TAC §§21.306-21.308, 21.310—3300

### **Part II. Texas Education Agency**

19 TAC §33.54—3301  
 19 TAC §33.62—3302  
 19 TAC §49.2—3334  
 19 TAC §61.251—3302  
 19 TAC §75.195—3303  
 19 TAC §77.453—3403  
 19 TAC §§81.90-81.95—3403  
 19 TAC §81.129—3334  
 19 TAC §89.112—3305  
 19 TAC §89.118—3305  
 19 TAC §109.61—3405  
 19 TAC §137.551, §137.559—3405  
 19 TAC §141.454—3305  
 19 TAC §141.481—3307  
 19 TAC §143.11—3309

## TITLE 22. EXAMINING BOARDS

### **Part V. State Board of Dental Examiners**

22 TAC §§101.11-101.13—3158

22 TAC §101.31—3158

22 TAC §101.41—3159

22 TAC §101.51—3159

22 TAC §101.52—3159

22 TAC §101.61—3159

22 TAC §103.11, §103.15—3160

22 TAC §§103.21-103.23—3160

22 TAC §103.31—3160, 3468

22 TAC §103.41—3161

22 TAC §116.6—3469

### **Part XI. Board of Nurse Examiners**

22 TAC §217.16—3313

22 TAC §221.1—3075, 3090

22 TAC §221.7—3075, 3090

22 TAC §221.7, §221.8—3075, 3091

### **Part XII. State Board of Vocational Nurse Examiners**

22 TAC §231.95—3469

### **Part XV. Texas State Board of Pharmacy**

22 TAC §281.24—3161, 3313

22 TAC §281.33—3161, 3314

22 TAC §281.51—3161, 3314

22 TAC §283.2, §283.4—3091, 3334

22 TAC §291.6—3091, 3334

22 TAC §295.5—3091, 3335

### **Part XVI. Texas State Board of Physical Therapy Examiners**

22 TAC §343.1—3335

### **Part XXI. Texas State Board of Examiners of Psychologists**

22 TAC §465.18—3331, 3493

### **Part XXIII. Texas Real Estate Commission**

22 TAC §535.67—3335

22 TAC §535.68—3335

22 TAC §535.94—3335

22 TAC §535.112—3336

22 TAC §535.153—3336

22 TAC §535.154—3336

### **Part XXIV. Texas State Board of Veterinary Medical Examiners**

22 TAC §571.3—3161

22 TAC §573.9—3161

22 TAC §577.13—3162

## TITLE 25. HEALTH SERVICES

### **Part I. Texas Department of Health**

25 TAC §145.12—3162, 3315

25 TAC §145.91—3162, 3315

25 TAC §145.111—3162, 3316

25 TAC §325.5, §325.6—3092, 3337

25 TAC §325.75—3092, 3337

25 TAC §325.92—3092, 3337

25 TAC §§325.143, 325.150, 325.151—3092, 3337

25 TAC §325.185—3092, 3338

25 TAC §325.484—3092, 3338

25 TAC §§325.701, 325.702, 325.705, 325.706—3092, 3338

### **Part II. Texas Department of Mental Health and Mental Retardation**

25 TAC §401.53—3292

25 TAC §401.54—3470

25 TAC §402.151-402.159—3317

## TITLE 28. INSURANCE

### **Part I. State Board of Insurance**

28 TAC §§5.1301-5.1309—3470

28 TAC §7.74—3339, 3389

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### **Part II. Texas Parks and Wildlife Department**

31 TAC §57.610, §57.611—3496

31 TAC §§65.1, 65.6, 65.7, 65.11, 65.13-65.24, 65.31-65.36, 65.38, 65.39, 65.41-65.48, 65.51, 65.60, 65.71, 65.76-65.81, 65.91—3496

31 TAC §§65.1, 65.3, 65.5, 65.9, 65.1, 65.13, 65.15, 65.17, 65.19, 65.21, 65.23, 65.25, 65.27, 65.29, 65.31,



65.33, 65.36, 65.38, 65.40, 65.42, 65.44, 65.46, 65.48, 64.50, 65.52, 65.54, 65.56, 65.58, 65.60, 65.62, 65.64, 65.66, 65.68, 65.70, 65.72, 65.78, 65.82, 65.91—3496

**Part IX. Texas Water Commission**

31 TAC §297.1—3415

31 TAC §297.45—3415

31 TAC §305.126—3416

31 TAC §§310.1-310.18—3416

31 TAC §§334.1-334.3, 334.5-334.7—3425

31 TAC §334.13—

31 TAC §§334.21-334.23—3425

31 TAC §§334.42, 334.44, 334.47, 334.50, 334.51—3425

31 TAC §§334.121-334.132—3429

**Part X. Texas Water Development Board**

31 TAC §§355.70-355.80—3340

31 TAC §363.5—3473

31 TAC §§363.201-363.202—3345

31 TAC §§363.231-363.235—3347

31 TAC §§363.251-363.257—3348

31 TAC §§363.281-363.283—3349

31 TAC §§363.291-363.295—3349

31 TAC §§363.301-363.302—3349

31 TAC §§363.311-363.321—3349

31 TAC §§363.331—3349

**TITLE 34. PUBLIC FINANCE**

**Part I. Comptroller of Public Accounts**

34 TAC §3.182—3349

34 TAC §3.199—3350

34 TAC §3.293—3474

34 TAC §3.329—3319

34 TAC §3.336—3475

34 TAC §3.345—3319

**Part IV. Employees Retirement System of Texas**

34 TAC §77.9, §77.11—3429

34 TAC §§81.3, 81.5, 81.7—3408

**Part VII. State Property Tax Board**

34 TAC §155.4—3350

34 TAC §155.44—3350

34 TAC §155.45—3350

34 TAC §155.60—3476, 3493

34 TAC §161.201—3351

**Part IX. Bond Review Board**

34 TAC §§181.21, 181.23, 181.25, 181.27, 181.29, 181.31, 181.33, 181.35 —3413

**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

**Part I. Texas Department of Public Safety**

37 TAC §23.41—3430

**Part V. Texas Board of Pardons and Paroles**

37 TAC §145.22—3476

37 TAC §149.1—3477

**Part VI. Texas Department of Criminal Justice [Texas Adult Probation Commission]**

37 TAC §152.3—3477

37 TAC §152.7, §152.9—3484

37 TAC §163.31—3484

37 TAC §165.41, §165.43—3485

37 TAC §195.61—3490

37 TAC §197.21—3491

37 TAC §321.15, §321.16—3492

**Part IX. Texas Commission on Jail Standards**

37 TAC §271.2—3515

**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department of Human Services**

40 TAC §§4.1004, 4.1006, 4.1010, 4.1012—3515

40 TAC §9.101—3092, 3351

40 TAC §9.204—3092, 3351

40 TAC §§10.3101-10.3190—3162, 3320

40 TAC §§10.3301-10.3307, 10.3320-10.3324—3162, 3322

40 TAC §§10.3401-10.3454—3162, 3322

40 TAC §§10.3501-10.3506—3430

40 TAC §10.3507—3431

40 TAC §15.200, §15.210—3092, 3351

40 TAC §16.901—3163  
 40 TAC §16.1101—3092, 3352  
 40 TAC §§16.1301-16.1305—3163  
 40 TAC §§16.1501, 16.1504-16.1509, 16.1511-16.1513—3163  
 40 TAC §§16.1514—3163, 3223  
 40 TAC §§16.1901, 16.1903, 16.1904, 16.1906, 16.1907, 16.1910-16.1912, 16.1914-16.1919—3167  
 40 TAC §§16.2901-16.2908—3167  
 40 TAC §§16.3001-16.3009, 16.3011-16.3017—3168  
 40 TAC §16.3010—3092, 3352  
 40 TAC §§16.3101-16.3107—3168  
 40 TAC §§16.3201-16.3212—3168  
 40 TAC §§16.3301-16.3304—3168  
 40 TAC §§16.3401-16.3404—3169  
 40 TAC §§16.3501-16.3507—3169  
 40 TAC §§16.3801-16.3805, 16.3807—3169  
 40 TAC §16.3806—3162, 3327  
 40 TAC §16.3901, §16.3902—3169  
 40 TAC §16.3903—3092, 3352  
 40 TAC §§16.4101-16.4103—3169  
 40 TAC §§16.4901-16.4913—3170  
 40 TAC §16.5101, §16.5102—3170  
 40 TAC §§16.5901-16.5903—3170  
 40 TAC §§16.6101-16.6111, 16.6113,-16.6120—3170  
 40 TAC §16.6112—3162, 3328  
 40 TAC §§16.7101, 16.7102, 16.7104—3171  
 40 TAC §16.7103—3092, 3352  
 40 TAC §16.9801—3092, 3353  
 40 TAC §16.9802—3171  
 40 TAC §19.1—3171  
 40 TAC §19.101—3172  
 40 TAC §§19.201-19.219—3177  
 40 TAC §§19.301-19.305—3184  
 40 TAC §19.401—3186  
 40 TAC §§19.501-19.505—3186

40 TAC §§19.601-19.604—3188  
 40 TAC §19.701—3193  
 40 TAC §§19.801-19.813—  
 40 TAC §§19.901-19.912—3199  
 40 TAC §§19.1001-19.1010—3202  
 40 TAC §§19.1101-19.1106—3203  
 40 TAC §§19.1201-19.1208—3205  
 40 TAC §§19.1301-19.1310—3206  
 40 TAC §§19.1401-19.1402—3210  
 40 TAC §§19.1501-19.1521—3212  
 40 TAC §§19.1501, 19.1504—3212  
 40 TAC §§19.1601-19.1612—3223  
 40 TAC §§19.1701-19.1708—3227  
 40 TAC §§19.1801-19.1809—3230  
 40 TAC §§19.1901-19.1933—3241  
 40 TAC §§19.2001-19.2013—3254  
 40 TAC §§19.2101-19.2107—3265  
 40 TAC §29.601—3266  
 40 TAC §29.1126—3266  
 40 TAC §§29.2201-29.2203—3162, 3431  
 40 TAC §§29.2401-29.2404—3267  
 40 TAC §31.101--31.107—3092, 3354  
 40 TAC §41.702—3092, 3354  
 40 TAC §§48.2101-48.2109—3092, 3355  
 40 TAC §48.2501—3092, 3356  
 40 TAC §48.2916—3162, 3328  
 40 TAC §48.5902—3415  
 40 TAC §54.403—3411  
 40 TAC §§79.1701-79.1707—3092, 3356

## TITLE 43. TRANSPORTATION

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

43 TAC §§1.300-1.305—3075, 3269

### ***Part IV. Texas High-speed Rail Authority***

43 TAC §§81.1, 81.11, 81.21, 81.31, 81.41, 81.51, 81.61—3514

43 TAC §§81.100, 81.110, 81.120, 81.130, 81.140,

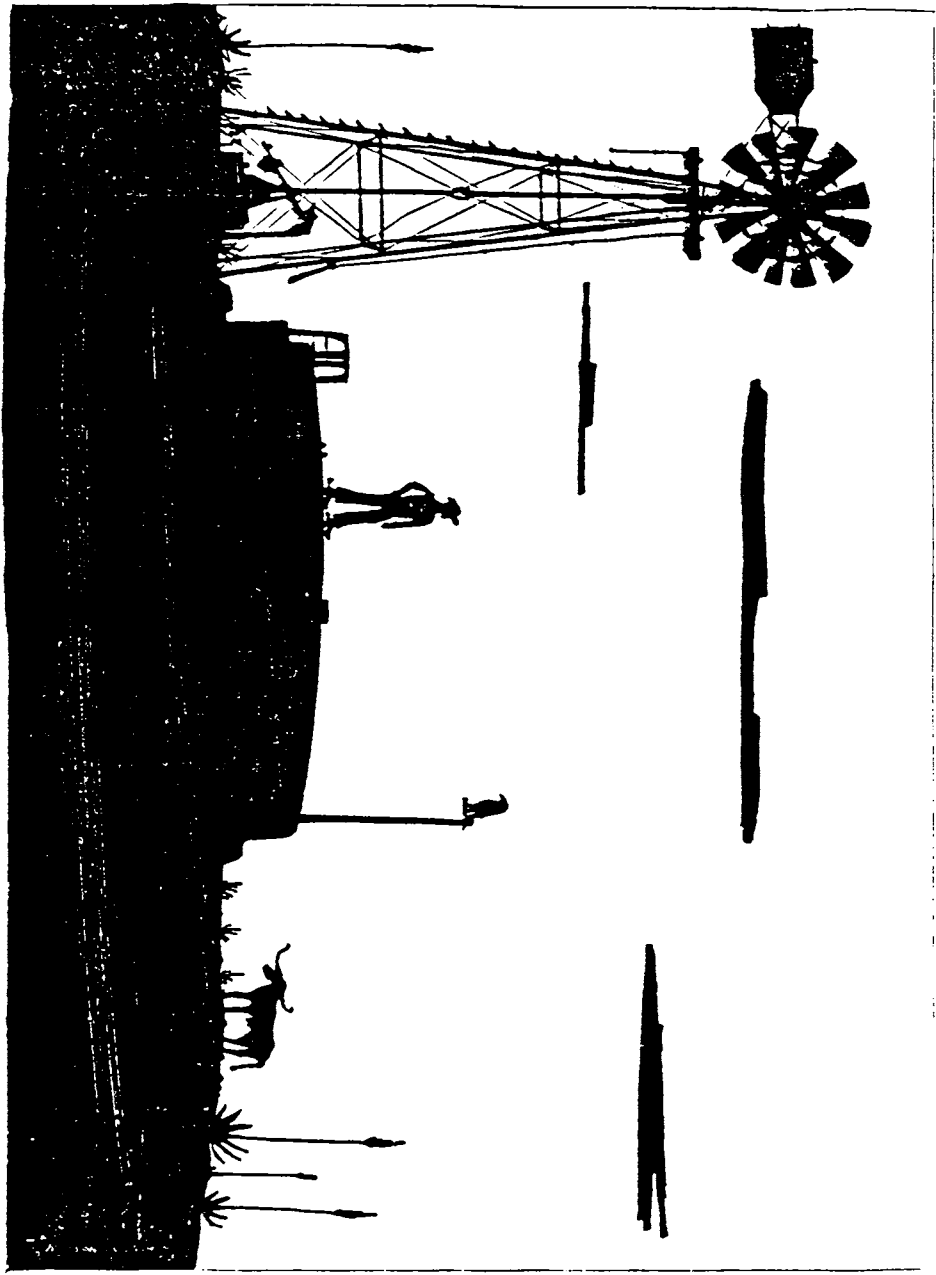
81.150, 81.160—3515

43 TAC §§83.1, 83.11, 83.21, 83.31—3515

43 TAC §§83.100, 83.110, 83.120—3517

◆ ◆ ◆

PICAPONS TAPAWGO 12 5-36



SIKARU TAPAWGO 12 5-36

# 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 20 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 16. ECONOMIC REGULATION Part VIII. Texas Racing Commission

### Chapter 311. Conduct and Duties of Individual Licensees

#### Subchapter A. General Provisions

##### • 16 TAC §311.14

The Texas Racing Commission adopts on an emergency basis new §311.14, concerning accident reports. The new section clarifies how an injury to a person on association grounds or a race animal shall be reported. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The new section is adopted on an emergency basis to ensure the rules of pari-mutuel racing are in place for pari-mutuel racing scheduled to begin on May 26, 1990, at Gillespie County Fair and Festivals Association.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing Act.

##### §311.14. Accident Reports.

(a) A licensee who observes or is involved in an accident that occurs on association grounds during a race meeting and that results in an injury to a person or race animal shall report the accident to the association.

(b) A report under this section must be made not later than 24 hours after the time the accident occurred.

Issued in Austin, Texas on May 22, 1990.

TRD-9006035 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Effective date: June 11, 1990

Expiration date: October 9, 1990

For further information, please call: (512)  
476-7223

### Chapter 321. Pari-Mutuel Wagering

#### Subchapter B. Distribution of Pari-Mutuel Pools

##### • 16 TAC §321.107

The Texas Racing Commission adopts on an emergency basis an amendment to §321.107, concerning the daily double. The amendment clarifies the distribution of the daily double pari-mutuel pool. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis to ensure the rules of pari-mutuel racing are in place for pari-mutuel racing scheduled to begin on May 26, 1990, at Gillespie County Fair and Festivals Association.

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

##### §321.107. Daily Double.

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

[(f) If no ticket is sold that would require the distribution of the daily double pool under subsections (c)-(e) of this section, the association shall provide a complete refund of the daily double pool.]

(f)[(g)] If the first race of a daily double is canceled, the association shall provide a complete refund of the daily double pool. If the second race of a daily double is canceled after the first race has been completed, the entire daily double pool, minus the takeout and the breakage, shall be distributed, in proportion to the amount wagered on those combinations

including the winner of the first race of the daily double, to holders of tickets which include the winner of the first race of the daily double in combination with any animal in the second race.

(g)[(h)] If before the first race of a daily double is run, an animal entered in either race is scratched, declared out, or prevented from racing, all money wagered on the affected animal shall be deducted from the daily double pool and refunded to the holders of tickets on the affected animal.

(h)[(i)] If after the first race of a daily double is run, an animal entered in the second race is scratched, declared out, or prevented from racing, a consolation daily double shall be awarded. All tickets which select an animal in the first race with the affected animal in the second race shall be deducted from the daily double pool and the remainder shall be placed in a consolation daily double pool. The pool shall be distributed as a straight pool to the holders of tickets who correctly selected the winner of the first race with the affected animal in the second race.

(i)[(j)] If either race in a daily double ends in a dead heat, the total daily double pool shall be distributed in the same manner as a place pool.

(j)[(k)] If the daily double pool cannot otherwise be distributed in accordance with this section, the money in the daily double pool shall be **carried forward and added to the next consecutive daily double pool** [refunded].

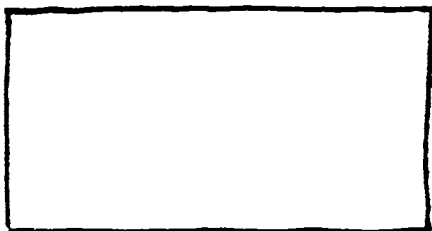
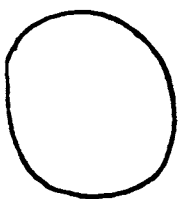
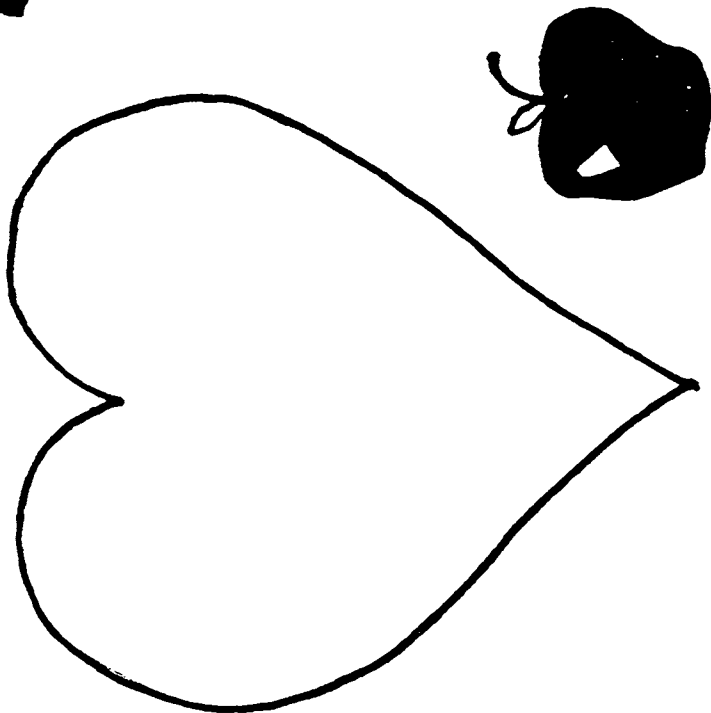
Issued in Austin, Texas, on May 22, 1990.

TRD-9006038 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Effective date: June 11, 1990

Expiration date: October 9, 1990

For further information, please call: (512)  
476-7223



# Proposed Sections

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

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

## TITLE 16. ECONOMIC REGULATION

### Part VIII. Texas Racing Commission

#### Chapter 307. Practice and Procedure

##### Subchapter B. Adjudicative Procedures

##### General Provisions

##### • 16 TAC §307.55

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

The Texas Racing Commission proposes the repeal of §307.55, concerning effect of legal action on application. The section is proposed for repeal because it has proven to unduly restrict the options of the commission on racetrack application.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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.

Ms. Carter 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 that the commission's application proceedings can be expedited. There will be no effect on small businesses as a result of enforcing the repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted before August 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing Act.

##### *§307.55. Effect of Legal Action on Application.*

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

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

TRD-9006033 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

##### Subchapter C. Proceedings by Stewards and Racing Judges General Provisions

##### • 16 TAC §307.203

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

The Texas Racing Commission proposes the repeal of §307.203, concerning reports. The section is proposed for repeal because the section is redundant of requirements contained in other rules of the commission.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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.

Ms. Carter 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 that the commission's rules will be internally consistent and nonrepetitive. There will be no effect on small businesses as a result of enforcing the repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted before August 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing Act.

##### *§307.203. Reports.*

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 June 8, 1990.

TRD-9006032 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

##### Objections and Protests

##### • 16 TAC §307.223

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

The Texas Racing Commission proposes the repeal of §307.223, concerning protests to start. The section is proposed for repeal because the section is redundant of requirements contained in other rules of the commission.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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.

Ms. Carter also has determined that for each year of the first five years the repeal is effect the public benefit anticipated as a result of enforcing the repeal will be that the commission's rules will be internally consistent and nonrepetitive. There will be no effect on small businesses as a result of enforcing the repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted before August 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing Act.

##### *§307.223. Protests to Start.*

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 June 8, 1990.

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

◆ ◆ ◆  
• 16 TAC §307.224

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

The Texas Racing Commission proposes the repeal of §307.224, concerning disqualification. The section is proposed for repeal because the section is redundant of requirements contained in other rules of the commission.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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.

Ms. Carter also has determined that for each year of the first five years the repeal is effect the public benefit anticipated as a result of enforcing the repeal will be that the commission's rules will be internally consistent and nonrepetitive. There will be no effect on small businesses as a result of enforcing the repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted before August 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing Act.

◆ ◆ ◆  
§307.224. Disqualification.

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 June 8, 1990.

TRD-9006030 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

◆ ◆ ◆  
• 16 TAC §307.225

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

The Texas Racing Commission proposes the repeal of §307.225, concerning authorized person. The section is proposed for repeal because the section is redundant of requirements contained in other rules of the commission.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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.

Ms. Carter also has determined that for each year of the first five years the repeal is effect the public benefit anticipated as a result of enforcing the repeal will be that the commission's rules are internally consistent and nonrepetitive. There will be no effect on small businesses as a result of enforcing the repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted before August 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing Act.

◆ ◆ ◆  
§307.225. Authorized Person.

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 June 8, 1990.

TRD-9006029 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

◆ ◆ ◆  
Chapter 309. Operation of  
Racetracks

Subchapter A. General  
Provisions

Operations

◆ ◆ ◆  
• 16 TAC §309.63

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

The Texas Racing Commission proposes the repeal of §309.63, concerning restriction on racing. The section is proposed for repeal because the section is redundant of requirements contained in other rules of the commission.

Paula Cochran Carter, general counsel for

the Texas Racing Commission, 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.

Ms. Carter 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 that the commission's rules are internally consistent and nonrepetitive. There will be no effect on small businesses as a result of enforcing the repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted before August 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing Act.

◆ ◆ ◆  
§309.63. Restriction on Racing.

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 June 8, 1990.

TRD-9006028 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

◆ ◆ ◆  
• 16 TAC §309.64

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

The Texas Racing Commission proposes the repeal of §309.64, concerning sale of unlicensed products. The section is proposed for repeal because the section has proven to overly burden the licensing capacities of the commission.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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.

Ms. Carter 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 that the commission's licensing procedures operate smoothly and are not unduly restrictive. There will be no effect on small businesses as a result of enforcing the repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.



Comments on the proposal may be submitted before August 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing Act.

#### §309.64. Sale of Unlicensed Products.

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 June 8, 1990.

TRD-9006027 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

### Subchapter B. Horse Racetracks

#### Racetracks

##### • 16 TAC §309.109

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

The Texas Racing Commission proposes the repeal of §309.109, concerning fences. The section is proposed for repeal because the section has proven to be overly restrictive.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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.

Ms. Carter 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 that the commission's rules are not overly restrictive. There will be no effect on small businesses as a result of enforcing the repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted before August 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing Act.

#### §309.109. Fences.

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 June 8, 1990.

TRD-9006026 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

### Operations

##### • 16 TAC §309.200

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

The Texas Racing Commission proposes the repeal of §309.200, concerning racing selections. The section is proposed for repeal because the section is redundant of requirements contained in other rules of the commission.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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.

Ms. Carter 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 that the commission's rules are internally consistent and nonrepetitive. There will be no effect on small businesses as a result of enforcing the repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted before August 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing Act.

#### §309.200. Racing Selections.

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 June 8, 1990.

TRD-9006025 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

## Chapter 311. Conduct and Duties of Individual Licensees

### Subchapter A. General Provisions

#### • 16 TAC §311.14

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

The Texas Racing Commission proposes new §311.14, concerning accident reports. The new section clarifies how an injury to a person on association grounds or race animal shall be reported.

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

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

Comments on the proposal may be submitted before July 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

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

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

Issued in Austin, Texas, on May 22, 1990.

TRD-9006034 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

### Subchapter B. Specific Licensees

#### General Provisions

##### • 16 TAC §311.105

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

The Texas Racing Commission proposes the repeal of §311.105, concerning authorized agent. The section is proposed for repeal because the section is redundant of requirements contained in other rules of the commission.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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.

Ms. Carter 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 that the commission's rules will be internally consistent and nonrepetitive. There will be no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted before August 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing Act.

#### §311.105. Authorized Agent.

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 June 8, 1990.

TRD-9006024 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

## Chapter 313. Officials and Rules of Horse Races

### Subchapter A. Officials General Provisions

#### • 16 TAC §313.3

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

The Texas Racing Commission proposes the repeal of §313.3, concerning wagering prohibited. The section is proposed for repeal because the section is redundant of requirements contained in other rules of the commission.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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.

Ms. Carter 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 that the commission's rules are internally consistent and nonrepetitive. 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 before August 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 179e, §3.02, which provide the commission with the authority to adopt rules to administer the Texas Racing Act.

#### §313.3. Wagering Prohibited.

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 June 8, 1990.

TRD-9006023 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

## Chapter 321. Pari-Mutuel Wagering

### Subchapter B. Distribution of Pari-Mutuel Pools

#### • 16 TAC §321.107

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

The Texas Racing Commission proposes an amendment to §321.107, concerning the daily double. The amendment clarifies the distribution of the daily double pari-mutuel pool.

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

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

Comments on the proposal may be submitted before July 1, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

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

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

Issued in Austin, Texas, on May 22, 1990.

TRD-9006037 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 476-7223

## TITLE 22. EXAMINING BOARDS

### Part V. Texas State Board of Dental Examiners

#### Chapter 103. Dental Hygiene

##### Conduct-Grading

#### • 22 TAC §103.31

The Texas State Board of Dental Examiners proposes an amendment to §103.31, concerning conduct-grading. The board has made changes in the examination process; therefore, this section pertaining to the examinations is being amended in order to conform with these changes.

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

Mr. Camp, 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 clarification of the examination process. 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 Crockett Camp, Executive Director, P.O. Box 13165, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§103.31. *Clinical Grading.* Each applicant will be graded on handling of patients, cleanliness, **infection barrier control procedures**, and conduct, as well as the quality of work done and must finish each procedure within a reasonable time to receive full credit. On the examination each applicant's work will be graded on the basis of satisfactory or unsatisfactory. Satisfactory is acceptable and passing and unsatisfactory is unacceptable and failing. One or more failing or unsatisfactory grades in subjects, operations, or procedures disqualifies and fails the applicant on the examination.

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 June 5, 1990.

TRD-9005965  
Crockett Camp  
Executive Director  
Texas State Board of  
Dental Examiners

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 834-6021

## Chapter 116. Dental Laboratories

### • 22 TAC §116.6

The Texas State Board of Dental Examiners proposes new §116.6, concerning computer imaging. The board is proposing this rule in order to allow dentists to use computer imaging to demonstrate to a patient by visual means only, the results of prospective treatment.

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

Mr. Camp also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the regulation of the use of computer imaging by dentists. 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 Crockett Camp, Executive Director, P.O. Box 13165, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

### §116.6. *Computer Imaging.*

(a) By written order/prescription, the dentist may direct a patient of record to a registered laboratory for computer imaging to demonstrate to a patient by visual means only, the result of prospective treatment. The resulting written report must be returned to the prescribing dentist by the laboratory along with a written disclosure to the patient set forth below.

(b) *Disclosure.* The visual representation that you will see is a guess as to what the results of various procedures might be. There is no guarantee that the actual results of any procedures will be as shown.

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 June 5, 1990.

TRD-9005968  
Crockett Camp  
Executive Director  
Texas State Board of  
Dental Examiners

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 834-6021

## Part XII. Board of Vocational Nurse Examiners

### Chapter 231. Administration Disciplinary Action

#### • 22 TAC §231.95

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

The Board of Vocational Nurse Examiners proposes the repeal of §231.95, concerning informal disposition. The section is being repealed in order to adopt a new rule that will allow for prehearing conferences and addresses the criteria for such conferences.

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

Mrs. Bronk also has determined that for each year of the first five years the repeal is in effect, there will be no public benefit anticipated as a result of enforcing the repeal. There will be no effect on small business as a result of enforcing the repeal. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Marjorie A. Bronk, Executive Director, Board of Vocational Nurse Examiners, 9101

Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

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

#### §231.95. *Informal Disposition.*

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 June 6, 1990.

TRD-9005958  
Marjorie A. Bronk, R.N.  
M.S.H.P.  
Executive Director  
Board of Vocational Nurse  
Examiners

Earliest possible date of adoption: July 16, 1990

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

The Board of Vocational Nurses proposes new §231.95, concerning informal disposition of disciplinary cases. The new section is being proposed to allow for the implementation if prehearing conferences rather than all disciplinary cases being taken to a formal administrative hearing before the board.

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

Mrs. Bronk also has determined that for each year of the first five years the section is in effect, there will be no public benefit anticipated as a result of enforcing the section. There will be no effect on small businesses as a result of enforcing the section. There will be no economic cost to persons who are required to comply with the section as proposed.

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

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

#### §231.95. *Informal Disposition.*

(a) Prehearing conference.

(1) At any time after the filing of a sworn complaint, the executive director, unilaterally or at the request of the staff or respondent/applicant, may request that the parties, their attorneys or representatives appear before the executive director at a specified time and place for a

conference to be conducted prior to the contested case hearing for the purpose of:

- (A) simplifying the issues;
- (B) considering proposed admissions or stipulations of fact;
- (C) reviewing the procedure to govern the contested case hearing;
- (D) exchanging witness lists and agreeing to limit the number of witnesses; and/or
- (E) doing an act that may simplify the proceedings, and dispose of matters in controversy, including settlement of issues in dispute and preparation of an Agreed Order for presentation to the board, as provided herein.

(2) A member of the board may be present to participate in the informal conference and preparation of any Agreed Order. Any member of the board who so participates in an informal conference shall thereafter be excused from proceedings on the complaint whether disposed of by Agreed Order, or in a contested case proceeding.

(3) Participation in a prehearing conference shall not be mandatory for either party, and statements made by a respondent/applicant at any prehearing conference shall not be offered as evidence at any subsequent contested case hearing on the complaint.

(b) Agreed orders. The executive director may negotiate a proposed Agreed Order with any person subject to the jurisdiction of the board, the terms of which shall be approved by the executive director prior to presentation of the proposed Agreed Order to the board for its consideration. A proposed Agreed Order shall have no effect until such time as the board may, at a regularly scheduled meeting, take action approving the proposed Agreed Order. Should the board fail to approve a proposed Agreed Order as presented, it may thereafter consider the complaint at a contested case hearing, upon notice to the respondent/applicant named in the complaint.

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

Issued in Austin, Texas, on June 6, 1990.

TRD-9005959 Marjorie A. Bronk, R.N.,  
M.S.H.P.  
Executive Director  
Board of Vocational Nurse  
Examiners

Earliest possible date of adoption: July 16, 1990

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

## TITLE 25. HEALTH SERVICES

### Part II. Texas Department of Mental Health and Mental Retardation

#### Chapter 401. System Administration

##### Subchapter B. Interagency Agreements

###### • 25 TAC §401.54

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §401.54, concerning transition planning for students enrolled in special education. Senate Bill 417 of the regular session of the 71st Texas Legislature requires specified state agencies to adopt by rule a memorandum of understanding that describe their respective responsibilities for the provision of services necessary to prepare students enrolled in special education for successful transition to life outside the public school system.

Leilani Rose, director, Office of Budget and Fiscal Services, has determined that there will be an additional cost to state government as a result of enforcing and administering the rules as proposed, estimated to be approximately \$64,650 annually, the cost of providing one staff member to attend one transitional planning meeting for each person aged 16-21 in public schools who is currently receiving services as part of an individual program plan or an individual treatment plan of the Texas Department of Mental Health and Mental Retardation (TDMHMR). Ms. Rose also estimates that the cost to local government statewide at community mental health and mental retardation centers will be approximately \$485,250 annually, the cost of providing one staff member to attend one transitional planning meeting for each person aged 16-21 in public schools who is currently receiving services as part of an individual program plan or individual treatment plan at a community center.

The cost to small businesses is a subset of the cost to state and local government and would depend on the number of school-aged individuals served by the contractor, not to exceed \$75./individual annually. There is no cost to private individuals required to comply with the section as proposed.

Sue Dillard, director, Office of Standards and Quality Assurance, has determined that the public benefit is the promulgation of rules consistent with law. There is no anticipated economic cost to persons required to comply with the section as proposed.

Leilani Rose, director, Office of Budget and Fiscal Services, has determined that, for each year of the first five years the section will be in effect, there will be no significant local employment impact.

Written comments concerning the proposal may be submitted to Linda Logan, Rules Co-

ordinator, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The section is proposed under Texas Civil Statutes, Article 5547-202, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

###### §401.54. Transition Planning for Students Enrolled in Special Education.

(a) TDMHMR adopts by reference as Exhibit K a joint memorandum of understanding with Texas Commission for the Blind (TCB), TDHS, TEA, TEC and TRC concerning transition planning for students enrolled in special education.

(b) Copies of the plan are filed in the Office of Standards and Quality Assurance, TDMHMR, 909 West 45th Street, Austin, Texas 78756, and may be reviewed during regular business hours.

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 June 11, 1990.

TRD-9006020 Harry Deckard  
Attorney  
Texas Department of  
Mental Health and  
Mental Retardation

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 465-4670

## TITLE 28. INSURANCE

### Part I. State Board of Insurance

#### Chapter 5. Property and Casualty Insurance

##### Subchapter B. Insurance Code Rules to Implement the Omnibus Health Care Rescue Act's Reduction in Certain Professional Liability Insurance Premiums

###### • 28 TAC §§5.1301-5.1309

State Board of Insurance proposes new §§5.1301-5.1309, concerning rules to implement certain provisions of the Omnibus Health Care Rescue Act (Insurance Code, Article 5.15-1, §3 and §4B, and Article 5.15-4). Sections 5.1301-5.1309 were adopted on an emergency basis and became effective on March 27, 1990. Notice of the emergency adoption appeared in the April 3, 1990, issue of the *Texas Register* (15 TexReg 1877). The new sections are necessary to establish the rules and procedures to be followed for the reduction of certain professional liability insurance premiums for health care professionals, including the filing requirements for participating insur-

ers, and the qualifications for a premium discount, as provided in the Omnibus Health Care Rescue Act. New §5.1301 defines the terms "charity care or services," "eligible medical malpractice claim," "health care professional," "insurer," "medical malpractice claim," and "patient encounter" as they are defined in the Civil Practice and Remedies Code, §110.001. Section 5.1302 establishes requirements for insurers' participation in the provisions of the Omnibus Health Care Rescue Act. Section 5.1303 provides a method for the board's determination of the amounts of premium discounts. Section 5.1304 enumerates qualifications for a health care professional to be entitled to a medical professional liability insurance premium discount. Section 5.1305 provides a procedure for requesting a premium discount. Section 5.1306 establishes a procedure whereby insurers may audit health care professionals who are receiving premium discounts and provides for a premium penalty in the case of ineligibility. Section 5.1307 sets forth prohibitions and sanctions on insurers. Section 5.1308 provides for the collection by the State Board of Insurance of data concerning participation and claims for all insureds that have applied for or received a premium reduction. Section 5.1309 provides for an expiration date for the rules to coincide with the expiration date of the Omnibus Health Care Rescue Act.

Brett Dahl, director of professional liability insurance, has determined that, for the first five year period that the proposed sections will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the sections, and there will be no effect on local economy or local employment.

Mr. Dahl 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 these sections will be compliance by insurers and certain health care professionals with the statutory requirements of the Omnibus Health Care Rescue Act. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the proposed sections, except as created by the statute.

Comments on the proposal may be submitted to Brett Dahl, Director of Professional Liability Insurance, Mail Code 012-4, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new sections are proposed under the Insurance Code, Article 5.15-4, §8, which authorizes the State Board of Insurance to adopt necessary rules, forms, endorsements, and procedures to carry out the statutory provisions for reductions in certain professional liability insurance premiums.

**§5.1301. Definitions.** The following words and terms, when used in §§5.1302-5.1308 of this title (relating to Insurer Filing Requirements; Determination of Premium Discount Amount; Qualifications for Premium Discount; Request for Premium Discount; Audit and Penalty Provisions; Prohibitions and Sanctions on Insurers; Data Collection and Reporting

Requirements; and Expiration), shall have the following meanings unless the context clearly indicates otherwise.

**Act**—The Omnibus Health Care Rescue Act (Insurance Code, Article 5.15-1, §3 and §4B, and Article 5.15-4).

**Charity care or services**—Care or services provided by a health care professional under:

(A) the Indigent Health Care and Treatment Act (Texas Civil Statutes, Article 4438f);

(B) the Medicaid program under Human Resources Code, Chapter 32;

(C) the Maternal and Infant Health Improvement Act (Texas Civil Statutes, Article 4447y);

(D) the Texas Primary Health Care Services Act (Texas Civil Statutes, Article 4438d);

(E) the Chronically Ill and Disabled Children's Services Act (Texas Civil Statutes, Article 4419c); and

(F) a contract with a migrant or community health center that receives funds under 42 United States Code §254b and §254c.

**Eligible medical malpractice claim**—A medical claim against a health care professional who renders charity care in at least 10% of the health care professional's patient encounters during the policy year in which the claim was made. For the purpose of implementing the provisions of the Act, the State Board of Insurance has interpreted an eligible medical malpractice claim as being made when the alleged negligent act or omission resulting in a claim arose.

**Health care professional**—A person who is either:

(A) licensed to practice medicine under the Medical Practice Act (Texas Civil Statutes, Article 4495b);

(B) registered by the Board of Nurse Examiners as an advanced nurse practitioner or a certified nurse midwife; or

(C) recognized by the Board of Medical Examiners as a physician assistant.

**Insurer**—

(A) an insurance company chartered to write or admitted to write and writing medical professional liability insurance in Texas;

(B) the Texas Medical Liability Insurance Underwriting Association

(Insurance Code, Chapter 21, Subchapter E, Article 21.49-3);

(C) any self-insurance trust created under the Insurance Code, Chapter 21, Subchapter E, Article 21.49-4, to provide medical professional liability insurance;

(D) the term does not include an institution of higher education that provides medical professional liability coverage under the Education Code, Chapter 59.

**Medical malpractice claim**—A claim or action against a health care professional alleging one or more negligent acts or omissions in the diagnosis, care, or treatment of a patient and alleging that injury to or death of a patient resulted therefrom, without regard to whether said claim or action is based upon tort or contract principles.

**Patient encounter**—An occasion in which a health care professional renders health care services to a patient. For the purposes of implementing the provisions of the Act, the State Board of Insurance has interpreted a patient encounter to consist of the following:

(A) a face to face visit with the patient;

(B) a consultative service with or about the patient which is recorded in the patient's chart; or

(C) a telephone consultation with or about the patient is not considered a patient encounter for the purpose of implementing the provisions of the Act.

**§5.1302. Insurer Filing Requirements.** An insurer required to participate in the Act's provisions for medical professional liability insurance must submit the following for approval by the State Board of Insurance:

(1) policy-writing rules and forms for a medical professional liability insurance policy providing coverage with policy limits of liability of not less than \$100,000 per occurrence and \$300,000 aggregate for the policy period;

(2) application forms for health care professionals, as specified in §5.1305 of this title (relating to Request for Premium Discount); and

(3) endorsement forms to provide coverage as required by the Act, such endorsement forms to include:

(A) a statement that the premium is reduced at the request of the insured;

(B) the dollar amount of the premium reduction;

(C) a statement that the insurer's obligation to pay damages under the policy is reduced by the amount payable by the state's liability for indemnification of certain health care professionals under the Act and in compliance with the Insurance Code, Article 5.15-4;

(D) the amount for which the state is liable;

(E) a statement that the state is the payor of first resort;

(F) a description of the audit process and penalty for failing to meet the eligibility requirements described in the Act; and

(G) a statement that the insurer's rights and duties with respect to the defense of suits or claims apply, irrespective of the application of any premium discount or any amounts payable by the state.

#### *§5.1303. Determination of Premium Discount Amount.*

(a) The State Board of Insurance shall approve premium discounts to be used by each insurer on premiums charged to a health care professional covered by the Act. The board shall base the approved discounts on:

(1) loss and statistical data provided by each insurer; and

(2) the reduction in the insurer's liability exposure based on the state's indemnification of either the first \$25,000 or the first \$100,000 of an eligible malpractice claim against a health care professional. Such reduction shall consider the percentage and type of a health care professional's practice eligible for indemnification for either the first \$25,000 or the first \$100,000.

(b) Each insurer shall submit a request to the State Board of Insurance for approval of premium discounts containing explicit information necessary to allow the board to examine:

(1) the nature, relevance, and credibility of the underlying statistical data;

(2) the appropriateness of the actuarial methodology;

(3) the accuracy of the calculation; and

(4) the reasonableness of the requested premium discounts.

(c) Board-approved premium discounts, under this section, shall reflect discounts from either board-approved classified rates or consent rates.

#### *§5.1304. Qualifications for Premium Discount.*

(a) A health care professional is entitled to a medical professional liability insurance premium discount if:

(1) the health care professional's projected patient encounters during the policy year will involve providing charity care to 10% of such patient encounters; and

(2) the health care professional has completed 15 hours of continuing education relating to patient safety and risk reduction. Such continuing education must consist of 15 hours and must be:

(A) completed during the term of policy;

(B) related to the health care professional's practice; and

(C) sponsored, approved, endorsed, or accredited by:

(i) the State Board of Insurance;

(ii) an insurer, as defined in §5.1301 of this title (relating to Definitions);

(iii) a state or nationally recognized accrediting organization; or

(iv) a state or nationally recognized continuing medical education or nurse education program.

(b) An entity that sponsors, approves, endorses, or accredits such training must provide a certificate of completion to a health care professional receiving and completing such training. The health care professional must verify the completion of said training by filing such certificate of completion with the health care professional's insurer.

(c) Information concerning rules, procedures, and standards for patient safety and risk reduction training courses approved by the State Board of Insurance may be obtained directly from the State Board of Insurance, Loss Control Division, Mail Code 012-8, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

#### *§5.1305. Request for Premium Discount.*

(a) A health care professional desiring a premium discount for medical professional liability coverage shall submit a written verified request or application for such discount to the insurer not later than 30 days before the policy inception or renewal date.

(b) The request or application form for either a new or a renewal policy must contain the name, address, and specialty of the health care professional, along with a

sworn statement that the health care professional:

(1) desires a premium discount;

(2) qualifies for the premium discount because the health care professional's projected patient encounters during the policy year will involve 10% or more charity care or services; and

(3) will complete the required 15 hours of continuing education during the term of the policy.

(c) The application shall also provide information necessary to determine the eligibility of the health care professional and the amount of the discount, including:

(1) the percentage of total patient encounters that involve either emergency, obstetrical, prenatal, or 30-day postnatal care;

(2) information regarding what continuing education courses will be taken during the term of the policy; and

(3) such other information as may be deemed useful by the insurer and approved by the State Board of Insurance.

(d) When a consent to rate is used, a health care professional who qualifies for a premium discount under these rules shall be entitled to the appropriate discount rate from the rate agreed to by consent.

#### *§5.1306. Audit and Penalty Provisions.*

(a) At the end of a policy year, a insurer may audit any health care professional receiving a premium discount to determine if charity care and services were provided to qualify the health care professional for such premium discount.

(b) To conduct such audit, an insurer is entitled to access to any books and records necessary to determine if:

(1) the health care professional's verified application or statement submitted for coverage was correct; and

(2) the health care professional was eligible for a premium discount.

(c) If access is denied to the health care professional's property or books and records, the insurer may obtain an appropriate court order to gain access.

(d) Within 30 days of the completion of an audit, the insurer shall notify the health care professional of the outcome of the audit. If an insurer's audit indicates that the health care professional did not provide charity care or services in 10% or more of the patient encounters, the insurer's notice shall contain the number of total encounters and charity care encounters which the insurer has determined were performed by the health care professional. The notice shall also advise the health care professional of the appeals procedure available to contest the determination, as described in

§§5.1501-5.1503 of this title (relating to Procedure for Reconsideration; Grievance and Hearing Procedures; and Appeal to the State Board of Insurance). The insurer may charge the health care professional the difference between the amount of premium paid and the nondiscounted premium that would have been paid, plus 20% of the nondiscounted premium amount.

(e) A health care professional will not be subject to the 20% penalty provided in subsection (d) of this section, if, having received a premium discount for the policy year, such health care professional pays to the insurer the difference between the premium paid and the undiscounted premium amount. Such payment must include interest at the legal rate on the unpaid premium amount, and must be received by the insurer prior to 30 days before the expiration of the policy year.

*§5.1307. Prohibitions and Sanctions on Insurers.*

(a) An insurer may not cancel or refuse to renew a health care professional's medical professional liability coverage solely on the basis that the health care professional is eligible for a premium discount under the provisions of the Act, except for the following reasons:

(1) fraud or misrepresentation in obtaining coverage;

(2) failure to pay premiums when due, except that submission of a premium under §5.1306(e) of this title (relating to Audit and Penalty Provisions) shall not be considered a failure to pay premiums when due; or

(3) the insurer's being placed under supervision or in conservatorship or receivership, if the cancellation or nonrenewal is approved by the supervisor, conservator, or receiver.

(b) An insurer who violates any provision of §§5.1302-5.1308 of this title (relating to Insurer Filing Requirements; Determination of Premium Discount Amount; Qualifications for Premium Discount; Request for Premium Discount; Audit and Penalty Provisions; Prohibitions and Sanctions on Insurers; and Data Collection and Reporting Requirements) is subject to the sanctions authorized in the Insurance Code, Article 1.10, §7.

*§5.1308. Data Collection and Reporting Requirements.*

(a) Each insurer shall submit to the State Board of Insurance, by the 31st day of January of each year, information for the prior 12-month period regarding participation and claims for all insureds that have applied for or received a premium reduction under the provisions of the Act. Such information shall consist of the following data:

(1) number of claims by report year and accident year (total, arising, open and closed);

(2) number of suits by report year and accident year (total, arising, open and closed);

(3) amount of indemnity dollars paid and reserved by report year and calendar year (broken down as to paid, reserved, and total);

(4) amount of expense dollars paid and reserved by report year and calendar year (broken down as to paid, reserved, and total);

(5) number of cases and amount of indemnity and expense dollars paid for all claims closed during the 12-month period;

(6) number of settlements, judgments, and cases taken through trial, broken down as to the total indemnity and expense dollars paid for each category;

(7) number of claims and expense dollars paid on claims and suits dropped by the claimant or plaintiff during the year for which no indemnity was paid;

(8) total number of insureds seeking and total number receiving premium reductions (shown separately); and

(9) the total incurred but not reported reserves and the total loss development reserves on claims made policies.

(b) The data requested in subsection (a)(1)-(8) of this section shall also be reported by medical specialty, by county of practice, and by amount of indemnity qualified for by the health care professional.

(c) For all information shown in subsection (a) of this section, the insurer shall also report the changes from the prior 12-month period in amounts and percentages.

(d) The State Board of Insurance shall, at least annually, publish reports summarizing the aggregate data reported under subsection (a) of this section and shall make these summary reports available to the public.

*§5.1309. Expiration.* Inasmuch as the Insurance Code, Article 5. 15-4, which provides for premium discounts, contains an expiration date of September 1, 1993, unless continued in existence by the Legislature, §§5. 1301-5.1309 of this title (relating to Definitions; Insurer Filing Requirements; Determination of Premium Discount Amount; Qualifications for Premium Discount; Request for Premium Discount; Audit and Penalty Provisions; Prohibitions and Sanctions on Insurers; Data Collection and Reporting Requirements; and Expiration) shall also expire on September 1, 1993, unless contin-

ued in existence by action of the State Board of Insurance.

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

Issued in Austin, Texas, on June 6, 1990.

TRD-9005927

Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption: July 16, 1990

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

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

**Part X. Texas Water  
Development Board**

**Chapter 363. Rules Relating to  
Financial Programs**

**Subchapter A. Financial  
Assistance for Water Supply,  
Water Quality Enhancement,  
Flood Control, and  
Acquisition**

**Introductory Provisions**

• **31 TAC §363.5**

The Texas Water Development Board (board) proposes new §363.5, concerning the adoption by reference of a memorandum of understanding (MOU) between the board and the United States Section of the International Boundary and Water Commission. The memorandum is being adopted to allow the board to provide funds to participate in a cooperative plan of Texas, the United States, and the Republic of Mexico to construct a wastewater treatment facility in Nuevo Laredo, Tamaulipas, for the improvement of the quality of the water being discharged into the Rio Grande.

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

Ms. Taylor also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the construction of a facility which is designed to improve the quality of the waters of the Rio Grande. 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 Gail Allan, Staff Attorney, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231. Comments will be received for 30 days following publication.

The new section is proposed pursuant to the Texas Water Code, §6.190, which allows the board to contract with the United States or its agencies to carry out the board's powers, duties, and responsibilities, and pursuant to the Texas Water Code, §6.101, which gives the board the authority to adopt rules necessary to carry out its powers and duties. The section is further proposed pursuant to Senate Bill 2, 71st Legislature, 1989, which amends sections of the Texas Water Code, Chapter 15, to include that the water loan assistance fund, administered by the board, may be used to provide financial assistance to federal agencies acting through the American Commissioner of the International Boundary and a Water Commission, the United States, and Mexico.

*§363.5. Adoption of Memorandum of Understanding by Reference.* A memorandum of understanding between the board and the United States Section of the International Boundary and Water Commission is adopted by reference. Copies of this memorandum are available upon request from the Texas Water Development Board, General Counsel, P.O. Box 13231, Austin, Texas 78711-3231, (512) 463-7981. This memorandum of understanding concerns the application process for funds made available from the Water Loan Assistance Program to the United States Section of the International Boundary and Water Commission by the Texas Water Development Board for the purpose of participating in the joint construction of a wastewater treatment project to improve the quality of the water being discharged into the Rio Grande.

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 June 8, 1990.

TRD-9006001 Suzanne Schwartz  
General Counsel  
Texas Water Development  
Board

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 463-7981

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

##### Subchapter O. State Sales and Use Tax

###### • 34 TAC §3.293

The Comptroller of Public Accounts proposes an amendment to §3.293, concerning food; food products; meals; food service. Legislative changes amended §151.314 and added §151.305 to the Tax Code, which exempts

food, gum, candy, and toys for children when sold for \$.25 or less from a bulk vending machine.

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

Mr. Lock 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 from bringing the rule regarding sales tax on purchases of food, gum, candy, and toys from bulk vending machines and food sold by a mobile vendor into conformity with the law. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Lucy Glover, Director, Taxability, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

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

#### §3.293. Food; Food Products; Meals; Food Service.

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

(1) (No change.)

(2) **Bulk vending machine**—A coin-operated device that contains unsorted items and randomly dispenses goods in approximately equal amounts without selection of a particular item or type of item by the customer.

(3)[(2)] **Candy**—Confections such as candy bars, chewing gum, or candy kisses, but does not include products used exclusively for cooking, such as chocolate bits.

(4)[(3)] **Caterer**—A person engaged in the business of preparing and serving meals, drinks, or other food products at locations designated by a customer.

(5)[(4)] **Food**—All edible products intended for humans which products are consumed for taste, aroma, or nutritional value.

(6)[(5)] **Food products.**

(A) Food products include items intended for human consumption. Examples include but are not limited to: cereal and cereal products, milk and milk products, including ice cream, oleomargarine, meat and meat products, poultry

products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices, condiments and salt, sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products, canned foods, or any combination of these.

(B) Food products do not include:

(i) alcoholic beverages, carbonated and noncarbonated packaged soft drinks, diluted juices, ice, candy, or medicines, tonics, vitamins, and medicinal preparations in any form. A substance will be treated as medicinal or as a tonic if the substance has no nutritional value, or the quantities of food elements in the substance are small and its contribution to any diet is small, or the substance has substantial nutritional value but the substance is marketed, labeled, and promoted to the public as being therapeutic; or

(ii) food ready for immediate consumption.

(7)[(6)] **Mobile vendor**—A person who sells food from a motor vehicle, push cart, or any other form of vehicle.

(8)[(7)] **Food ready for immediate consumption.**

(A) Food ready for immediate consumption means the type of food, beverages, or meals normally prepared, served, or sold by restaurants, [drug stores,] lunch counters, cafeterias, etc., which, when sold, require no further preparation prior to consumption.

(B) When food is sold by a retailer who provides eating facilities (tables, trays, chairs, benches, or booths), food "ready for immediate consumption" also includes:

(i) all food sold in a heated state;

(ii) all food sold in individual-sized packages or portions when food heating facilities are available for customer use;

(iii) all food sold with eating utensils provided, including plates, knives, forks, spoons, glasses, cups, or straws;

(iv) all sandwiches ready for immediate consumption (examples of sandwiches ready for immediate consumption include most triangle-type sandwiches, whether or not refrigerated, such as ham, cheese, tuna, or chicken salad. An example of a sandwich not ready for immediate consumption would be a frozen sandwich or a sandwich with a frozen or a partially frozen filling);

(v) all individual ice cream sundries; for example: ice cream



cones, ice cream sandwiches, dishes, bars, sticks, specialties, or the like; however, ice cream sundries when sold in prepackaged units containing six or more such items are not included;

(vi) all individual-sized portions of bakery products sold in quantities of five or less; and

(vii) all food sold in individual-sized packages or portions requiring no further processing before consumption, when more than 75% of the retailer's gross sales on an outlet-by-outlet basis consist of sales of nonfood items and/or food sold in a heated state, with utensils provided, or in the form of sandwiches or individual ice cream sundries.

(C) When food is sold by a retailer who does not provide eating facilities (tables, trays, chairs, benches, or booths), food ready for immediate consumption also includes:

(i) all food sold in a heated state, when the food is heated by the retailer rather than the customer;

(ii) all food sold with eating utensils provided, including plates, knives, forks, spoons, glasses, cups, or straws;

(iii) all sandwiches ready for immediate consumption (examples of sandwiches ready for immediate consumption include most triangle-type sandwiches, whether or not refrigerated, such as ham, cheese, tuna, or chicken salad. An example of a sandwich not ready for immediate consumption would be a frozen sandwich or a sandwich with a frozen or partially frozen filling); and

(iv) all individual ice cream sundries. For example: ice cream cones, ice cream sandwiches, dishes, bars, sticks, specialties, or the like; however, ice cream sundries sold in pre-packaged units containing six or more such items are not included.

(9)[(8)] Retirement facility—A facility which provides permanent housing and residence to individuals, a majority of whom are 60 years of age or older.

(10)[(9)] Wedding consultant—A person who provides services other than or in addition to the preparation and serving of food at weddings. Such services may include sending invitations, providing floral arrangements, decorating, supervision, and clean-up.

(b) Taxable food sales. Tax is due on the sale of food, meals and drinks:

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

(6) sold ready for immediate consumption by a mobile vendor;

(7) -(8) (No change.)

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

(g) Food sales through vending machine.

(1) With the exceptions of soft drinks and candy, vending machine operators must report sales tax on 50% of the total gross receipts from sales of all food. No deduction will be allowed for spoilage, waste, or other loss of foods.

(2) Vending machine operators must pay sales tax on the total gross receipts from sales of soft drinks and candy **except as provided in paragraph (3) of this subsection.** Vending machine operators who include the tax in the sales price of food, soft drinks, and candy should refer to §3.328 of this title (relating to Optional Reporting Methods for Grocers and Other Vendors).

(3) **No tax is due on the sale of food, gum, or candy for \$.25 or less from a bulk vending machine.**

(h)-(i) (No change.)

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

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

TRD-9005999      Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 16

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

◆ ◆ ◆  
• 34 TAC §3.336

The Comptroller of Public Accounts proposes an amendment to §3.336, concerning gold, silver, coins, and currency. Legislative changes added to the Tax Code, §151.336, exempting from sales tax the sale of gold, silver, or numismatic coins or of platinum, gold, or silver bullion when purchased in a single transaction totaling \$1,000 or more.

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

Mr. Lock 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 from bringing the rule regarding sales tax on purchases of gold, silver, coins, and currency into conformity with the law. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Lucy Glover, Director, Taxability, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe,

adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.336. *Gold, Silver, Coins, and Currency.*

(a) Sales tax is due on the sale in Texas of gold, silver, or numismatic coins or gold, silver, or platinum bullion **unless sold to a purchaser in a single transaction in which the total sales price of all the items sold is \$1,000 or more.** Sales tax is not due on the sale of official State of Texas coins produced under the State Purchasing and General Services Act, §11.05, when sold by a person under contract with the State Purchasing and General Services Commission. Sellers of gold, silver, platinum, or numismatic coins are required to hold a Texas sales or use tax permit and to collect sales tax on all taxable sales within the state. See §3.286 of this title (relating to Seller's and Purchaser's Responsibilities).

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

(d) **Unless exempted as provided by subsection (a) of this section, sales [Sales] or use tax is due on the sale of coins and currency when sold above face value or without a face value.** The face value of United States coins and currency must be subtracted from the sales price before the tax is computed. Tax must be collected on the total sales price of foreign coins and currency. The face value of foreign coins and currency may not be subtracted from the sales price. The exchange of foreign currency at face value is not a taxable transaction.

(e) **The sales tax exemption on the sale of gold, silver, or numismatic coins or gold, silver, or platinum bullion in a single transaction of \$1,000 or more does not include jewelry or other items of adornment.** [At the time an item which was purchased in a single transaction for \$10,000 or more and previously exempted under the Tax Code, §151.336(a), is transferred to a different owner, use tax is due from the original purchaser on the original purchase price. Section 151.336 was repealed in 1987 by the second called session of the Texas Legislature.]

(f)-(g) (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 June 8, 1990.

TRD-9005998      Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption: July 16, 1990

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

# Part VII. State Property Tax Board

## Chapter 155. Tax Record Requirements

### • 34 TAC §155.60

The State Property Tax Board proposes new §155.60, concerning an application for the exemption of freeport property from ad valorem taxes. The new section requires county appraisal districts to prepare forms and make them available. The section also sets out required contents for the forms and adopts a model form by reference. The board adopted the proposal on an emergency basis at its January 10, 1990, meeting. The new section is required under the Tax Code, §11.251, which took effect January 1, 1990.

Sands L. Steifer, general counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Stiefer also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that property owners and appraisal districts will have uniform procedures for gathering information about qualifications for the exemption. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jim Robinson, Executive Director, State Property Tax Board, 4301 Westbank Drive, Building B, Suite 100, Austin, Texas 78746-6565.

The new section is proposed under the Tax Code, §5.07, which provides the State Property Tax Board with the authority to prescribe all forms necessary for use in the property tax system.

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

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

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

(1) the property owner's name, street address, mailing address if different, and telephone number;

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

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

(4) the total cost of goods sold from inventory that in the preceding year met the criteria set forth in the Tax Code, §11.251(a)(1) and (2), excluding the cost of equipment, machinery, or materials that en-

tered into and became part of the inventory described in paragraph (3) of this subsection but did not themselves meet the criteria set forth in the Tax Code, §11.251(a)(1) and (2);

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

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

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

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

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

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

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

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

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

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 June 8, 1990.

TRD-9005985 Jim Robinson  
Executive Director  
State Property Tax Board

Earliest possible date of adoption: July 16, 1990

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



# TITLE 37. PUBLIC SAFETY AND CORRECTIONS

## Part V. Texas Board of Pardons and Paroles

### Chapter 145. Parole

#### Terms and Conditions of Parole

### • 37 TAC §145.22

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

The Texas Board of Criminal Justice proposes the repeal of §145.22, concerning terms and conditions of parole. The section is being repealed in order to comply with the law.

Carl Reynolds, general counsel, Texas Board of Criminal Justice, 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. Reynolds, also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will not be applicable, as the public is relatively unaffected by this particular proposed repeal. There will be no effect on small businesses as a result of enforcing the repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

There will be no local employment impact.

Comments on the proposal may be submitted to Carl Reynolds, P.O. Box 13084, Austin, Texas 78711-3084.

The repeal is proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which provides the Texas Board of Pardons and Paroles with the authority to adopt such reasonable rules not inconsistent with law as it may deem proper and necessary.

### §145.22. Terms and Conditions of Parole.

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 June 6, 1990.

TRD-9006012 Carl Reynolds  
General Counsel  
Texas Board of Criminal Justice

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 459-2708



## Chapter 149. Mandatory Supervision

### Rules and Conditions of Mandatory Supervision

#### • 37 TAC §149.1

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

The Texas Board of Pardons and Paroles proposes the repeal of §149.1, concerning rules and conditions of mandatory supervision. The section is being repealed in order to comply with the law.

Carl Reynolds, general counsel, Texas Board of Criminal Justice, 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. Reynolds, also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will not be applicable, as the public is relatively unaffected by this particular proposed repeal. There will be no effect on small businesses as a result of enforcing the repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

There will be no local employment impact.

Comments on the proposal may be submitted to Carl Reynolds, P.O. Box 13084, Austin, Texas 78711-3084.

The repeal is proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which provides the Texas Board of Pardons and Paroles with the authority to adopt such reasonable rules not inconsistent with law as it may deem proper and necessary.

#### *§149.1. Terms and Conditions of Mandatory Supervision.*

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 June 6, 1990.

TRD-9006011

Carl Reynolds  
General Counsel  
Texas Board of Criminal  
Justice

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 459-2708

## Part VI. Texas Department of Criminal Justice

### Chapter 152. General Allocation Rules

#### Subchapter A. Institutional Division Admissions

The Texas Department of Criminal Justice proposes an amendment to §152.3 and new §152.7 and §152.9, concerning the allocation among the counties of the number of institutional division admissions available. The proposed allocation formula is required by the enactment of House Bill 2335, §3.06, 71st Legislature, which created Texas Civil Statutes, Article 6166a-4. The statute creates six statutory factors which must be considered by the board and allows the board to weigh those factors or add and weigh additional factors to ultimately determine the number of new prisoner admissions the institutional division will accept from each county on a weekly basis.

William C. McCray, deputy director for finance, Institutional Division, Texas Department of Criminal Justice, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state government as a result of enforcing or administering the section. The adoption of the section will impose no additional overall costs upon local government but may impact specific counties by increasing or decreasing their cost of holding prisoners prior to their transfer to institutional division custody under the proposed section.

Kirk Brown, general counsel, Institutional Division, Texas Department of Criminal Justice, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be an equitable distribution of the capacity of the Institutional Division to receive new prisoners from county custody. There will be no effect on small businesses as a result of enforcing the section. No persons are required to comply with the proposed sections; therefore, no economic cost to persons is anticipated.

Comments on the proposal may be submitted to Carl Reynolds, General Counsel, Texas

Department of Criminal Justice, P.O. Box 13084, Austin, Texas 78711.

#### • 37 TAC §152.3

The amendment is proposed under Texas Civil Statutes, Article 6166a-4, which provide the Texas Board of Criminal Justice with the duty to adopt rules relating to the allocation of prison admissions, and the authority to use additional factors in the formula calculation.

#### *§152.3. Allocation Formula.*

- (a) (No change.)
- (b) The board assigns the following weight to each statutory factor:
  - (1) §152.3(a)(1)—(historical admissions) 15 [100]%;
  - (2) §152.3(a)(2)—(violent index crime) 20 [00]%;
  - (3) §152.3(a)(3)—(index crime) 15 [00]%;
  - (4) §152.3(a)(4)—(drug crime arrests) 10 [00]%;
  - (5) §152.3(a)(5)—(population) 15 [00]%;
  - (6) §152.3(a)(6)—(unemployment) 05 [00]%.

(c) These weighted statutory factors and the community effort factors listed and weighted in §152.7 of this title (relating to Factors and Weights) shall be applied to available institutional division admissions to determine, employing normal rounding practices and allowing for holidays in the 12-month period, the number of admissions available to each county.

(d) The institutional division may establish a minimum level of admissions, based on the timing of admissions transportation cycles, for counties that would otherwise fail to receive a meaningful number of admissions, as determined by the institutional division.

(e) Based upon an estimated 36,250 available institutional divisions admissions annually, this formula produces the following number of new prisoner admissions which the institutional division would accept weekly/cyclically from each county, and the percentage of total admissions that each number represents.

TOP 15 TEXAS COUNTIES

COUNTY	PERCENTAGE	CYCLIC ALLOCATION
HARRIS	0.19816121	143
DALLAS	0.17044313	123
TARRANT	0.07824921	57
BEXAR	0.06759157	49
TRAVIS	0.03572384	26
EL PASO	0.03222539	23
NUECES	0.01788296	13
JEFFERSON	0.01695325	12
HIDALGO	0.01682000	12
CAMERON	0.01292783	9
GALVESTON	0.01229767	9
LUBBOCK	0.01103033	8
MC LENNAN	0.01087003	8
COLLIN	0.00920697	7
BELL	0.00884029	6

## OTHER TEXAS COUNTIES

COUNTY	PERCENTAGE	CYCLIC ALLOCATION
ANDERSON	0.00221007	6
ANDREWS	0.00077242	2
ANGELINA	0.00338123	9
ARANSAS	0.00110103	3
ARCHER	0.00025848	1
ARMSTRONG	0.00004208	.118246 (2)
ATASCOSA	0.00121223	3
AUSTIN	0.00069729	2
BAILEY	0.00030757	1
BANDERA	0.00035666	1
BASTROP	0.00136952	4
BAYLOR	0.00018634	1
BEE	0.00111205	3
BLANCO	0.00014527	.405238 (5)
BORDEN	0.00002004	.055108 (1)
BOSQUE	0.00046586	1
BOWIE	0.00413863	12
BRAZORIA	0.00758298	21
BRAZOS	0.00638377	18
BREWSTER	0.00034964	1
BRISCOE	0.00005210	.145446 (2)
BROOKS	0.00079046	2
BROWN	0.00158192	4
BURLESON	0.00072434	2
BURNET	0.00082753	2
CALDWELL	0.00122726	3
CALHOUN	0.00086860	2
CALLAHAN	0.00029054	1
CAMP	0.00052797	1
CARSON	0.00028252	1
CASS	0.00142663	4
CASTRO	0.00041176	1
CHAMBERS	0.00138555	4
CHEROKEE	0.00185843	5
CHILDRESS	0.00043881	1
CLAY	0.00031558	1
COCHRAN	0.00016130	.448992 (6)
COKE	0.00011922	.331808 (4)
COLEMAN	0.00032159	1
COLLINGSWORTH	0.00013625	.379400 (5)
COLORADO	0.00098682	3
COMAL	0.00226818	6
COMANCHE	0.00045684	1
CONCHO	0.00014026	.390900 (5)
COOKE	0.00121023	3
CORYELL	0.00188848	5
COTTLE	0.00008015	.222723 (3)
CRANE	0.00012423	.346069 (4)
CROCKETT	0.00017633	.490708 (6)
CROSBY	0.00016030	.446854 (6)
CULBERSON	0.00012523	.348977 (5)
DALLAM	0.00026248	1
DAWSON	0.00080348	2
DE WITT	0.00056604	2

COUNTY	PERCENTAGE	CYCLIC ALLOCATION
DEAF SMITH	0.00111405	3
DELTA	0.00032260	1
DENTON	0.00863692	24
DICKENS	0.00012122	.336623 (4)
DIMMIT	0.00026749	1
DONLEY	0.00020338	1
DUVAL	0.00050994	1
EASTLAND	0.00079647	2
ECTOR	0.00706703	20
EDWARDS	0.00007514	.208200 (3)
ELLIS	0.00361566	10
ERATH	0.00104493	3
FALLS	0.00073435	2
FANNIN	0.00092571	3
FAYETTE	0.00060812	2
FISHER	0.00013725	.382754 (5)
FLOYD	0.00029855	1
FOARD	0.00004007	.111908 (1)
FRANKLIN	0.00031358	1
FREESTONE	0.00092771	3
FRIO	0.00075840	2
FT BEND	0.00701393	20
GAINES	0.00047788	1
GARZA	0.00024345	1
GILLESPIE	0.00049491	1
GLASSCOCK	0.00029655	1
GOLIAD	0.00019436	1
GONZALES	0.00067524	2
GRAY	0.00112507	3
GRAYSON	0.00493209	14
GREGG	0.00661720	18
GRIMES	0.00071832	2
GUADALUPE	0.00256373	7
HALE	0.00185542	5
HALL	0.00018634	1
HAMILTON	0.00029755	1
HANSFORD	0.00014627	.405992 (5)
HARDEMAN	0.00017733	.494915 (6)
HARDIN	0.00169012	5
HARRISON	0.00310372	9
HARTLEY	0.00008516	.235646 (3)
HASKELL	0.00021139	1
HAYS	0.00285526	8
HEMPHILL	0.00011321	.316377 (4)
HENDERSON	0.00242347	7
HILL	0.00104994	3
HOCKLEY	0.00077743	2
HOOD	0.00130340	4
HOPKINS	0.00152481	4
HOUSTON	0.00089365	2
HOWARD	0.00158793	4
HUDSPETH	0.00051495	1
HUNT	0.00510842	14
HUTCHINSON	0.00099083	3

COUNTY	PERCENTAGE	CYCLIC ALLOCATION
IRION	0.00004108	.115115 (1)
JACK	0.00051996	1
JACKSON	0.00044582	1
JASPER	0.00111506	3
JEFF DAVIS	0.00003406	.094892 (1)
JIM HOGG	0.00034964	1
JIM WELLS	0.00184540	5
JOHNSON	0.00375192	10
JONES	0.00072233	2
KARNES	0.00046886	1
KAUFMAN	0.00340427	9
KENDALL	0.00039673	1
KENEDY	0.00002004	.055885 (1)
KENT	0.00003206	.089392 (1)
KERR	0.00181935	5
KIMBLE	0.00023043	1
KING	0.00002905	.080085 (1)
KINNEY	0.00008516	.236077 (3)
KLEBERG	0.00273404	8
KNOX	0.00010519	.293869 (4)
LA SALLE	0.00020538	1
LAMAR	0.00323296	9
LAMB	0.00054801	2
LAMPASAS	0.00063818	2
LAVACA	0.00049191	1
LEE	0.00042779	1
LEON	0.00026349	1
LIBERTY	0.00253167	7
LIMESTONE	0.00116715	3
LIPSCOMB	0.00007614	.212408 (3)
LIVE OAK	0.00038471	1
LLANO	0.00030456	1
LOVING	0.00000200	.006392 (0)
LYNN	0.00026449	1
MADISON	0.00056604	2
MARION	0.00045584	1
MARTIN	0.00011521	.320485 (0)
MASON	0.00004408	.123069 (2)
MATAGORDA	0.00233631	7
MAVERICK	0.00129539	4
MC CULLOCH	0.00056003	2
MC MULLEN	0.00001703	.046538 (1)
MEDINA	0.00118118	3
MENARD	0.00007113	.199069 (3)
MIDLAND	0.00575160	16
MILAM	0.00079647	2
MILLS	0.00009317	.259992 (3)
MITCHELL	0.00037770	1
MONTAGUE	0.00063317	2
MONTGOMERY	0.00767314	21
MOORE	0.00057105	2
MORRIS	0.00070530	2
MOTLEY	0.00003807	.106431 (1)
NACOGDOCHES	0.00230825	6

COUNTY	PERCENTAGE	CYCLIC ALLOCATION
NAVARRO	0.00269998	8
NEWTON	0.00045885	1
NOLAN	0.00092871	3
OCHILTREE	0.00033161	1
OLDHAM	0.00010720	.297469 (4)
ORANGE	0.00452835	13
PALO PINTO	0.00146069	4
PANOLA	0.00109201	3
PARKER	0.00200369	6
PARMER	0.00028052	1
PECOS	0.00059410	2
POLK	0.00138054	4
POTTER	0.00817306	23
PRESIDIO	0.00030757	1
RAINS	0.00029555	1
RANDALL	0.00265189	7
REAGAN	0.00015228	.423669 (6)
REAL	0.00007514	.209731 (3)
RED RIVER	0.00072233	2
REEVES	0.00093873	3
REFUGIO	0.00036167	1
ROBERTS	0.00002404	.066254 (1)
ROBERTSON	0.00124329	3
ROCKWALL	0.00100085	3
RUNNELS	0.00042879	1
RUSK	0.00170514	5
SABINE	0.00027851	1
SAN AUGUSTINE	0.00037770	1
SAN JACINTO	0.00071131	2
SAN PATRICIO	0.00282821	8
SAN SABA	0.00016631	.462638 (6)
SCHLEICHER	0.00009317	.258254 (3)
SCURRY	0.00078344	2
SHACKLEFORD	0.00014827	.413308 (5)
SHELBY	0.00113409	3
SHERMAN	0.00006712	.188031 (2)
SMITH	0.00795065	22
SOMERVELL	0.00020137	1
STARR	0.00161598	4
STEPHENS	0.00032159	1
STERLING	0.00003507	.097423 (1)
STONEWALL	0.00009818	.274031 (4)
SUTTON	0.00021940	1
SWISHER	0.00040675	1
TAYLOR	0.00667330	19
TERRELL	0.00003507	.098054 (1)
TERRY	0.00076040	2
THROCKMORTON	0.00003507	.097400 (1)
TITUS	0.00104793	3
TOM GREEN	0.00566745	16
TRINITY	0.00053298	1
TYLER	0.00080148	2
UPSHUR	0.00111405	3
UPTON	0.00017232	.478246 (6)



COUNTY	PERCENTAGE	CYCLIC ALLOCATION
UVALDE	0.00110604	3
VAL VERDE	0.00186544	5
VAN ZANDT	0.00125531	3
VICTORIA	0.00348743	10
WALKER	0.00238139	7
WALLER	0.00127335	4
WARD	0.00066122	2
WASHINGTON	0.00125732	3
WEBB	0.00723834	20
WHARTON	0.00213293	6
WHEELER	0.00019636	1
WICHITA	0.00704999	20
WILBARGER	0.00070530	2
WILLACY	0.00073536	2
WILLIAMSON	0.00579769	16
WILSON	0.00064820	2
WINKLER	0.00047888	1
WISE	0.00117917	3
WOOD	0.00111205	3
YOAKUM	0.00036768	1
YOUNG	0.00066022	2
ZAPATA	0.00037669	1
ZAVALA	0.00044883	1

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 June 7, 1990.

TRD-9006013 Carl Reynolds  
General Counsel  
Texas Department of  
Criminal Justice

Earliest possible date of adoption: July 16, 1990

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

## Subchapter B. Community Effort Factors

### • 37 TAC §152.7, §152.9

The new sections are proposed under Texas Civil Statutes, Article 6166a-4, which provides the Texas Board of Criminal Justice with the duty to adopt rules relating to the allocation of prison admissions, and the authority to use additional factors in the formula calculation.

#### §152.7. Factors and Weights.

(a) In creating the allocation formula, the board is authorized to apply factors in addition to those enumerated in statute and in §152.3(a) of this chapter (relating to Allocation Formula). The board adds the following two community effort factors:

(1) the percentage of the state's total felony probationers placed on probation in the preceding 12 months that were placed on probation by courts with placements attributable to the county, as determined by the Community Justice Assistance Division of the Texas Department of Criminal Justice; and

(2) the percentage of the state's total funds expended by counties for juvenile probation services in the most recently audited county fiscal year that were expended by the county, as determined by the Texas Juvenile Probation Commission staff.

(b) The board assigns the following weights to each community effort factor:

(1) Section 152.7(a)(1) (probation placements) 15%;

(2) Section 152.7(a)(2) (juvenile probation funding) 05%.

**§152.9. Board Policy.** The board adopts as its continuing policy the intention to further explore and apply to the allocation formula measurable factors that indicate community effort to establish and utilize cost-effective and meaningful sanctions for adult and juvenile offenders.

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 June 7, 1990.

TRD-9006014 Carl Reynolds  
General Counsel  
Texas Department of  
Criminal Justice

Earliest possible date of adoption: July 16, 1990

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

## Chapter 163. Community Justice Standards

### • 37 TAC §163.31

The Texas Board of Criminal Justice proposes new §163.31, concerning the process of submitting and accepting community justice plans. The process is required by the enactment of House Bill 2335, §3.01 and §3.02, 71st Legislature, which created the Code of Criminal Procedure, Articles 42.13 and 42.131. The statutes establish Community Justice Plans as a prerequisite to state aid funding for community supervision and corrections programs for Fiscal Year 1991.

Edmond J. Peterson, CPA, director of fiscal services, Community Justice Assistance Division, Texas Department of Criminal Justice, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

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

Comments on the proposal may be submitted to Carl Reynolds, General Counsel, Texas Department of Criminal Justice, P.O. Box 13084, Austin, Texas, 78711.

The new section is proposed under Texas Civil Statutes, Articles 4413(401), §1.09, and the Code of Criminal Procedure, §§42.13-42.131, which provide the Texas Board of Criminal Justice with the authority to adopt rules as necessary for the operation of the Department, and mandate community justice plans as a precondition to state aid for community supervision and corrections.

#### §163.31. Community Justice Plan.

(a) Purpose. In accordance with the Texas Code of Criminal Procedure, Article 42.13, §6 and Article 42.131, §3, beginning September 1, 1990, in order for a jurisdiction to receive any state aid, a plan and supporting documentation must be submitted to, and determined acceptable by, the Community Justice Assistance Division. The plan and supporting documentation should include:

(1) a description as to how the current and proposed community based cor-

rectional programs will achieve a targeted level of alternative sanctions; and

(2) a comprehensive description as to how CJAD resources for community corrections programs, including revenues of the CSCD, will be effectively used.

(b) Development. All community justice plans must be approved by the district judges who manage the department. Unless otherwise specified by the judge(s), the CS,CD chief/director or designee shall serve as the primary manager of the planning process, coordinating council activities, data collection, plan composition, program prioritization and plan drafting and submission. If a community justice plan. The council, after judicial approval, shall submit the plan to the CJAD.

(c) Format. The community justice plan and supporting documentation must include all items required by law and guidelines published by the CJAD. The plan should demonstrate an effective planning process which results in strategies to achieve the targeted level of alternative sanctions other than jail and prison. A format outline shall be provided by the division.

(d) Policies and procedures. Each department or council shall develop and implement policies and procedures for the review of proposals submitted to the department/council in response to the priority programs identified in the plan and based upon the target population. Procedures should also outline how action will be taken and what recommendations will be made for funding these proposals. The recommendations of the local department/council, with approval of the district judge(s), will then be submitted to the CJAD for review.

(e) Annual submission. After the district judges managing the department have approved the fiscal year 1991 plan, the department/council shall submit a plan to the CJAD each year with appropriate revisions. The plan for each fiscal year is to be submitted by March 1 of the preceding fiscal year.

(f) Review and acceptance.

(1) Each plan will be reviewed by the CJAD to determine if it presents a comprehensive description of how each jurisdiction will achieve the intent of the Texas Code of Criminal Procedure, Article 42.13 and Article 42.131.

(2) The CJAD may conditionally accept plans that meet established review criteria. Final acceptance, for purposes of state aid eligibility under subsection (a) of this section, may be conditioned upon review and evaluation by the CJAD staff and the Judicial Advisory Council of the plan and all supporting documentation, as well as any grant-in-aid applications submitted by the jurisdiction pursuant to this subchapter.

(g) Regional planning process. Planning on a regional basis is encouraged. Programs and facilities which serve offenders from several local jurisdictions are cost-effective alternatives. The community justice plan from each jurisdiction should clearly identify the target population and priority need for the services offered by the regional program or facility. The jurisdiction in which the facility or program is to be based should describe in detail the program operations. If the regional planning process identifies the need for a facility, a community justice council must be established in the jurisdiction which is responsible for the development and operation of the facility. Representatives from other participating jurisdictions should participate in the community justice planning process.

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 June 7, 1990.

TRD-9006015

Carl Reynolds  
General Counsel  
Texas Department of  
Criminal Justice

Earliest possible date of adoption: July 16, 1990

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

## Chapter 165. State Aid Distribution and Monitoring

### • 37 TAC §165.41, §165.43

The Texas Board of Criminal Justice proposes new §165.41 and §165.43, concerning the acceptance and funding of community justice plans through the Community Corrections Program. The proposed acceptance and funding process is required by the enactment of House Bill 2335, §3.01 and §3.06, 71st Legislature, which created the Code of Criminal Procedure, Article 42.13, and Texas Civil Statutes, Article 6166a-4. The statutes create a system of funding community supervision and corrections programs that is tied to the allocation formula for prisoner admissions.

Edmond J. Peterson, CPA, director of fiscal services, Community Justice Assistance Division, Texas Department of Criminal Justice, has determined that for the first five year period the proposed section will be in effect there will be no fiscal impact on state government, local government as a result of enforcing or administering the section. The adoption of this rule will allow the distribution of \$50 million in state aid to local community

supervision and corrections departments for Fiscal Year 1991.

Mr. Peterson 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 this section is an equitable distribution of the Community Corrections Program fund to local Community Supervision and Corrections Departments. There is no anticipated economic cost to persons who are required to comply with the proposed sections. There will be no effect on small businesses as a result of enforcing the sections.

Comments on the proposal may be submitted to Carl Reynolds, General Counsel, Texas Department of Criminal Justice, P.O. Box 13084, Austin, Texas, 78711.

The new sections are proposed under Texas Civil Statutes, Articles 6616a-4, the Code of Criminal Procedure, §42.13, which provide the Texas Board of Criminal Justice with the duty to adopt rules relating to the allocation of prison admissions and community corrections funding.

#### §165.41. Community Corrections Program.

(a) Purpose. The Community Corrections Program (CCP) enables localities to increase their involvement and responsibility in developing local correctional programs that provide effective, economical, and efficient sanctions for offenders.

(b) Target population. Offenders eligible to be served by programs funded through the CCP include:

(1) felony offenders diverted from the Institutional Division of the Texas Department of Criminal Justice (TDCJ-ID) either prior or subsequent to incarceration;

(2) persons convicted of misdemeanors and sentenced to a term of confinement in county jail;

(3) persons required as a condition of misdemeanor or felony probation to serve a term of confinement in county jail;

(4) persons required to serve a term of confinement in county jail as punishment for violation of a condition of misdemeanor or felony probation; and

(5) pre-adjudication or post-adjudication offenders whose risk and needs indicate the likelihood of committing another offense if they do not participate in programs funded through the CCP.

(c) eligibility for funding. The Community Justice Assistance Division (CJAD) will distribute community corrections program state aid to Community Supervision and Corrections departments that:

(1) are in compliance with CJAD standards;

(2) have a community justice plan and supporting documentation submitted by the Community Justice Council (CJC) where councils exist; and

(3) have had their community justice plan and supporting documentation finally accepted by the CJAD under §163.31(f) of this chapter (relating to Community Justice Plan).

(d) Programs. Programs eligible for funding through the CCP include but are not limited to:

(1) pretrial intervention;

(2) enhancements to probation sanctions, supervision and services to the courts;

(3) non-residential supervision programs;

(4) community corrections facilities and restitution centers;

(5) county correctional centers; and

(6) programs which assist a county to remain in compliance with the formula allocating space at the TDCJ-ID. CCP funds are not available to fund jails or prisons.

#### §165.43. Community Corrections Program State Aid.

(a) In accordance with Texas Code of Criminal Procedure, Article 42.13; §11(a)(3), the CCP state aid available to a Community Supervision and Corrections Department is an annual amount computed by multiplying the percentage of institutional admissions allocated to the counties within the department's jurisdiction times the total amount provided in the General Appropriations Act for the CCP. It is distributed based upon CJAD approval of the plan and budget information intending to fund the CJP.

(b) The CJAD may redistribute CCP funds that remain after the initial allocation of CCP funds, either by reallocation of funds according to the formula proportions, or by making discretionary grants, within the transferability limits imposed by the General Appropriations Act.

(c) Department allocations of fiscal year 1991 funds, in accordance with this section and the formula calculations under Chapter 152 of this part, and employing normal rounding practices, are as follows:

Top-15 Community Supervision and Corrections Departments  
 Allocation of Community Corrections Program Fund

Department	Allocation Percentage	Dept. Funding (Dollars)
Harris	19.816121%	9,908,061
Dallas	17.044313%	8,522,156
Tarrant	7.824921%	3,912,461
Bexar	6.759157%	3,379,579
Travis	3.572384%	1,786,192
El Paso	3.286557%	1,643,279
Nueces	1.788296%	894,148
Jefferson	1.695325%	847,662
Hidalgo	1.682000%	841,000
Cameron	1.366318%	683,159
Galveston	1.229767%	614,883
Lubbock	1.119062%	559,531
McLennan	1.087003%	543,502
Potter	1.086703%	543,351
Bell	0.947847%	473,923
Totals	70.305773%	35,152,887

Department	Allocation Percentage	Dept. Funding (Dollars)
Anderson	0.552719%	276,359
Andrews	0.077242%	38,621
Angelina	0.338123%	169,062
Bailey	0.058808%	29,404
Bastrop	0.377896%	188,948
Baylor	0.040074%	20,037
Bell	0.947847%	473,923
Bexar	6.759157%	3,379,579
Bowie	0.413863%	206,931
Brazoria	0.758298%	379,149
Brazos	0.638377%	319,188
Brown	0.167509%	83,754
Burnet	0.148774%	74,387
Caldwell	0.635070%	317,535
Cameron	1.366318%	683,159
Cass	0.142663%	71,331
Cherokee	0.185843%	92,921
Collin	0.920697%	460,348
Comanche	0.122025%	61,012
Cooke	0.121023%	60,512
Coryell	0.188848%	94,424
Crane	0.012423%	6,211
Dallas	17.044313%	8,522,156
Dawson	0.178930%	89,465
Deaf Smith	0.122125%	61,063
Denton	0.863692%	431,846
Duval	0.247556%	123,778
Eastland	0.079647%	39,823
Ector	0.706703%	353,351
Ellis	0.361566%	180,783
El Paso	3.286557%	1,643,279
Erath	0.104493%	52,246
Falls	0.197764%	98,882
Fayette	0.257875%	128,938
Floyd	0.050994%	25,497
Fort Bend	0.701393%	350,696
Galveston	1.229767%	614,883
Gray	0.112507%	56,254
Grayson	0.493209%	246,605
Gregg	0.661720%	330,860
Guadalupe	0.256373%	128,186
Hale	0.267393%	133,696
Hall	0.124730%	62,365
Hardin	0.169012%	84,506
Harris	19.816121%	9,908,061
Harrison	0.310372%	155,186

Department	Allocation Percentage	Dept. Funding (Dollars)
Haskell	0.037670%	18,835
Hidalgo	1.682000%	841,000
Hill	0.104994%	52,497
Hockley	0.093873%	46,937
Hood	0.130340%	65,170
Hopkins	0.245653%	122,826
Howard	0.199969%	99,984
Hunt	0.510842%	255,421
Hutchinson	0.146871%	73,435
Jack	0.169913%	84,957
Jaspar	0.223011%	111,506
Jefferson	1.695325%	847,662
Jim Wells	0.263586%	131,793
Johnson	0.395329%	197,664
Jones	0.087060%	43,530
Karnes	0.329307%	164,654
Kaufman	0.340427%	170,214
Kerr	0.306765%	153,383
Kleberg	0.275408%	137,704
Lamar	0.415866%	207,933
Lamb	0.054801%	27,401
Lavaca	0.215397%	107,699
Liberty	0.391722%	195,861
Limestone	0.235835%	117,917
Lubbock	1.119062%	559,531
McCulloch	0.086159%	43,079
McLennan	1.087003%	543,502
Matagorda	0.446924%	223,462
Maverick	0.201171%	100,585
Midland	0.575160%	287,580
Milam	0.079647%	39,823
Montague	0.120723%	60,361
Montgomery	0.767314%	383,657
Moore	0.098582%	49,291
Morris	0.228120%	114,060
Nacogdoches	0.230825%	115,413
Navarro	0.269998%	134,999
Nolan	0.144366%	72,183
Nueces	1.788296%	894,148
Orange	0.452835%	226,417
Palo Pinto	0.146069%	73,035
Panola	0.222610%	111,305
Parker	0.200369%	100,185
Pecos	0.200570%	100,285
Polk	0.262484%	131,242
Potter	1.086703%	543,351

Department	Allocation Percentage	Dept. Funding (Dollars)
Red River	0.072233%	36,117
Reeves	0.160195%	80,098
Rockwall	0.100085%	50,042
Rusk	0.170514%	85,257
San Patricio	0.544303%	272,152
Scurry	0.080348%	40,174
Smith	0.795065%	397,533
Tarrant	7.824921%	3,912,461
Taylor	0.728543%	364,271
Terry	0.112808%	56,404
Tom Green	0.652503%	326,251
Travis	3.572384%	1,786,192
Tyler	0.080148%	40,074
Upshur	0.156989%	78,495
Uvalde	0.236235%	118,118
Val Verde	0.206080%	103,040
Van Zandt	0.125531%	62,766
Victoria	0.592392%	296,196
Walker	0.366576%	183,288
Webb	0.761503%	380,752
Wheeler	0.040976%	20,488
Wichita	0.704999%	352,500
Wilbarger	0.092270%	46,135
Williamson	0.579769%	289,884
Winkler	0.047888%	23,944
Wood	0.111205%	55,603
Young	0.098181%	49,091
Total	100.000000%	50,000,000

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

Issued in Austin, Texas, on June 7, 1990.

TRD-9006016 Carl Reynolds  
General Counsel  
Texas Department of  
Criminal Justice

Earliest possible date of adoption: July 16, 1990

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

◆ ◆ ◆  
**Chapter 195. Parole**  
**Terms and Conditions of Parole**

• **37 TAC §195.61**

The Texas Board of Criminal Justice proposes new §195.61, concerning terms and conditions of parole; which promulgate special conditions of parole.

Carl Reynolds, general counsel, Texas Board of Criminal Justice, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Reynolds, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will not be applicable, as the public is relatively unaffected by this particular proposed section. There 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 Carl Reynolds, P.O. Box 13084, Austin, Texas 78711-3084.

The new section is proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which provides the Texas Board of Criminal Justice with the authority to promulgate rules relating to conditions of parole.

*§195.61. Terms and Conditions of Parole.* The following terms and conditions of parole must be agreed to and accepted by the inmate as a prerequisite to parole. Continuation on parole is conditioned upon continuing compliance with the standard terms and conditions of parole and upon compliance with any special conditions imposed by a parole panel or the board or its authorized designate.

(1) Release and reporting: Upon release from the institution, report immediately, as instructed to my parole officer; thereafter, report as directed and follow all instructions from my parole officer which are authorized by the board.

(2) Legal obligation: Obey all municipal, county, state, and federal laws.

(3) Residence: Obtain written permission of my parole officer prior to changing my place of residence.

(4) Travel: Obtain written permission of my parole officer prior to leaving the State of Texas.

(5) Weapons: I shall not own, possess, use, sell, nor have under my control any firearm, prohibited weapon or illegal weapon as defined in the Texas Penal Code; nor shall I unlawfully carry any weapon nor use, attempt or threaten to use any tool, implement or object to cause or threaten to cause any bodily injury.

(6) Association: The releasee shall avoid association with persons of criminal background.

(7) Informant: The releasee shall not enter into any agreement to act as informer or special agent for any law enforcement agency without specific written approval of the board.

(8) Special conditions: I shall abide by any special condition(s) imposed by the board; any such special conditions imposed upon release will be indicted on the face of this certificate by the letter(s) corresponding to the conditions as listed below:

(A) not to open checking account (Special Condition C);

(B) release to detainer or plan (Special Condition D);

(C) basic education or vocational training program directed by supervising parole officer (Special Condition E);

(D) halfway house placement (See Attachment) (Special Condition H);

(E) releasee must notify prospective employer regarding criminal history if a position of financial responsibility is involved (Special Condition I);

(F) assignment of the highest available level of supervision or supervision caseload until appropriate level of supervision is further established by objective assessment instrument and supervision case classification (Special Condition L);

(G) other (Special Condition O);

(H) mental health/mental retardation treatment or counseling program as directed by the supervising parole officer (Special Condition P);

(I) (Instate) make restitution payments as required by supervising officer in the amount to be set by the board. (Out of State) By the 10th of each month, payments (cashier's check or money order) shall be paid to the Texas Board of Criminal Justice (P.O. Box 13401, Austin, Texas 78711); total amount to be set by the board (Special Condition R);

(J) substance (alcohol/narcotics) treatment program, which may include urinalysis monitoring, attendance at scheduled counseling sessions, driving restrictions, or related requirements as directed by the supervising parole officer (Special Condition S);

(K) No contact with victims (Special Condition V);

(L) Releasee shall not enter the specified county without prior written board approval (Special Condition Z).

(9) General provisions.

(A) I hereby agree to abide by all rules of parole and all laws relating to the revocation of parole including, but not limited to, appearance at any hearings or proceedings required by law of the jurisdiction in which I may be found or of the State of Texas. I further agree and consent that the receiving state, if I am under compact supervision, or any state wherein I may be found while on parole or under parole jurisdiction, may conduct such hearings as the board shall deem necessary, proper or which may be required by law.

(B) I shall pay, during the period of my supervision, any and all outstanding fines, court costs and fees adjudged against me, to the clerk of the court of conviction, and I agree to provide my supervising officer with documentation verifying the payment by me of said amounts. I will be required to pay a supervision fee for each month I am required to report to a supervising officer as instructed by my supervising officer

(C) In the event I am granted the privilege of residing in and being under supervision of any other state or territory under the Interstate Compact for the supervision of parolees and the Texas Code of Criminal Procedure, Article 42.11, and in consideration of being granted parole by the Texas Board of Pardons and Paroles, or for any reason I may be outside of the State of Texas, I hereby agree to and I hereby do waive extradition to the State of Texas from any jurisdiction in or outside the United States where I may be found; I do hereby further agree that I will not in any manner contest any effort by the State of Texas, or



any state of jurisdiction, to return me to the State of Texas.

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 June 6, 1990.

TRD-9006009

Carl Reynolds  
General Counsel  
Texas Board of Criminal  
Justice

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 459-2708

## Chapter 197. Mandatory Supervision

### Rules and Conditions of Mandatory Supervision

#### • 37 TAC §197.21

The Texas Board of Criminal Justice proposes new §197.21, concerning rules and regulations of mandatory supervision; promulgating special conditions of mandatory supervision.

Carl Reynolds, general counsel, Texas Board of Criminal Justice, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Reynolds, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will not be applicable, as the public is relatively unaffected by this particular proposed section. There 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 Carl Reynolds, P.O. Box 13084, Austin, Texas 78711-3084.

The section is proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which provides the Texas Board of Criminal Justice with the authority to promulgate rules relating to conditions of mandatory supervision.

*§197.21. Rules and Conditions of Mandatory Supervision.* The following rules and conditions of mandatory supervision must be acknowledged by the inmate being released to mandatory supervision, and the releasee must recognize that his or her release is conditional and that he or she is deemed as if on parole. Continuation on mandatory supervision is conditional upon continuing compliance with the standard terms and conditions of mandatory supervision and upon compliance with any special conditions imposed by a parole panel or the board or staff as authorized by the board.

#### (1) Release and reporting:

(A) upon release from the institution, report immediately, as instructed, to my parole officer;

(B) thereafter, report as directed and follow all instructions from my parole officer which are authorized by the board.

(2) Legal obligations: I shall obey all municipal, county, state, and federal laws.

(3) Residence: I shall obtain the written permission of my parole officer prior to changing my place of residence.

(4) Travel: I shall obtain the written permission of my parole officer prior to leaving the State of Texas.

(5) Weapons: I shall not own, possess, use, sell, nor have under my control any firearm, prohibited weapon, or illegal weapon as defined in the Texas Penal Code; nor shall I unlawfully carry any weapon nor use, attempt, or threaten to use any tool, implement or object to cause or threaten to cause bodily injury.

(6) Association: The releasee shall avoid association with persons of criminal background.

(7) Informer: The releasee shall not enter into any agreement to act as "informer" or special agent for any law enforcement agency without specific written approval of the board.

(8) Special conditions: Abide by any special condition(s) imposed by the board; any special condition(s) imposed upon release will be indicated on the face of this certificate by the letter(s) corresponding to the conditions as listed below:

(A) not to open checking account (Special Condition C);

(B) release to detainer or plan (Special Condition D);

(C) basic education or vocational training program directed by supervising parole officer (Special Condition E);

(D) halfway house placement (See Attachment) (Special Condition H);

(E) must notify prospective employer regarding criminal history if a position of financial responsibility is involved (Special Condition I);

(F) assignment of the highest available level of supervision or supervision case load until appropriate level of

supervision is further established by objective assessment instrument and supervision case classification (Special Condition L);

(G) other (Special Condition O);

(H) mental health/mental retardation treatment or counseling program as directed by the supervising parole officer (Special Condition P);

(I) (Instate) make restitution payments as required by supervising officer in the amount to be set by the board. (Out of State) By the 10th of each month, payments (cashier's check or money order) shall be paid to the Texas Board of Pardons and Paroles (P. O. Box 13401, Austin, Texas 78711); total amount to be set by the board (Special Condition R);

(J) substance (alcohol/narcotics) treatment program, which may include urinalysis monitoring, attendance at scheduled counseling sessions, driving restrictions, or related requirements as directed by the supervising parole officer (Special Condition S);

(K) no contact with victims (Special Condition V);

(L) releasee shall not enter the specified county without prior written board approval (Special Condition Z).

#### (9) General provisions.

(A) I hereby agree to abide by all rules of mandatory supervision and all laws relating to the revocation of mandatory supervision including, but not limited to, appearance at any hearings or proceedings required by the law of the jurisdiction in which I may be found or of the State of Texas. I further agree and consent that the receiving state, if I am under compact supervision, or any state wherein I may be found while on mandatory supervision or under mandatory supervision jurisdiction, may conduct such hearings as the board shall deem necessary, proper, or which may be required by law.

(B) I shall pay, during the period of my supervision, any and all outstanding fines, court costs and fees adjudged against me, to the clerk of the court of conviction, and agree to provide my supervising officer with documentation verifying the payment by me of said amounts. I will be required to pay a supervision fee for each month I am required to report to a supervising officer as instructed by my supervising officer.

(C) In the event I am granted the privilege of residing in and being under the supervision of any other state or territory under the Interstate Compact for the Supervision of Parolees and the Texas Code of Criminal Procedure, Article 42.11, and in consideration of being granted mandatory supervision by the Texas Board of Pardons and Paroles, or for any reason I may be outside the State of Texas, I hereby agree to and I hereby do waive extradition to the State of Texas from any jurisdiction in or outside the United States where I may be found; I do hereby further agree that I will not in any manner contest any effort by the State of Texas, or any state of jurisdiction, to return me to the State of Texas.

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 June 6, 1990.

TRD-9006010 Carl Reynolds  
General Counsel  
Texas Board of Criminal  
Justice

Earliest possible date of adoption: July 16, 1990

For further information, please call: (512) 459-2708

◆ ◆ ◆

## Chapter 321. Standards

### • 37 TAC §321.15, §321.16

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

The Texas Board of Criminal Justice proposes the repeal of §321.15 and §321.16, concerning the process of submitting and accepting community justice plans and funding the plans through the Community Corrections Program. Rules adopted by the former Adult Probation Commission are hereby repealed and replaced, with some changes, in §§163.31, 165.41, and 165.43.

Edmond J. Peterson, CPA, director of fiscal services, Community Justice Assistance Division, Texas Department of Criminal Justice has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

The action will allow the distribution of \$50 million in state aid to local community supervision and corrections departments for Fiscal Year 1991.

Mr. Peterson, 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 the action is an equitable distribu-

tion of the Community Corrections Program fund to local Community Supervision and Corrections Departments. 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 repeals as proposed.

Comments on the proposal may be submitted to Carl Reynolds, General Counsel, Texas Department of Criminal Justice, P.O. Box 13084, Austin, Texas, 78711.

The repeal is proposed under Texas Civil Statutes, Article 4413(401), §1.09, which provides the Texas Board of Criminal Justice with the authority to adopt rules governing the Department of Criminal Justice.

### §321.15. Specialized Caseloads Programs.

### §321.16. Electronic Monitoring.

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

Issued in Austin, Texas, on June 7, 1990.

TRD-9006017 Carl Reynolds  
General Counsel  
Texas Department of  
Criminal Justice

Earliest possible date of adoption: July 16, 1990

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

◆ ◆ ◆

# Withdrawn Sections

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

## TITLE 16. ECONOMIC REGULATION

### Part VIII. Texas Racing Commission

#### Chapter 311. Conduct and Duties of Individual Licensees

##### Subchapter A. General Provisions

###### • 16 TAC §311.14

The Texas Racing Commission has withdrawn from consideration for permanent adoption a proposed new section which appeared in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1450). The effective date of this withdrawal is June 11, 1990.

Issued in Austin, Texas, on June 11, 1990

TRD-9006036 Paula Cochran Carter  
General Counsel  
Texas Racing Commission

Effective date: June 11, 1990

For further information, please call: (512) 476-7223

## TITLE 22. EXAMINING BOARDS

### Part XXI. Texas State Board of Examiners of Psychologists

#### Chapter 465. Rules of Practice

###### • 22 TAC §465.18

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed new §465.18, submitted by the Texas State Board of Examiners of Psychologists has been automatically withdrawn, effective June 11, 1990. The new section as proposed appeared in the December 8, 1989, issue of the *Texas Register* (14 TexReg 6408).

TRD-9006041



## TITLE 34. PUBLIC FINANCE

### Part VII. State Property Tax Code

#### Chapter 155. Tax Record Requirements

###### • 34 TAC §155.60

The State Property Tax Code has withdrawn from consideration for permanent adoption a proposed new §155.60 which appeared in the December 12, 1989, issue of the *Texas Register* (14 TexReg 6471). The effective date of this withdrawal is June 8, 1990.

Issued in Austin, Texas, on June 8, 1990

TRD-9005984 Sanda L. Stiefer  
General Counsel  
State Property Tax Board

Effective date: June 8, 1990

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





# Adopted Sections

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

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

## TITLE 1.

### ADMINISTRATION

#### Part XIII. Texas Incentive and Productivity Commission

##### Chapter 289. Productivity Bonus Program Definitions

###### • 1 TAC §289.1

The Texas Incentive and Productivity Commission adopts new §289.1, without changes to the proposed text as published in the April 24, 1990, issue of the *Texas Register* (15 TexReg 2323).

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

No comments were received regarding adoption of the new section.

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

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 June 7, 1990.

TRD-9005980  
Mary Jane Manford  
Chairman  
Texas Incentive and  
Productivity  
Commission

Effective date: June 28, 1990

Proposal publication date: April 24, 1990

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

##### Chapter 291. Plan Submission and Approval Process

###### • 1 TAC §§291.1, 291.3, 291.5

The Texas Incentive and Productivity Commission adopts new §291.1, 291.3, and

291.5, without changes to the proposed text as published in the April 24, 1990, issue of the *Texas Register* (15 TexReg 2323).

New §291.1 provides a deadline and format for submitting a productivity plan for commission consideration. New §291.3 describes the productivity plan approval process, setting a timeline for commission review and agency implementation. New §291.5 states the agency's rights to make reasonable revisions and adjustments to the approved productivity plan during the implementation year.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 6252-29a, §1 and §3, which authorize the Texas Incentive and Productivity Commission to promulgate rules for the 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 June 7, 1990.

TRD-9005979  
Mary Jane Manford  
Chairman  
Texas Incentive and  
Productivity  
Commission

Effective date: June 28, 1990

Proposal publication date: April 24, 1990

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

##### Chapter 293. Application for Award and Savings Transfer

###### • 1 TAC §§293.1, 293.3, 293.5

The Texas Incentive and Productivity Commission adopts new §§293.1, 293.3, and 293.5, without changes to the proposed text as published in the April 24, 1990, issue of the *Texas Register* (15 TexReg 2324).

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

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 6252-29a, §1 and §3, which authorize the Texas Incentive and Pro-

ductivity Commission to promulgate rules for the 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 June 7, 1990.

TRD-9005977  
Mary Jane Manford  
Chairman  
Texas Incentive and  
Productivity  
Commission

Effective date: June 28, 1990

Proposal publication date: April 24, 1990

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

##### Chapter 295. Award Approval

###### • 1 TAC §295.1

The Texas Incentive and Productivity Commission adopts new §295.1, without changes to the proposed text as published in the April 24, 1990, issue of the *Texas Register* (15 TexReg 2325).

The new section provides a timeline and process for the review and approval of a productivity bonus plan.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-29a, §1 and §3, which authorize the Texas Incentive and Productivity Commission to promulgate rules for the 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 June 7, 1990.

TRD-9005978  
Mary Jane Manford  
Chairman  
Texas Incentive and  
Productivity  
Commission

Effective date: June 28, 1990

Proposal publication date: April 24, 1990

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

## Chapter 297. Award Eligibility and Distribution

### • 1 TAC §§297.1, 297.3, 297.5

The Texas Incentive and Productivity Commission adopts new §§297.1, 297.3, and 297.5, without changes to the proposed text as published in the April 24, 1990, issue of the *Texas Register* (15 TexReg 2325).

New §297.1 defines productivity bonus award amounts and limits for employees as well as employee eligibility for award. New §297.3 details the distribution and appropriation of funds left in a division's productivity bonus account after award to employees. New §297.5 details the distribution and appropriation of funds left in an agency's productivity bonus account after award to employees.

No comments were received regarding adoption of the new sections.

The new sections are proposed under Texas Civil Statutes, Article 6252-29a, §1 and §3, which authorize the Texas Incentive and Productivity Commission to promulgate rules for the 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 June 7, 1990.

TRD-9005976 Mary Jane Manford  
Chairman  
Texas Incentive and  
Productivity  
Commission

Effective date: June 28, 1990

Proposal publication date: April 24, 1990

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

## TITLE 31. National Resource and Conservation

### Part II. Parks and Wildlife Department

#### Chapter 57. Fisheries

##### Oyster Harvest

### • 31 TAC §57.610-57.611

The Texas Parks and Wildlife Commission in a public hearing held May 24, 1990, adopted new 31 TAC §57.610, and 57.611, without changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2242).

The new regulations contain measures which will prevent overfishing while achieving, on a continuing basis, the optimum yield for the fishery; manage oysters throughout their range; promote efficiency in utilizing oyster resources; minimize costs; avoid unnecessary duplications in administration; and enhance enforcement. Furthermore, the regulations are based on the best scientific information available. The foregoing constitutes the required findings by the commission

which support the need for the proclamation action. The rules are also consistent with and will initiate the implementation of the Texas Oyster Fishery Management Plan adopted by the commission on November 3, 1988.

The new sections will provide on a continuing basis the protection and enhancement of the oyster fishery as well as increased efficiency in the handling of oysters, insofar as these new sections are based on sound management and enforcement tenets, it is anticipated the value of the new sections will be positive to the state.

Eighty-three public hearings concerning rules were held statewide during April 16-24, including one hearing in each of 12 of the 18 coastal counties. Notice of the hearings was published in local newspapers in each county. On May 24, 1990, the commission held a public hearing in Austin to receive additional public comments on the regulations.

During the period of public comment, one telephone call was received and nine persons spoke at the hearings. Comments ranged from total support (four) to total opposition (two) to the rules. None of the other comments spoke specifically to the rules.

No groups or associations submitted comments regarding the rules.

The agency disagrees with the comments opposed to the rules because the new rules will assist in achieving optimum yield from the oyster fishery. The rules are consistent with the Texas Oyster Management Plan. In addition, recent department sampling data in San Antonio Bay indicate a reduced need for oyster size limits to achieve the goals of the Plan. The rules have as their factual bases the Texas Oyster Management Plan and the Texas Oyster Fishery Management Plan Source Document.

The new sections are adopted under the authority of the Parks and Wildlife Code, §76.301, which provides the Texas Parks and Wildlife Commission with authority to regulate the taking, possession, purchase, and sale of oysters after approval and adopting of an oyster management plan and an economic impact analysis prepared by the department. The Texas Oyster Fishery Management Plan and Texas Oyster Fishery Management Economic Impact Analysis were approved and adopted by the commission on November 3, 1988.

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 June 6, 1990.

TRD-9005920 Boyd M. Johnson  
General Counsel  
Texas Parks and Wildlife  
Department

Effective date: September 1, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 389-4641, or 1-800-792-1112, ext. 4641

## Chapter 65. Wildlife

### Subchapter A. Statewide Hunting and Fishing

### • 31 TAC §§65.1, 65.6, 65.7, 65.11, 65.13-65.24, 65.31-65.36, 65.38, 65.39, 65.41-65.48, 65.51, 65.60, 65.71, 65.76-65.81, 65.91

The Texas Parks and Wildlife Department adopts the repeal of §§65.1, 65.6, 65.7, 65.11, 65.13-65.24, 65.31-65.36, 65.38, 65.39, 65.41-65.48, 65.51, 65.60, 65.71, 65.76-65.81, and 65.91, without changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2242).

Fluctuations in wildlife resource populations, detrimental and unintentional effects of some gear, simplification and clarification, and providing equitable and reasonable privileges for taking wildlife resources require that the commission adopt new rules for the 1990-1991 hunting and fishing seasons.

The repeal of the existing sections permits new sections to be adopted that reorder, extend, clarify, and simplify hunting and fishing regulations.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Parks and Wildlife Code, Chapter 61 (Wildlife Conservation Act of 1983), which provides the Texas Parks and Wildlife Commission with authority to provide wildlife resource regulations for the state.

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 June 6, 1990.

TRD-9005919 Boyd M. Johnson  
General Counsel  
Texas Parks and Wildlife  
Department

Effective date: September 1, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 389-4974

### • 31 TAC §§65.1, 65.3, 65.5, 65.9, 65.11, 65.13, 65.15, 65.17, 65.19, 65.21, 65.23, 65.25, 65.27, 65.29, 65.31, 65.33, 65.36, 65.38, 65.40, 65.42, 65.44, 65.46, 65.48, 65.50, 65.52, 65.54, 65.56, 65.58, 65.60, 65.62, 65.64, 65.66, 65.68, 65.70, 65.72, 65.78, 65.82, 65.91

The Texas Parks and Wildlife Department adopts new §§65.1, 65.3, 65.5, 65.9, 65.11, 65.13, 65.15, 65.17, 65.19, 65.21, 65.23, 65.25, 65.27, 65.29, 65.31, 65.33, 65.36, 65.38, 65.40, 65.42, 65.44, 65.46, 65.48, 65.50, 65.52, 65.54, 65.56, 65.58, 65.60, 65.62, 65.64, 65.66, 65.68, 65.70, 65.72, 65.78, 65.82, and 65.91. Sections 65.1, 65.3, 65.9, 65.11, 65.40, 65.42, 65.52, 65.62, 65.72, 65.78, and 65.82 are adopted with changes to the proposed text as published in

the April 20, 1990, issue of the *Texas Register* (15 TexReg 2243). Sections 65. 5, 65.13, 65.15, 65.17, 65.19, 65.21, 65.23, 65.25, 65.27, 65.29, 65.31, 65.33, 65.38, 65.44, 65.46, 65.48, 65.50, 65.54, 65.56, 65.58, 65.60, 65.64, 65.66, 65. 68, 65.70, and 65.91 are adopted without changes and will not be republished.

The new sections as adopted become the Statewide Hunting and Fishing Proclamation.

The new sections will become effective September 1, 1990, except for seven items: the statewide minimum size limit of 10 inches for crappie will become effective September 1, 1990, except on Caddo Lake and Lake Toledo Bend Reservoir where those regulations will become effective September 1, 1990, if the State of Louisiana adopts identical regulations; the increase to 15 inches in the minimum size limit for spotted seatrout retention will become effective June 27, 1990; the reduction of minnow seine length from 60 to 20 feet in length will become effective September 1, 1991; the netting of non-game fish, channel, and blue catfish in Bowie, Cass, and Morris Counties will be prohibited beginning September 1, 1991; the netting of non-game fish in Sulfur and North Sulfur Rivers in Delta and Hopkins Counties will be prohibited beginning September 1, 1991; the netting of non-game fish in the freshwaters of Chambers and Galveston Counties will be prohibited beginning September 1, 1991; and the prohibition of saltwater trotlines in bays during the summer will become effective May 25, 1991. Those exceptions may be found in §§65.72(b)(4)(A), (c)(2)(F)(i), (c)(2)(N)(i) (III)-(V), and (d)(2)(C)(xiv).

The changes from the proposed text were to: section 65.1. Application: added language (subsections (b) and (c)) to clarify that these rules apply to fish, crabs, and other aquatic life caught in the exclusive economic zone and landed in Texas and that all the rules become effective September 1, 1990, except those specifically noted in the text); section 65.3. Definitions: changed per season definition to per license year, and corrected an omission of text to clarify definition of snagging or jerking fish; section 65.9. Open Seasons: General Rules: corrected reference in subsection (j) from §65.901(a) to the Texas Parks and Wildlife Code, §12.409; section 65.11. Means and Methods: corrected error that §65.23 should reference calling devices and added text to clarify that this section also includes fish, crabs, and other aquatic life; section 65. 40. Deer: changed wording to per license year in subsection (a) and subparagraph (D); removed Hunt County from subparagraph (D)(i); reordered subparagraphs (E) and (F) into subparagraph (D)(iv) and (v) which is the one buck only category; provided new clause (vi) under subparagraph (D) for Hunt County which provides a short gun deer season and check station requirement for deer taken in Hunt County changed wording to per license year in §65.40(2)(B); and deleted text concerning box-car type metal seal for national wildlife refuges in paragraph (5) ; section 65.42. Javelina: changed opening date of javelina season to conform with opening date of deer and turkey archery-only, removed seasons, removed per season from subsection (a)(2), and changed wording to per license year in (b)(1); section 65.52. Game Birds: Open Seasons and Bag Limits: corrected section by

adding §65.56 and §65.58, concerning partridge and pheasant rules; section 65.62. Turkey: changed wording to per license year and changed archery-only opening season date to conform with deer; section 65.72. Fish: deleted subsection (a)(5) and relocated to §65.1; qualified crappie regulations for Caddo Lake and Lake Toledo Bend contingent upon the State of Louisiana adopting identical regulations; spotted seatrout regulations will become effective June 27, 1990; replaced crappie regulations in the exceptions §65.72(b)(4)(B)(ii); minnow seine length limit reduction to be effective September 1, 1991, provided new subclauses (III), (IV), (V) at §65.72(c)(2)(N)(i) concerning netting that will expire September 1, 1991; deleted reference to snagging and jerking of fish in (d)(2)(A)(i); and provided effective date of May 25, 1991, to §65.72(d)(2) (C)(xiv), concerning saltwater trotlines during the summer; section 65.78. Crabs: modified this section for clarification; section 65.82. Other aquatic Life: added new text to subsection(c) for clarification.

Fluctuations in wildlife resource populations, detrimental and unintentional effects of some gear, simplification and clarification, and providing equitable and reasonable privileges for taking wildlife resources require that the commission adopt new rules for the 1990-1991 hunting and fishing seasons.

The new sections provide harvest opportunity of wildlife resources consistent with acknowledged wildlife management tenets which are designed to prevent depletion or waste.

Comments by the public concerning the new sections as proposed were presented to the Texas Parks and Wildlife Commission in its May 24, 1990, public hearing. The comments were summarized from the April public hearings and petitions, resolutions, letters, and telephone calls received. During the period April 16-20, 1990, 83 public hearings were held statewide to obtain public input on the proposed new sections. A total of 1,848 people attended the hearings.

Comments made by the public at the statewide hearings and May 24, 1990, public hearing concerned many of the proposed sections including: hunting of deer with dogs-commenters stated that the "deer dog" study was invalid as it should not have been done on national forest, that the study utilized a spotlight census to determine deer populations which is also invalid, that there are at least 23,000 acres in Tyler County that can be hunted utilizing dogs, that the post card survey used such small percentages that it was unscientific, that the real reason for the deer decline was the either sex system of deer hunting, that hunting deer with dogs does not impact on the deer population as much as still hunters who bait deer in and then shoot them, that people who use dogs to hunt deer should be considered as a minority, that hunting deer with dogs is a time honored tradition and a right, and that there are 244 other counties where still hunters can hunt extensive deer population decline in some areas and commenters stated a remedy in the form of-close doe season, reduce doe limit, reduce buck limit, and return to the issuance of antlerless deer permits; prohibiting netting in Lake Wright Patman, the Sulfur River, North Sulphur and the freshwaters of Chambers and Galveston Counties-

commenters stated the lack of data to show that netting was hurting game fish, the beneficial effects of rough fish removal, and the impact on the local economics; minimum length limit for crappie-commenters stated the lack of 10-inch crappie in most lakes, the effects on bank fishermen who catch small crappie, and the situation on Louisiana border lakes where the regulations would be different on both sides; opening a shortened or prohibiting a gun deer season for Hunt County-commenters stated a gun season would be dangerous, there are not enough deer to harvest, and permit archery only hunters if deer need to be harvested; prohibiting the use of saltwater trotlines during the summer in bays-commenters stated that few spotted seatrout are caught on trotlines in summer, will put people out of business, trotline use already restricted to weekdays only, there are not alternative means of economic support, not enough notice for sections to be adopted, recreational fishermen account for most of fishing pressure, and department ignored requirement for local employment impact; minimum length limit for spotted seatrout-commenters stated that the increased size limit will increase hooking mortality, and Sabine Lake limits would not be compatible with Louisiana regulations; prohibiting the use of the punchcutter broadhead as legal archery equipment as this broadhead is unreliable; and gamefish status for sharks-commenters stated that this rule would prohibit bowfishing for sharks.

Comments received at the department's headquarters complex from the public in the form of letters, petitions, resolutions, and telephone calls reflect similar comments.

All comments are available for public inspection at the Texas Parks and Wildlife Department Headquarters Complex 4200 Smith School Road, Austin, Texas 78744.

An individual commenter spoke against the proposed rule to prohibit the hunting of deer with dogs; an individual commenter spoke against the proposed minimum size limits for crappie; adoption should be postponed until Louisiana has adopted similar regulations; and permit feral hogs to be hunted with dogs on Type II Wildlife Management Areas; an individual commenter spoke against the proposed netting ban on Lake Wright Patman, read letter from another individual concerning lack of scientific data to support banning nets on Lake Wright Patman; an individual commenter spoke against the proposal to prohibit the hunting of deer with dogs, and proposed minimum size limit for crappie as Texas and Louisiana should have reciprocal regulations for bordering lakes and rivers; Texas Wildlife Association spoke for department proposal to prohibit the use of dogs to hunt deer; Walker County Hunting Club spoke in opposition of the department's proposal to prohibit the use of dogs to hunt deer; Willow Springs Hunting Club, spoke in opposition of the department's proposal to prohibit the use of dogs to hunt deer; East Texas Landowners Association, supported the department's proposal to prohibit the use of dogs to hunt deer; East Texas Landowners Association, supported department's proposal to prohibit the use of dogs to hunt deer; International Paper spoke for the department's proposal to prohibit the use of dogs to hunt deer; Houndsmen Association of Texas spoke against the proposal to prohibit

the use of dogs to hunt deer; East Texas Outdoors presented petition to reduce deer bag limit or close doe season in Shelby County; Big Thicket Wildlife Association spoke against the proposal to prohibit the use of dogs to hunt deer; Poor Boy Hunting Club spoke against the department's proposal to prohibit the use of dogs to hunt deer; Hunt Club spoke against the proposal to prohibit the use of dogs to hunt deer; Houndsmen Association of Texas (Shakerville Hunting Club) spoke against the proposal to prohibit the use of dogs to hunt deer; Six Mile Hunting Club spoke for the proposal to prohibit the use of dogs to hunt deer; Building America Charity (Hunt for the Hungry) spoke for an extra antlerless deer tag on hunting license to be used only to donate venison to the needy; Anderson Game Management Association supported staff proposal to return to antlerless deer permits for the Post Oak ecological region; a Leon County judge spoke against the rules and proposed a closed doe season for Leon County; Freestone Game Management Association proposed antlerless permits for Freestone County; a Freestone County judge supported the issuance of antlerless deer permits; Buck Fever Committee and Guadalupe County Commissioner proposed to alter regulations to close doe season or go back to issuance of antlerless deer permits; Viking Archery Inc. spoke against the proposal to include the punchcutter broadhead as legal archery equipment; Cherokee County Landowners spoke for returning to antlerless deer permits and a one buck limit; a representative for Bowie, Cass, and Morris Counties opposed the department's proposed ban on netting in those counties; opposed the proposal to prohibit the use of dogs to hunt deer; and opposed the proposed 10-inch minimum size crappie limit; Doss Wildlife Cooperative proposed that opening date of deer season be November 15 of each year; a Houston County judge opposed the proposed split of Houston County into two different deer seasons and bag limits; Lonestar Bowhunter Association spoke against the proposed opening of archery season on October 1 of each year and spoke for proposals to remove name and address on arrow and limiting minimum length of crossbow stock to 25 inches; Legal Eagle, spoke against the proposed ban on netting in Lake Wright Patman; a Bowie County judge opposed the proposed netting ban on Lake Wright Patman; a county commissioner opposed the proposed netting ban on Lake Wright Patman; a county commissioner through a resolution opposed the proposed netting ban in Chambers County; Byrds Store Lake Brownwood spoke against the proposal of a 10-inch minimum size limit on crappie; North Texas Bait Dealers Association opposed the proposed reduction in minnow seine length; North Texas Bait Dealers Association spoke against the reduced length for minnow seines; Finfish Association of Texas, Finfish Producers of Texas opposed the department's proposal to prohibit use of trotlines during the summer; secretary, Finfish Producers of Texas, opposed the department's proposal to prohibit use of trotlines during the summer; five individuals representing the Finfish Association all spoke against the proposal to ban trotlines during the summer; five individuals representing the Finfish Producers spoke against the proposal to ban saltwater trotlines during the summer;

a fish market owner, opposed the department's proposal to prohibit use of trotlines during the summer.

All comments are available for public inspection at the Texas Parks and Wildlife Department, Headquarters Complex, 4200 Smith School Road, Austin, Texas 78744.

The Texas Parks and Wildlife Commission disagreed with several comments received because they were judged not to be compatible with wildlife resource management that is based upon scientific studies. The sections have as their factual bases scientific studies and investigations which track trends in wildlife resource populations and assess factors affecting those populations. The commission is responsible for administering a flexible law to deal effectively with changing conditions to prevent depletion and waste of wildlife resources and to provide to the people the most equitable and reasonable privilege to pursue, take, possess, and kill wildlife resources. With respect to local employment impact, the Texas Employment Commission was unable to determine the impact of the proposed sections on local economies.

The commission due to public recommendations did adopt a reduced Hunt County general deer season length, delayed the effective dates of prohibiting netting of fish in Lake Wright Patman, Sulfur River, North Sulphur River, and the freshwaters of Chambers and Galveston Counties, delayed effective dates of prohibiting saltwater trotlining in bays during the summer, delayed reduction in maximum size of minnow seines in freshwater, and the minimum length of 10 inches for crappie in Caddo Lake and Lake Toledo Bend was made contingent on the State of Louisiana adopting identical regulations.

The new sections are adopted under the Texas Parks and Wildlife Code, Chapter 61 (Wildlife Conservation Act of 1983), which provides the Texas Parks and Wildlife Commission with authority to provide wildlife resource regulations for the state

#### *§65.1. Application.*

(a) The sections in this subchapter apply to all of the wildlife resources (except migratory game birds, shrimp, and oysters, and as may be noted in the following sections) in the counties of Texas.

(b) The sections in this subchapter also apply to fish, crabs, and other aquatic life caught in the exclusive economic zone and landed in this state, under the authority of the Texas Parks and Wildlife Code, §47.019 (federal law also regulates species managed under a federal fishery management plan).

(c) The sections in this subchapter are to be effective September 1, 1990, except where noted in the text.

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

Antlerless deer—A deer having no hardened antler protruding through the skin.

Automatic firearm or fully automatic firearm—Any firearm that is capable of firing more than one cartridge in succession by a single pull or function of the trigger.

Bait—Something used to lure aquatic animal life.

Bearded hen—A female turkey possessing a clearly visible beard protruding through the feathers of the breast.

Bow—A bow includes the longbow, recurved bow, or compound bow that is hand-held and hand-drawn, and that has no mechanical device built into, or attached to, that will enable the archer to lock the bow at full or partial draw. Other than energy stored by the hand-held, hand drawn bow, no device to propel the arrow will be permitted.

Buck deer—A deer having a hardened antler protruding through the skin.

Cast net—A net which can be thrown or cast to drop over an area.

Chartered vessel (saltwater)—A boat or vessel whose captain or operator is licensed by the United States Coast Guard to carry paying passengers and whose passengers fish for a fee.

Coastal waters boundary—For purposes of the Texas Parks and Wildlife Code, Chapters 61 and 66, all public waters east and south of the following boundary are considered coastal waters: beginning at the International Toll Bridge in Brownsville, thence northward along U.S. Highway 77 to the junction of Paredes Lines Road (FM Road 1847) in Brownsville, thence northward along FM Road 1847 to the junction of FM Road 106 east of Rio Hondo, thence westward along FM Road 106 to the junction of FM Road 508 in Rio Hondo, thence northward along FM Road 508 to the junction of FM Road 1420, thence northward along FM Road 1420 to the junction of State Highway 186 east of Raymondville, thence westward along State Highway 186 to the junction of U.S. Highway 77 near Raymondville, thence northward along U.S. Highway 77 to the junction of FM Road 774 in Refugio, thence eastward along FM Road 774 to the junction of State Highway 35 south of Tivoli, thence northward along State Highway 35 to the junction of State Highway 185 between Bloomington and Seadrift, thence northward along State Highway 185 to the junction of FM Road 616 in Bloomington, thence northeastward along FM Road 616 to the junction of State Highway 35 east of Blessing, thence southward along State Highway 35 to the junction of FM Road 521 north of Palacios, thence northeastward along FM Road 521 to the junction of State Highway 36 south of Brazoria, thence northward along State Highway 36 to the junction of State Highway 332 in Brazoria, thence eastward along State Highway 332 to the junction of FM Road 2004 in Lake Jackson, thence northeastward along FM Road 2004 to the junction of Interstate Highway 45 between Dickinson and La Marque, thence northwestward along Inter-



state Highway 45 to the junction of Interstate Highway 610 in Houston, thence east and northward along Interstate Highway 610 to the junction of Interstate Highway 10 in Houston, thence eastward along Interstate Highway 10 to the junction of State Highway 73 in Winnie, thence eastward along State Highway 73 to the junction of U.S. Highway 287 in Port Arthur, thence northwestward along U.S. Highway 287 to the junction of Interstate Highway 10 in Beaumont, thence eastward along Interstate Highway 10 to the Louisiana State Line. The public waters north of the dam on Lake Anahuac in Chambers County; north and west of the junction of the north and south forks of the Guadalupe River in Calhoun and Refugio Counties; of Taylor Bayou and Big Hill Bayou inland from the saltwater locks on Taylor Bayou in Jefferson County; and of the Galveston County Reservoir on State Highway 146 in Galveston County, are not considered coastal waters for purposes of this proclamation.

**Crab line**—A baited line with no hook or pole attached.

**Crab measurements**—Blue crabs are measured across the widest point of the body from tip of spine to tip of spine. Stone crab claws are measured by the propodus length which is that distance from the tip of the immovable claw finger to the first joint behind the claw.

**Daily bag limit**—The quantity of a species of game that may be taken in one day (Texas Parks and Wildlife Code, §61.005(5)).

**Day**—As used in daily bag limit is that period of time that begins at midnight and ends at midnight.

**Dip net**—A mesh bag suspended from a frame attached to a handle.

**Final destination for fish**—A place either on the mainland, a peninsula, or barrier island where a fisherman finally lands his catch and does not further transport his fish by boat. Final destination does not include jetties or piers.

**Final destination for all other wildlife resources**—The permanent residence of the person possessing or receiving the wildlife resource, or a part of the wildlife resource, or a commercial processing plant after the carcass of the wildlife resource has been finally processed.

**Fish**—

(A) **Game fish**—Blue catfish, blue marlin, broadbill swordfish, brown trout, channel catfish, cobia, crappie (black and white), flathead catfish, Guadalupe bass, king mackerel, largemouth bass, longbill spearfish, pickerel, red drum, rainbow trout, sailfish, sauger, sharks, smallmouth bass, snook, Spanish mackerel, spotted bass, spotted seatrout, striped bass, tarpon, wahoo, walleye, white bass, white marlin, yellow bass, and hybrids or subspecies of the above.

(B) **Non-game fish (rough fish and bait fish)** All species not listed as

game fish, except endangered and threatened fish which are defined and regulated under separate proclamations.

**Fishing**—Taking or attempting to take aquatic animal life by any means.

**Fish length**—The total length which is that straight line distance measured perpendicularly from the tip of the snout to the extreme tip of the tail (caudal fin) that is squeezed together or rotated to produce the maximum overall length while the fish is lying on its side with the jaw closed.

**Fish species names**—The names of fishes are those prescribed by the American Fisheries Society in the most recent edition of *A List of Common and Scientific Names of Fishes of The United States and Canada*.

**Fly fishing**—The use of artificial wet or dry flies as a lure. Wet or dry flies are defined as lures which have a body of either synthetic or natural materials (such as foam, cork, yarn, sponge, chenille, hair, metallic tinsel or feathers) and the fly, main fishing line, or leader do not have attached any devices such as spinners, springs, or beads other than split shot or flat lead attached directly to the main line or leader for weight.

**Gaff**—Any hand held pole with a hook attached.

**Game animals**—

(A) mule deer, white-tailed deer, pronghorn antelope, desert bighorn sheep, gray or cat squirrels, fox squirrels or red squirrels, and collared peccary or javelina (Texas Parks and Wildlife Code, §63.001);

(B) in Armstrong, Briscoe, Donley, Floyd, Hall, Motley, Randall, and Swisher Counties only, aoudad sheep are game animals (Texas Parks and Wildlife Code, §63.001);

(C) in Brewster, Culberson, Dallam, Deaf Smith, El Paso, Hartley, Hudspeth, Jeff Davis, Moore, Oldham, Pecos, Potter, Presidio, Reeves, and Terrell Counties wild elk are game animals (Texas Parks and Wildlife Code, §63.001).

**Game birds**—Wild turkey, wild ducks of all varieties, wild geese of all varieties, wild brant, wild grouse, wild prairie chickens, wild pheasants of all varieties, wild partridge, wild bobwhite quail, wild scaled quail, wild Mearns' quail, wild Gambel's quail, wild red-billed pigeons, wild band-tailed pigeons, wild mourning doves, wild white-winged doves, wild white-fronted doves, wild snipe of all varieties, wild shore birds of all varieties, chachalacas, wild plover of all varieties, and wild sandhill cranes (Texas Parks and Wildlife Code, §64.001).

**Gear tag**—A tag constructed of material as durable as the device to which it is attached. The gear tag must be legible and contain the name and address of the person using the device and the date the device was set out.

**Gig**—Any hand held shaft with single or multiple points, barbed or barbless.

**Gill net**—A single wall of webbing held vertically in the water by a line with weights and a line with floats.

**Grabble**—To take or attempt to take fish with the hand.

**Headboat**—A vessel in saltwater that carries seven or more persons who fish for a fee.

**Hoop net**—A net distended by a series of hoops or frames, covered by non-metallic netting.

**Hunt**—Includes take, kill, pursue, trap, and the attempt to take, kill, or trap (Texas Parks and Wildlife Code, §61.005(1)).

**Jug line**—A fishing line with five or less hooks tied to a free-floating device.

**Monofilament**—A single synthetic filament.

**Natural bait (saltwater)**—A whole or cut-up portion of a fish or shellfish or a whole or cut-up portion of plant material in its natural state, provided that none of these may be altered beyond cutting into portions.

**Nooding pole**—A length of pole constructed of wood, metal, fiberglass, or other material whether hollow or solid, with a hook attached and used to snag or foul hook fish.

**Per license year**—The period of time for which a hunting license is valid whether or not the taking of wildlife is permitted in one or more periods during this time.

**Pole and line**—A line with hook, attached to a pole. This gear includes rod and reel.

**Purse seine (net)**—A net with flotation on the corkline adequate to support the net in open water without touching bottom with a rope or wire cable strung through rings attached along the bottom edge to close the bottom of the net.

**Possession limit**—The maximum number of a species of game, fish, or other animals that may be possessed at one time.

**Sail line**—A type of trotline with one end of the main line fixed on the shore, the other end of the main line attached to a wind-powered floating device or sail.

**Seine**—A section of non-metallic mesh webbing. The top edge buoyed upwards by a floatline and the bottom edge weighted.

**Silencer or sound suppressing device**—Any device that reduces the normal noise level created when the firearm is discharged or fired.

**Snagging or jerking fish**—A method of taking fish with one or more hooks attached to a line or artificial lure used in a manner to foul hook a fish. A fish is foul hooked when caught by a hook in an area other than the fish's mouth.

**Spear**—Any shaft with single or multiple points, barbed or barbless, which may be propelled by any means, but does not include arrows.

**Spear gun**—Any hand operated device designed and used for propelling a spear, but does not include the crossbow.

Texas Parks and Wildlife Department or department—As the context requires, the Parks and Wildlife Department, or a specifically authorized employee of the department.

Throwline—A fishing line with five or less hooks and with one end attached to a permanent fixture. Components of a throwline may also include swivels, snaps, rubber, and rigid support structures.

Trammel net—A net consisting of three walls of webbing suspended from a float line and attached to a single lead line.

Trap—A rigid device of various designs and dimensions used to entrap aquatic organisms.

Trawl—A bag-shaped net which is dragged along the bottom or through the water to catch fish or other aquatic organisms.

Trotline—A nonmetallic main fishing line with more than five hooks attached and with each end attached to a fixture.

Umbrella net—A non-metallic mesh net that is suspended horizontally in the water by multiple lines attached to a rigid frame.

Upstream boundary of Sam Rayburn Reservoir on the Angelina River—The Texas Eastern Transmission Company pipeline.

Wildlife resources—All game animals, game birds, marine animals, fish, and other aquatic life (Texas Parks and Wildlife Code, §61.005(2)).

Wounded deer—A deer leaving a blood trail.

#### §65.9. Open Seasons: General Rules.

(a) Open seasons are given by their opening and closing dates, and include all days between the opening and closing dates.

(b) There is no open season on game animals or game birds on state game preserves, statutory wildlife sanctuaries, United States wildlife refuges, and on public roads and highways, or rights-of-way of such public roads and highways, and in the state-owned riverbeds in Dimmit, Uvalde, and Zavala Counties, including, but not limited to, the Nueces and Frio Rivers.

(c) There shall be an open season on fish, game animals, and game birds on national wildlife refuges as may be provided by the state and federal laws, or rules and regulations.

(d) Seasons are closed during the hours between 1/2 hour after sunset and 1/2 hour before sunrise, except on fish.

(e) It is unlawful to take, attempt to take, or possess any of the wildlife resources except during the open season as provided in these sections.

(f) In counties where only bearded turkey (gobblers or bearded hens) are legal, the beard shall remain on the turkey until it reaches its final destination and is fully processed.

(g) It is unlawful for a person who kills a deer, to fail to keep the head of the

deer with the carcass or part of the carcass until it reaches the final destination. In lieu of the head, the person who killed the deer may obtain a receipt from a taxidermist for the head, or a statement from the landowner or the landowner's authorized agent containing the following information:

(1) name of person who killed the deer;

(2) date the deer was killed; and

(3) whether the deer was antlered or antlerless.

(h) No antlerless deer permit will be required to possess an antlerless deer taken with longbow and arrow during the archery only open season.

(i) Every game bird or game animal wounded by hunting and reduced to possession by the hunter must be killed immediately and become a part of the daily bag limit.

(j) Each game bird, game animal, and fish taken or possessed in violation of these sections shall constitute a separate offense (Texas Parks and Wildlife Code, §12.409).

(k) The taking or shooting of turkey from a roost is unlawful.

(l) It is unlawful for a person who kills an antelope to remove all evidence of sex, to possess an antelope or any part of an antelope without the unskinned head, the antelope permit, or a receipt from a taxidermist the head accompanying the antelope or parts of the antelope until the antelope has been delivered to its final destination and is fully processed.

(m) A person may give, leave, receive, or possess any species of legally taken wildlife resource, or a part of the resource, that is required to have a tag or permit attached or is protected by a bag or possession limit, if the carcass or a part of a carcass is tagged with a hunter's document by the person who killed or caught the wildlife resource. The hunter's document shall accompany the carcass or a part of the carcass until reaching final destination and must contain the following information:

(1) the name and address of the person who killed or caught the resource;

(2) the name of the person receiving the resource;

(3) description of the resource (number and type of species or parts);

(4) date resource was killed or caught; and

(5) location of where the resource was killed or caught (name of ranch, area, lake, bay or stream and county). It is a defense to prosecution if the person receiving the wildlife resource does not exceed any possession limit or possess a wildlife resource or a part of a wildlife resource that is required to be tagged if the

wildlife resource or part of the wildlife resource is tagged.

§65.11. Means and Methods. It is unlawful to hunt or fish for any of the wildlife resources of this state, except by the means and methods authorized by this section; §65.13 of this title (relating to Firearms); §65.15 of this title (relating to Archery); §65.17 of this title (relating to Hunting from Vehicle); §65.19 of this title (relating to Hunting Deer with Dogs); §65.21 of this title (relating to Falconry); §65.23 of this title (relating to Calling Devices); §65.25 of this title (relating to Nuisance Squirrels); §65.72 of this title (relating to Fish); §65.78 of this title (relating to Crabs); and §65.82 of this title (relating to Other Aquatic Life).

§65.40. Deer: White-tailed and Mule Deer. No person may take more than the aggregate total of five deer per license year; of which no more than two may be mule deer; only one of which may be a buck mule deer; no more than two white-tailed buck deer, or no more than five antlerless deer, both species combined.

(1) White-tailed deer: general open seasons, bag, and possession limits shall be as follows.

(A) In Angelina (except on Angelina National Forest and Corps of Engineers lands), Bandera, Bell, Bexar, Blanco, Bosque, Bowie, Brewster, Brown, Burnet, Calhoun, Cass, Cherokee, Coke, Coleman, Comal, Concho, Coryell, Crockett, Culberson, Edwards, Gillespie, Glasscock, Goliad, Hamilton, Hardin, Harrison, Hays, Houston (east of State Highway 19), Irion, Jackson, Jasper (except on Angelina National Forest and Corps of Engineers lands), Jeff Davis, Kendall, Kerr, Kimble, Kinney (only north of U.S. Highway 90), Lampasas, Liberty, Llano, McCulloch, Marion, Mason, Matagorda, Medina (only north of U.S. Highway 90), Menard, Mills, Mitchell, Montgomery (except on Sam Houston National Forest), Nacogdoches (except on Angelina-National Forest and Corps of Engineers lands), Newton (except on Sabine National Forest and Sabine River Authority lands), ~Nolan, Panola, Pecos, Polk, Presidio, Reagan, Real, Reeves, Runnels, Rusk, Sabine (except on Sabine National Forest, Corps of Engineers and Sabine River Authority lands), San Augustine (except on Angelina and Sabine National Forests and Corps of Engineers lands), San Jacinto (except on Sam Houston National Forest), San Saba, Schleicher, Shelby (except on Sabine National Forest and Sabine River Authority lands), Sterling, Sutton, Terrell, Tom Green, Travis, Trinity (except Davy Crockett National Forest), Tyler, Uvalde (only north of U.S. Highway 90), Val Verde, Victoria, Walker (except on Sam Houston National Forest), Wharton, and Williamson Counties, there is an open season for white-tailed deer.

son for white-tailed deer.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: four deer, no more than two bucks.

(iii) Antlerless white-tailed deer may be taken without an antlerless deer permit required by §65.27 of this title (relating to Permits) and §65.31 of this title (relating to Antlerless Mule Deer and White-tailed Deer Permits).

(iv) Special season: in Angelina (except on Angelina National Forest and Corps of Engineers lands), Houston (only east of State Highway 19 except on the Davy Crockett National Forest), Nacogdoches south of State Highway 7 (except on Angelina National Forest and Corps of Engineers lands), Polk, Trinity (except on Davy Crockett National Forest), and Walker (except on Sam Houston National Forest) Counties, there is a special early antlerless only season October 20-28, 1990. During the period when the archery only season and this special season are concurrent, no person may possess both firearms and archery equipment while hunting. The bag limit is four antlerless white-tailed deer.

(B) In Angelina (only on Angelina ~National Forest and Corps of Engineers lands), Houston (only on Davy Crockett ~National Forest), Jasper (only on Angelina National Forest and Corps of Engineers lands), Montgomery (only on Sam Houston National Forest), Nacogdoches (only on Angelina National Forest and Corps of Engineers lands), Newton (only on Sabine National Forest and Sabine River Authority lands), Sabine (only on Sabine National Forest, Corps of Engineers, and Sabine River Authority lands), San Augustine (only on Angelina and Sabine National Forests and Corps of Engineers lands), San Jacinto (only on Sam Houston National Forest), Shelby (only on Sabine National Forest and Sabine River Authority lands), Trinity (only on Davy Crockett National Forest), and Walker (only on Sam Houston National Forest) Counties, there is an open season for white-tailed deer.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: four white-tailed deer, no more than two bucks, antlerless by permit only.

(C) In Aransas, Atascosa, Bee, Brooks, Cameron, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kinney (only south of U.S. Highway 90), Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina (only south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, Uvalde (only south of U.S. Highway 90), Webb, Willacy, Zapata, and

Zavala Counties, there is an open season for white-tailed deer.

(i) Open season: second Saturday in November through the second Sunday in January.

(ii) Bag limit: four white-tailed deer, no more than two bucks.

(iii) Antlerless white-tailed deer may be taken without an antlerless deer permit required by §65.27 of this title (relating to Permits) and §65.31 of this title (relating to Antlerless Mule Deer and White-tailed Deer Permits).

(iv) Special (South Texas) late season: in the counties listed in this subparagraph there is a special late antlerless only white-tailed deer season.

(I) Open season: January 19-February 3, 1991.

(II) Bag limit: four antlerless white-tailed deer only. Antlerless white-tailed deer may be taken without an antlerless deer permit in compliance with clause (iii) of this subparagraph. The bag limit is not in addition to the general or archery only season bag limits.

(D) No person may take or possess more than one white-tailed buck deer per license year from counties, in the aggregate, listed within this subparagraph.

(i) In Anderson, Archer, Armstrong, Baylor, Borden, Brazos, Briscoe, Burleson, Camp, Carson, Childress, Clay, Collingsworth, Cooke, Cottle, Crane, Crosby, Delta, Denton, Dickens, Donley, Ector, Ellis, Falls, Fannin, Fisher, Floyd, Foard, Franklin, Freestone, Garza, Gray, Gregg, Grimes, Hall, Hardeman, Haskell, Hemphill, Hill, Hopkins, Houston (west of State Highway 19), Howard, Hutchinson, Jack, Johnson, Jones, Kent, King, Knox, Lamar, Leon, Limestone, Lipscomb, Loving, Madison, McLennan, Midland, Milam, Montague, Motley, Navarro, Ochiltree, Parker, Rains, Randall, Red River, Roberts, Robertson, Scurry, Smith, Stonewall, Swisher, Tarrant, Titus, Upshur, Upton, Van Zandt, Ward, Wheeler, Wichita, Wilbarger, Wise, Wood, and Young Counties there is an open season for white-tailed deer.

(I) Open season: first Saturday in November through the first Sunday in January.

(II) Bag limit: three white-tailed deer, no more than one buck and no more than two antlerless deer, antlerless by permit only.

(ii) In Brazoria, Callahan, Chambers, Comanche, Eastland, Erath, Fort Bend, Grayson (only on Hagerman National

Wildlife Refuge), Harris, Hood, Jefferson, Morris, Orange, Palo Pinto, Shackelford, Somervell, Stephens, Taylor, and Throckmorton Counties, there is an open season for white-tailed deer.

(I) Open Season: first Saturday in November through the first Sunday in January.

(II) Bag limit: three white-tailed deer, no more than one buck and no more than two antlerless deer.

(III) Antlerless white-tailed deer may be taken without an antlerless deer permit required by §65.27 of this title (relating to Permits) and §65.31 of this title (relating to Antlerless Mule Deer and White-tailed Deer Permits).

(iii) In Hartley, Moore, Oldham, and Potter Counties, there is an open season for white-tailed deer.

(I) Open Season: Saturday before Thanksgiving for 16 consecutive days.

(II) Bag limit: three white-tailed deer, no more than one buck and no more than two antlerless deer, antlerless by permit only.

(iv) In Colorado (only in that portion of the county that lies south and west of the Colorado River), DeWitt, Gonzales, Guadalupe (only in that area of the county bounded on the north by IH10 and on the west by State Highway 123), Karnes, Lavaca (only in that area of the county bounded on the north by U.S. Highway 90A and on the west by U.S. Highway 77), and Wilson Counties, there is an open season for white-tailed deer.

(I) Open season: first Saturday in November through the first Sunday in January.

(II) Bag limit: three white-tailed deer, no more than one buck and no more than two antlerless deer.

(III) Antlerless deer may be taken only during the first nine days and the last nine days of the general season. Antlerless deer may be taken without an antlerless deer permit required by §65.27 of this title (relating to Permits) and §65.31 of this title (relating to Antlerless Mule Deer and White-tailed Deer Permits).

(v) In Austin, Bastrop, Caldwell, Colorado (only in that portion of the county that lies north and east of the Colorado River), Fayette, Guadalupe (all lands north of IH10 and all lands west of State Highway 123), Lavaca (all lands north

of U.S. Highway 90A and all lands west of U.S. Highway 77), Lee, Waller, and Washington Counties, there is an open season for white-tailed deer.

(I) Open season: first Saturday in November through the first Sunday in January.

(II) Bag limit: three white-tailed deer, no more than one buck and no more than two antlerless deer.

(III) Antlerless deer may be taken only during the first two days and the last two days of the general season. Antlerless deer may be taken without an antlerless deer permit required by §65.27 of this title (relating to permits) and §65.31 of this title (relating to Antlerless Mule Deer and White-tailed Deer Permits).

(vi) In Hunt County, there is an open season for white-tailed deer.

(I) Open season: first Saturday in November for nine consecutive days.

(II) Bag limit: three white-tailed deer no more than one buck and no more than two antlerless deer, antlerless deer by permit only.

(III) Special requirement: a metal box-car type seal issued by the Parks and Wildlife department must be attached to the deer carcass at the Department's deer checking station located in Hunt County.

(E) In Henderson County, there is an open season for white-tailed deer.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: four white-tailed deer, no more than two bucks.

(iii) Special requirement: in that portion of Henderson County bounded on the north by the county line, on the east by U.S. Highway 175 and Tin Can Alley Road, on the south by State Highway 31, and on the west by State Highway 274, hunting, shooting, or taking of deer is restricted to shotguns with buckshot or longbow and arrows, and other game animals or game birds may be taken only with shotgun or longbow and arrows.

(iv) Antlerless deer may be taken without an antlerless deer permit required by §65.27 of this title (relating to Permits) and §65.31 of this title (relating to Antlerless Mule Deer and White-tailed Deer Permits).

(F) In Andrews, Bailey, Castro, Cochran, Collin, Dallam, Dallas, Dawson, Deaf Smith, El Paso, Gaines, Galveston, Grayson (except Hagerman National Wildlife Refuge), Hale, Hansford, Hockley, Hudspeth, Kaufman, Lamb, Lubbock, Lynn, Martin, Parmer, Rockwall, Sherman, Terry, Winkler, and Yoakum Counties, there is no general open season for white-tailed deer.

(2) White-tailed deer: archery only open seasons, bag, and possession limits shall be as follows.

(A) In Angelina, Aransas, Atascosa, Bandera, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brewster, Brooks, Brown, Burnet, Calhoun, Cameron, Cass, Cherokee, Coke, Coleman, Comal, Concho, Coryell, Crockett, Culberson, Dimmit, Duval, Edwards, Frio, Gillespie, Glasscock, Goliad, Hamilton, Hardin, Harrison, Hays, Henderson, Hidalgo, Houston (east of State Highway 19), Irion, Jackson, Jasper, Jeff Davis, Jim Hogg, Jim Wells, Kendall, Kennedy, Kerr, Kimble, Kinney, Kleberg, Lampasas, LaSalle, Liberty, Live Oak, Llano, McCulloch, McMullen, Marion, Mason, Matagorda, Maverick, Medina, Menard, Mills, Mitchell, Montgomery, Nacogdoches, Newton, Nolan, Nuces, Panola, Pecos, Polk, Presidio, Reagan, Real, Reeves, Refugio, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Shelby, Starr, Sterling, Sutton, Terrell, Tom Green, Travis, Trinity, Tyler, Uvalde, Val Verde, Victoria, Walker, Webb, Wharton, Willacy, Williamson, Zapata, and Zavala Counties, there is an open season during which white-tailed deer may be taken only with longbow and arrows.

(i) Open season: October 1-31.

(ii) Bag limit: four white-tailed deer, either sex, no more than two bucks.

(B) No person may take or possess more than one white-tailed buck deer per license year from counties, in the aggregate, listed within this subparagraph.

(i) In Anderson, Austin, Borden, Brazoria, Brazos, Burleson, Callahan, Camp, Chambers, Colorado, Comanche, Delta, DeWitt, Eastland, Erath, Falls, Fayette, Fisher, Fort Bend, Franklin, Freestone, Gonzales, Gray, Grayson (only on the Hagerman National Wildlife Refuge), Gregg, Grimes, Guadalupe, Harris, Haskell, Hemphill, Hood, Hopkins, Houston (west of State Highway 19), Howard, Hutchinson, Jack, Jefferson, Karnes, Kent, Lamar, Lavaca, Lee, Leon, Limestone, McLennan, Madison, Milam, Morris, Navarro, Orange, Palo Pinto, Parker, Red River, Roberts, Robertson, Scurry,

Shackelford, Smith, Somervell, Stephens, Taylor, Throckmorton, Titus, Upshur, Van Zandt, Wheeler, Wilson, Wise, Wood, and Young Counties, there is an open season during which white-tailed deer may be taken only with longbow and arrows.

(I) Open season: October 1-31.

(II) Bag limit: three white-tailed deer, no more than one buck and no more than two antlerless deer.

(ii) In Archer, Armstrong, Bastrop, Baylor, Briscoe, Caldwell, Carson, Childress, Clay, Collingsworth, Cooke, Cottle, Crane, Crosby, Denton, Dickens, Donley, Ector, Ellis, Fannin, Floyd, Foard, Garza, Grayson (except on Hagerman National Wildlife Refuge), Hall, Hardeman, Hartley, Hill, Hunt, Johnson, Jones, Kaufman, King, Knox, Lipscomb, Loving, Midland, Montague, Moore, Motley, Ochiltree, Oldham, Potter, Rains, Randall, Stonewall, Swisher, Tarrant, Upton, Waller, Ward, Washington, Wichita, and Wilbarger Counties, there is an open season during which white-tailed buck deer may be taken only with longbow and arrows.

(I) Open season: October 1-31.

(II) Bag limit: one white-tailed buck deer.

(C) In Andrews, Bailey, Castro, Cochran, Collin, Dallam, Dallas, Dawson, Deaf Smith, El Paso, Gaines, Galveston, Hale, Hansford, Hockley, Hudspeth, Lamb, Lubbock, Lynn, Martin, Parmer, Rockwall, Sherman, Terry, Winkler, and Yoakum Counties, there is no archery only open season for white-tailed deer.

(D) The archery only season bag limit is not in addition to the general open season bag limits for white-tailed deer.

(3) Mule deer: general open season, bag, and possession limit shall be as follows.

(A) In Armstrong, Borden, Briscoe, Carson, Childress, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Fisher, Floyd, Garza, Gray, Hall, Hartley, Hemphill, Hutchinson, Kent, King, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Scurry, Stonewall, and Swisher Counties, there is an open season for mule deer.

(i) Open season: Saturday before Thanksgiving for 16 consecutive days.

(ii) Bag limit: two mule deer, no more than one buck, antlerless by permit only.

(B) In Brewster, Crane, Crockett, Culberson, Ector, El Paso, Hudspeth, Jeff Davis, Loving, Midland, Pecos, Presidio, Reagan, Reeves, Terrell, Upton, Val Verde, Ward, and Winkler Counties, there is an open season for mule deer.

(i) Open season: last Saturday in November for 16 consecutive days.

(ii) Bag limit: two mule deer, no more than one buck, antlerless by permit only.

(C) In all other counties, there is no general open season for mule deer.

(4) Mule deer: archery only open seasons, bag, and possession limits shall be as follows.

(A) In Armstrong, Borden, Briscoe, Carson, Childress, Cottle, Crane, Crockett, Crosby, Dallam, Deaf Smith, Dickens, Donley, Ector, El Paso, Fisher, Floyd, Garza, Gray, Hall, Hartley, Hemphill, Hutchinson, Jeff Davis, Kent, King, Loving, Midland, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Reagan, Reeves, Roberts, Scurry, Stonewall, Swisher, Upton, Val Verde, Ward, and Winkler Counties, there is an open season during which mule deer may be taken only with longbow and arrows.

(i) Open season: October 1-31.

(ii) Bag limit: one buck mule deer.

(B) In Brewster, Culberson, Hudspeth, Pecos, Presidio, and Terrell Counties, there is an open season during which mule deer may be taken only with longbow and arrows.

(i) Open season: October 1-31.

(ii) Bag limit: two mule deer, either sex, no more than one buck.

(C) In all other counties, there is no archery only open season for mule deer.

(D) The archery only season bag limit is not in addition to the general open season bag limits for mule deer.

(5) White-tailed deer: national wildlife refuges. Hurting season dates may further be restricted in compliance with regulations promulgated by the U.S. Fish and Wildlife Service and published in the *Federal Register*.

*§65.42. Javelina: Open Seasons and Bag Limits.*

(a) In Andrews, Blanco, Caldwell, Calhoun, Coke, Comal, Concho, Crane, DeWitt, Ector, Gillespie, Glasscock, Goliad, Gonzales, Guadalupe, Hays, Howard, Irion, Llano, Loving, McCulloch, Martin, Mason, Midland, Mitchell, Nolan, Reagan, Refugio, Runnels, San Saba, Sterling, Taylor, Tom Green, Upton, Victoria, Ward, and Winkler Counties, there is an open season on javelina.

(1) Open season: October 1 through the last Sunday in February.

(2) Bag limit: two javelina.

(3) Possession limit: two javelina.

(b) In Aransas, Atascosa, Bandera, Bee, Bexar, Brewster, Brooks, Cameron, Crockett, Culberson, Dimmit, Duval, Edwards, El Paso, Frio, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Menard, Nueces, Pecos, Presidio, Real, Reeves, San Patricio, Schleicher, Starr, Sutton, Terrell, Uvalde, Val Verde, Webb, Willacy, Wilson, Zapata, and Zavala Counties, there is, no closed season on javelina.

(1) Bag limit: two javelina per license year.

(2) Possession limit: two javelina.

(c) In all other counties there is no open season for javelina.

*§65.52. Game Birds: Open Seasons and Bag Limits.* It is unlawful to hunt a game bird at any time other than during the open seasons provided in this section: §65.54 of this title (relating to Prairie Chicken: Open Seasons, Bag, and Possession Limits); §65.56 of this title (relating to Partridge: Open Seasons and Bag Limits); §65.58 of this title (relating to Pheasant: Open Seasons, Bag and Possession Limits); §65.60 of this title (relating to Quail: Open Seasons, Bag and Possession Limits); §65.62 of this title (relating to Turkey), §65.64 of this title (relating to Chachalacas); and §65.66 of this title (relating to Migratory Game Birds), or to take more than the daily bag limits, or to have in possession a game bird taken at any time other than during the open seasons.

*§65.62. Turkey.*

(a) No person may take more than three turkeys per license year.

(b) General open season, archery only season, and bag limit. In Archer, Bandera, Bell, Bexar, Blanco, Bosque, Burnet, Calhoun, Clay, Comal, Comanche, Coryell, Erath, Gillespie, Goliad, Gonzales, Hamilton, Hays, Hood, Jack, Karnes, Kendall, Kerr, Kinney (only north of U.S. Highway 90), Lampasas, Llano, McLennan, Medina (only north of U.S. Highway 90),

Montague, Palo Pinto, Parker, Real, Somervell, Stephens, Travis, Uvalde (only north of U.S. Highway 90), Wichita, Williamson, Wilson, and Young Counties, there are open seasons for turkey.

(1) Open seasons.

(A) General open season: first Saturday in November through the first Sunday in January.

(B) Archery only season: October 1-31, during which turkeys may be taken only with longbow and arrows.

(2) Bag limit: two turkeys, gobblers or bearded hens.

(c) General (South Texas) open season, archery only season, and bag limit. In Aransas, Atascosa, Bee, Brooks, Dimmit, Duval, Frio, Jim Hogg, Jim Wells, Kenedy, Kinney (only south of U.S. Highway 90), Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina (only south of U.S. Highway 90), Nueces, Refugio, San Patricio, Uvalde (only south of U.S. Highway 90), Webb, Willacy, and Zavala Counties, there are open seasons for turkey.

(1) Open seasons.

(A) General open season: second Saturday in November through the second Sunday in January.

(B) Archery only season: October 1-31, during which turkeys may be taken only with long bow and arrows.

(2) Bag limit: two turkeys, gobblers or bearded hens.

(d) Exceptions to general open season, archery only season, or bag limits.

(1) In Anderson, Andrews, Angelina, Austin, Bailey, Bastrop, Bowie, Brazoria, Brazos, Brewster, Burleson, Caldwell, Cameron, Camp, Cass, Castro, Chambers, Cherokee, Cochran, Collin, Colorado, Cooke, Culberson, Dallam, Dallas, Deaf Smith, Delta, Denton, DeWitt, Ellis, El Paso, Falls, Fannin, Fayette, Fort Bend, Franklin, Freestone, Gaines, Galveston, Grayson, Gregg, Grimes, Guadalupe, Hale, Hansford, Hardin, Harris, Harrison, Henderson, Hidalgo, Hill, Hockley, Hopkins, Houston, Hudspeth, Hunt, Jackson, Jasper, Jeff Davis, Jefferson, Johnson, Kaufman, Lamar, Lamb, Lavaca, Lee, Leon, Liberty, Limestone, Loving, Lubbock, Madison, Marion, Matagorda, Milam, Montgomery, Morris, Nacogdoches, Navarro, Newton, Orange, Panola, Parmer, Polk, Presidio, Rains, Red River, Reeves, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Sherman, Smith, Starr, Tarrant, Terry, Titus, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Washington, Wharton, Winkler, Wise, Wood, Yoakum, and Zapata Coun-

ties, there is no general or archery only season on turkey.

(2) In Armstrong, Baylor, Borden, Briscoe, Brown, Callahan, Carson, Childress, Coke, Coleman, Collinsworth, Concho, Cottle, Crane, Crockett, Crosby, Dawson, Dickens, Donley, Eastland, Ector, Edwards, Fisher, Floyd, Foard, Garza, Glasscock, Gray, Hall, Hardeman, Hartley, Haskell, Hemphill, Howard, Hutchinson, Irion, Jones, Kent, Kimble, King, Knox, Lipscomb, Lynn, McCulloch, Martin, Mason, Menard, Midland, Mills, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Pecos, Potter, Randall, Reagan, Roberts, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sterling, Stonewall, Sutton, Swisher, Taylor, Terrell, Throckmorton, Tom Green, Upton, Val Verde, Ward, Wheeler, and Wilbarger Counties, there are open seasons for turkey.

(A) Open seasons.

(i) General open season: first Saturday in November through the first Sunday in January.

(ii) Archery only open season: October 1-31, during which turkeys may be taken only with longbow and arrows.

(B) Bag limit: two turkeys, either sex.

(e) Spring turkey gobbler season.

(1) In Aransas, Archer, Armstrong, Atascosa, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brewster, Briscoe, Brooks, Brown, Burnet, Caldwell, Calhoun, Callahan, Carson, Childress, Clay, Coke, Coleman, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Dawson, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Erath, Fisher, Floyd, Foard, Frio, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Guadalupe, Hall, Hamilton, Hardeman, Hartley, Haskell, Hays, Hemphill, Hidalgo, Hill, Hood, Howard, Hutchinson, Irion, Jack, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lampasas, LaSalle, Lavaca, Lipscomb, Live Oak, Llano, Lynn, McCulloch, McLennan, McMullen, Martin, Mason, Matagorda, Maverick, Medina, Menard, Midland, Mills, Milam, Mitchell, Montague, Moore, Motley, Nolan, Nueces, Ochiltree, Oldham, Palo Pinto, Parker, Pecos, Potter, Randall, Reagan, Real, Refugio, Roberts, Runnels, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terrell, Throckmorton, Tom Green, Travis, Upton, Uvalde, Val Verde, Victoria, Ward, Webb, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Young, and Zavala

Counties, there is a spring season on turkey gobblers.

(A) Spring season: first Saturday in April through the first Sunday in May.

(B) Bag limit: two turkey gobblers.

(2) In Jasper, Newton, Polk, and Tyler Counties, there is a spring season on turkey gobblers.

(A) Spring season: first Saturday in April for 16 consecutive days only in northern Polk, northern Tyler, northern Jasper, and northern Newton Counties, that area lying within boundaries beginning at the Neches River bridge on U.S. Highway 59 in Polk County, thence southeasterly along the Neches River to the Angelina-Jasper County line, thence easterly along the Angelina-Jasper, San Augustine-Jasper, Sabine-Jasper, Sabine-Newton County Lines to the junction of the Sabine River, thence southerly along the Sabine River to the junction of State Highway 63, thence westerly along State Highway 63 to the junction of U.S. Highway 190 in Jasper, thence westerly along U.S. Highway 190 to the junction of FM Road 256 in Tyler County, thence northwesterly along FM Road 256 to Colmesneil, thence southeasterly along FM Road 256 to the junction of U.S. Highway 287, thence northwesterly along U.S. Highway 287 to the junction of U.S. Highway 59 in Corrigan, then northerly along U.S. Highway 59 to the Neches River bridge.

(B) Bag limit: one turkey gobbler.

(3) In Newton County, there is an additional area where one turkey gobbler may be taken during the spring season.

(A) Spring season: first Saturday in April for 16 consecutive days only in that area lying within boundaries beginning at the junction of Big Cow Creek and the Sabine River, thence southerly along the Sabine River to the junction of Big Cypress Creek, thence westerly along Big Cypress Creek to the junction of State Highway 87, thence northerly along State Highway 87 to the junction of FM Road 1416, thence easterly along FM Road 1416 to the junction with Big Cow Creek, thence southeasterly along Big Cow Creek to the junction of the Sabine River.

(B) Bag limit: one turkey gobbler.

(4) In Angelina, Houston, and Trinity Counties, there is a spring season on turkey gobblers.

(A) Spring season: first Saturday in April for 16 consecutive days only that area lying within boundaries beginning at the junction of State Highway 94 and FM Road 2501 in Trinity County, thence northerly on FM Road 2501 and U.S. Forest Service Road 511 to the junction of State Highway 7 in Houston County, thence easterly on State Highway 7 to the junction with FM Road 706 in Angelina County, thence south on FM Road 706 to the junction with State Highway 94, thence west on State Highway 94 to the junction with FM Road 2501 in Trinity County.

(B) Bag limit: one turkey gobbler.

(5) In Houston, Polk, and Trinity Counties, there is an additional area where one turkey gobbler may be taken during the spring season.

(A) Spring season: first Saturday in April for 16 consecutive days only in that area lying within boundaries beginning at the junction of U.S. Highway 287 and U.S. Highway 59 in Corrigan, thence southerly along U.S. Highway 59 to the junction of FM Road 350, thence westerly and southerly along FM Road 350 to the junction of FM Road 3152, thence southwesterly along FM Road 3152 to the junction of U.S. Highway 190, thence westerly along U.S. Highway 190 to the junction of FM Road 356, thence northwesterly along FM Road 356 to the junction of State Highway 19 in Trinity, thence northerly to the junction of FM Road 1280 in Lovelady, thence easterly along FM 1280 to the junction of U.S. Highway 287, thence southeasterly along U.S. Highway 287 to the junction of U.S. Highway 59 in Corrigan.

(B) Bag limit: one turkey gobbler.

**§65.72. Fish.**

(a) General rules.

(1) It is unlawful to take or attempt to take, or possess fish within a protected length limit, in greater numbers, by other means, or at any time or place, other than as permitted under the sections in this subchapter.

(2) It is unlawful for any person to use game fish or any part thereof as bait.

(3) It is unlawful for any person to possess a finfish of any species, except broadbill swordfish, shark or king mackerel, taken from public water that has the head or tail removed until such person has reached his final destination.

(4) Under the sections in this subchapter there are no public waters closed to the taking or retaining of fish, except that: at the Toledo Bend Reservoir Dam in Newton County, the area within 500 feet of

the power plant water intake is closed to fishing from July 1-September 30 of each year.

(b) Bag, possession, and length limits.

(1) It is unlawful for any person while fishing on public waters to have in his possession fish in excess of the daily bag limit or fish within a protected length limit as established for those waters.

(2) The possession limit does not apply to fish stored at or in the possession of:

(A) a person who has an invoice or sales ticket showing the name and address of the seller, number of fish by species, date of the sale, and other information required on a sales ticket or an invoice;

(B) a cold storage plant if the fish or container holding the fish are tagged with the owner's name, address, numbers of fish by species, and the date placed in storage (Texas Parks and Wildlife Code, §62.029); or

(C) fish stored at a person's permanent residence for personal consumption.

(3) It is unlawful for the captain and/or crew of a vessel that is licensed or required to be licensed as a commercial fish boat to possess on board or land billfish, except swordfish.

(4) There are no bag, possession, or length limits on game or non-game fish, except as provided in the section in this subchapter.

(A) Statewide daily bag, possession, and length limits shall be as follows.

Species	Daily Bag	Possession	Minimum Length (Inches)	Maximum Length (Inches)
Bass: largemouth, smallmouth, spotted, and Guadalupe bass, their hybrids, and subspecies.	5 (in aggregate)	10 (in aggregate)	14	No Limit
Bass, striped, its hybrids, and subspecies.	5 (in aggregate)	15 (in aggregate)	18	No limit
Bass, white and yellow bass.	25 (in aggregate)	50 (in aggregate)	10	No limit
Catfish: channel and blue catfish, their hybrids, and subspecies.	25 (in aggregate)	50 (in aggregate)	9	No limit
Catfish, flathead.	5	10	9	No limit
Catfish, gafftopsail.	No limit	No limit	14	No limit
Cobia.	No limit	No limit	37	No limit
Crappie: white and black crappie, their hybrids, and subspecies.	25 (in aggregate)	50 (in aggregate)	10	No limit
Drum, black.	5	10	14	30
Drum, red.	3	6	20	28
Flounder: all species, their hybrids, and subspecies.	20	40	12	No limit
Mackerel, king.	2	2	14	No limit
Mackerel, Spanish.	3	3	14	No limit
Marlin, blue.	No limit	No limit	114	No limit
Marlin, white.	No limit	No limit	81	No limit

Pompano, Florida.	No limit	No limit	9	No limit
Sailfish.	No limit	No limit	76	No limit
Seatrout, spotted.	10	20	15	No limit
Spotted seatrout minimum length limit increases from 14 to 15 inches, effective June 27, 1990.				
Shark: all species, their hybrids, and subspecies.	5 (in aggregate)	5 (in aggregate)	No limit	No limit

Species	Daily Bag	Possession	Minimum Length (Inches)	Maximum Length (Inches)
Sheepshead.	5	10	12	No limit
Snapper, red.	No limit	No limit	13	No limit
Snook.	3	6	20	28
Tarpon.	1	1	48	No limit
Trout: rainbow and brown trout, their hybrids, and subspecies.	5 (in aggregate)	10 (in aggregate)	No limit	No limit
Walleye.	5	10	16	No limit



Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Bass: largemouth, smallmouth, spotted and Guadalupe bass, their hybrids, and subspecies.			
Lakes Toledo Bend (Newton, Sabine and Shelby) and Caddo (Marion and Harrison).	10 (in aggregate)	12	
Lakes Fairfield (Freestone), Pinkston (Shelby), Joe Pool (Dallas, Ellis, and Tarrant), Bastrop (Bastrop), San Augustine City (San Augustine), Ray Roberts (Denton, Cooke, and Grayson), Calaveras (Bexar), O.H. Ivie (Coleman, Concho, and Runnels), and Raven (Walker).	3 (in aggregate)	18	
Lake Braunig (Bexar).	2 (in aggregate)	21	
Purtis Creek State Park Lake (Henderson and Van Zandt), Calliham State Park Lake (McMullen), and in all waters in the Lost Maples State Natural Area (Bandera).	0 (in aggregate)	No Limit	Catch and release only.
Lakes Fayette County (Fayette), Houston County (Houston), Nacogdoches (Nacogdoches), Fork (Wood, Rains and Hopkins), Monticello (Titus), and Gibbons Creek (Grimes).	3 (in aggregate)	14-21 Inch Slot Limit	It is unlawful to retain black bass between 14 and 21 inches in length. Black bass less than 14 inches or greater than 21 inches in length may be retained.
Bass: striped, its hybrids, and subspecies.			
Lake Toledo Bend (Newton, Sabine and Shelby).	5 (in aggregate)	No Limit	No more than 2 over 30 inches in length may be retained each day.

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Lake Texoma (Cooke and Grayson).	15 (in aggregate)	No Limit	No more than 1 over 20 inches in length may be retained each day. Striped bass caught and placed on a stringer, in a live well or any other holding device become part of the daily bag limit and may not be released.
Catfish: channel and blue catfish, their hybrids, and subspecies.			
Lake Bastrop (Bastrop) and in reservoirs lying totally within the boundaries of a state park.	5 (In aggregate)	14	
Lake Livingston (Polk, San Jacinto, Trinity, and Walker).	50 (in aggregate)	9	The holder of a commercial fishing license may not retain channel or blue cat fish less than 14 inches in length.
Catfish, flathead.			
Lake Texoma (Cooke and Grayson) and Lake Bastrop (Bastrop).	5	24	
Crappie: black and white crappie, their hybrids and subspecies.			
Caddo Lake (Marion and Harrison) and Lake Toledo Bend (Newton, Sabine, and Shelby).	50	No Limit	
In Lake Toledo Bend and Caddo Lake the minimum size limit of 10 inches and 25 crappie per day are contingent upon the state of Louisiana adopting identical minimum size and daily bag limits for crappie.			

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Drum, red.			
Lakes Braunig and Calaveras (Bexar), Colorado City (Mitchell), Fairfield (Freestone), Nasworthy (Tom Green), and Trading-house Creek (McClennan).	3	20	No maximum size limit

(iii) Bag and possession limits for black drum, sheepshead and flounder do not apply to the holder of a valid commercial finfish fisherman's license.

(c) Freshwater devices, means and methods.

(1) It is unlawful for any person to fish with more than 100 hooks on all devices combined.

(2) It is unlawful for any person to take, attempt to take, or possess fish caught by any device, means, or method other than as authorized in the sections in this subchapter.

(A) Pole and line (includes rod and reel). Game and non-game fish may be taken by pole and line, except that in the Guadalupe River in Comal County between the first concrete dam (weir) below the easternmost State Highway 306 bridge and the Little Ponderosa bridge, freshwater trout may not be retained when taken by any method except fly fishing. It is an offense to possess rainbow and brown trout while fishing with any other device in that part of the Guadalupe River defined in this paragraph.

(B) Trotline. Non-game fish, channel catfish, blue catfish, and flathead catfish may be taken by trotline. It is unlawful for any person to use a trotline:

(i) with a mainline length exceeding 600 feet;

(ii) with invalid gear tags. Gear tags must be attached within three feet of the first hook at each end of the trotline and are valid only for 30 days after the date set out;

(iii) with the hook interval less than three horizontal feet;

(iv) with metallic stakes;

(v) with the main fishing line and attached hooks and stagings above the water's surface;

(vi) with more than 50 hooks; or

(vii) in Gibbons Creek Reservoir in Grimes County, Lake Bastrop in Bastrop County, Fayette power project cooling pond in Fayette County, Pinkston Reservoir in Shelby County, or in reservoirs 500 acres or less lying totally within boundaries of a state park.

(C) Jugline. Non-game fish, channel catfish, blue catfish, and flathead catfish may be taken with a jugline. It is unlawful for any person to use a jugline in Lake Bastrop in Bastrop County.

(D) Throwline. Non-game fish, channel catfish blue catfish, and flathead catfish may be taken with a throwline. It is unlawful for any person to use a throwline in Lake Bastrop in Bastrop County.

(E) Shad trawl. Non-game fish only, to be used for bait only, may be taken with a shad trawl. It is unlawful for any person to use a shad trawl longer than six feet or with a mouth larger than 36 inches in diameter. A shad trawl may be equipped with a funnel or throat and must be towed by boat or by hand.

(F) Seine. Non-game fish only, to be used for bait only, may be taken with a seine except that carp, buffalo, freshwater drum, and tilapia may be taken for

any purpose. It is unlawful for any person to use a seine:

(i) which exceeds 20 feet in length. The regulation, this clause, concerning 20-foot length of minnow seines becomes effective September 1, 1991. Prior to September 1, 1991, minnow seines 60 feet in length or less may be used:

(ii) with mesh exceeding 1/2 inch square; or

(iii) which is not manually operated.

(G) Dip net. It is unlawful for any person to use a dip net except:

(i) to aid in the landing of fish caught on other legal devices; or

(ii) to take non-game fish with a dip net not exceeding 210 square inches within the frame, a bag depth not exceeding four inches, or with mesh exceeding 1/8 inch square.

(H) Cast net. Non-game fish only, to be used for bait only, may be taken with a cast net except that carp, buffalo, freshwater drum, and tilapia may be taken for any purpose. It is unlawful for any person to use a cast net exceeding 14 feet in diameter.

(I) Minnow trap. Non-game fish only, to be used for bait only, may be taken with a minnow trap. It is unlawful for any person to use a minnow trap exceeding 24 inches in length or with a throat larger than one by three inches.

(J) Gig. Non-game fish only may be taken with a gig.

(K) Umbrella net. Non-game fish only, to be used for bait only, may be taken with an umbrella net. It is unlawful for any person to use an umbrella net with the area within the frame exceeding 16 square feet.

(L) Speargun and spear or bow and arrow. Non-game fish only may be taken with a speargun and spear or bow and arrow.

(M) Gaff. It is unlawful for any person to use a gaff except to aid in landing fish caught on other legal devices, means, or methods. Fish landed with a gaff may not be below the minimum, above the maximum, or within a protected length limit.

(N) Gill nets, trammel nets, and hoop nets.

(i) It is unlawful for any person to use gill nets, trammel nets, or

hoop nets in the freshwaters of this state except that:

(I) non-game fish only may be taken in the following rivers and streams, exclusive of tributaries:

(-a-) the Angelina River from U.S. Highway 84 in Rusk County to the Texas Eastern Transmission Company pipeline above Sam Rayburn Reservoir;

(-b-) the Attoyac River (Bayou) from U.S. Highway 84, in Rusk County to Cottonham Crossing above Sam Rayburn Reservoir;

(-c-) the Brazos River from State Highway 7 in Falls County to IH 10 in Austin County;

(-d-) the Navasota River from State Highway 7 in Robertson County to its confluence with the Brazos River;

(-e-) the Neches River from State Highway 294 in Cherokee County to U.S. Highway 69 in Jasper County and from FM Road 1013 in Jasper County to IH 10 in Jefferson County;

(-f-) the Sabine River from Lake Tawakoni Dam to U.S. Highway 80 in Van Zandt County and from State Highway 63 in Newton County to Sabine Lake;

(-g-) the San Antonio River and Coletto Creek (exclusive of Coletto Creek Reservoir) in Goliad and Victoria Counties;

(-h-) the San Bernard River between Austin and Colorado Counties; and

(-i-) Yegu: Creek from Somerville Dam to its confluence with the Brazos River;

(II) non-game fish only may be taken in all freshwaters of Dimmit, Gillespie, Liberty, and Zavala Counties and in all fresh waters of Jefferson and Orange Counties, except those eastward of State Highway 347 and southward of IH 10;

(III) non-game fish, channel catfish, and blue catfish may be taken in Bowie, Cass, and Morris Counties (except in Ellison Creek Reservoir, Lake O' the Pines, and Daingerfield State Park Lake. This subclause expires September 1, 1991;

(IV) non-game fish only may be taken in the Sulfur and North Sulfur Rivers in Delta and Hopkins Counties, excluding Cooper Reservoir. This subclause expires September 1, 1991; and

(V) non-game fish only may be taken in all freshwaters of Chambers and Galveston Counties. This subclause expires September 1, 1991.

(ii) It is unlawful for any person:

(I) while using a gill net, trammel net, or hoop net to have in his possession fish, other than those species permitted for that device;

(II) to use gill nets or trammel nets exceeding 1,800 feet in length, in any one operation;

(III) to use gill nets, trammel nets, or hoop nets without valid gear tags attached within three feet of each end of the net;

(IV) to use gill nets or hoop nets with mesh less than three inches square; or

(V) to use trammel nets with mesh on any wall less than three inches square.

(d) Saltwater devices, means, and methods.

(1) It is unlawful to take or attempt to take fish by any means and methods other than specifically allowed in this section.

(2) Only the following means and methods may be used for taking fish.

(A) Devices.

(i) Pole and line (includes rod and reel), artificial and natural baits, trotline with the main fishing line and attached hooks and stagings under the water's surface, sail line, spear gun and spear, bow and arrow, perch trap, and gig may be used for taking fish. It is unlawful to take game fish on any gear except pole and line or rod and reel, except that red drum and spotted seatrout may be taken by sail line. Cast nets not exceeding 14 feet in diameter and 20-foot minnow seines may be used for taking bait. Dip nets and gaffs may be used only in aiding to land fish caught on other legal devices except that gaffs may not be used to land fish below the minimum or above the maximum size limits.

(ii) Purse seines may be used only for taking menhaden from the waters of the Gulf of Mexico within the gulfward boundary lines of Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, and Willacy Counties from the coastline of the Gulf to the gulfward limit of the territorial seas from the third Monday in April through the Friday following the second Tuesday in

October each year. The purse seine, not including the bag, shall not be less than 3/4-inch square mesh. Purse seines may not be used in any bay, river, pass, or tributary thereto, nor within one mile of any jetty or pass, nor within 1/2 mile offshore in the Gulf of Mexico.

(iii) Non-game fish taken incidental to legal shrimping operations may be retained, except that red drum and spotted seatrout may not be retained as provided under the Texas Parks and Wildlife Code, §77.0191. The term "legal shrimping operations" is defined as the use of a legal trawl in places, at times, and in manners as authorized by the department. A person taking shrimp with a trawl may not retain a catch of finfish exceeding 50% of the total trawl catch by weight of aquatic products including shrimp on a shrimping vessel.

(iv) No person may use a shrimp trawl for the purpose of taking fish in any of the following waters of Galveston County at any time:

(I) Swan Lake;

(II) Moses Lake;

(III) Dollar Bay;

(IV) Clear Lake;

(V) Dickinson Bayou or Bay; west of a line from Miller's Point to April Fool Point;

(VI) water lying northwest of a line from Kemah in Galveston County to Mesquite Knoll in Chambers County;

(VII) water of East Bay lying north and east of a line from the extreme western point of Smith's Point in Chambers County to the west bank of Siever's Cut where East Bay intersects with the north bank of the Intracoastal Canal on Bolivar Peninsula in Galveston County at Siever's Fish Camp, which cut is between Elm Grove Point and Baffle Point, both points being on the north shore of Bolivar Peninsula; or

(VIII) water of West Bay lying south and west of the Galveston Causeway (Interstate Highway 45), including all adjacent bays, streams, bayous, and canals.

(B) Nets and seines.

(i) It is unlawful for any person to use any net or seine except cast nets or 20-foot minnow seines for taking bait only in the coastal waters of this state.

(ii) Any area closed to the use of nets or seines prior to September 1, 1988 remains closed.

(iii) No person may retain or possess red drum or spotted seatrout caught in any net or seine.

(C) Trotlines.

(i) Throwlines and sail lines are types of trotlines and all trotline regulations apply to each type of trotline except where noted.

(ii) It is unlawful for any person to use a trotline in or on the waters of the Gulf of Mexico within the jurisdiction of this state.

(iii) No person may retain or possess red drum or spotted seatrout caught on a trotline other than a sail line.

(iv) Trotline (except sail line) ends shall be marked with yellow flagging attached to stakes or with a yellow floating buoy not less than six inches in height and six inches in width, or with a yellow plastic bottle of not less than one gallon size attached to end fixtures. All trotline floats must be yellow.

(v) Metallic stakes are prohibited under the authority of the Texas Parks and Wildlife Code, §66.206(b).

(vi) No trotline (except sail lines) shall exceed 600 feet in length.

(vii) No trotline or portions thereof shall be placed closer than 50 feet from any other trotline, or set within 200 feet of the edge of the Intracoastal Waterway or its tributary channels. No trotline may be fished with the main fishing line and attached hooks and stagings above the water's surface.

(viii) No trotline or trotline components, including lines and hooks, but excluding poles, may be left in or on coastal waters between the hours of 1 p.m. on Friday-1 p.m. on Sunday of each week, except that attended sail lines are excluded from the restrictions imposed by this clause.

(ix) No person may use any bait other than natural bait on trotlines. Sail lines are excluded from the restrictions imposed by this clause.

(x) The minimum hook interval for trotlines (except sail lines) is three horizontal feet.

(xi) All trotlines, except sail lines, must be identified by gear tags.

(xii) All hooks used on trotlines shall be a circle-type hook with point curved in and having a gap (distance from point to shank) of no more than 1/2-inch, and with the diameter of the circle not less than 5/8-inch. Sail lines are excluded from the restrictions imposed by this clause.

(xiii) It is unlawful to place a trotline in Aransas County in Little Bay and the water area of Aransas Bay within 1/2 mile of a line from Hail Point on the Lamar Peninsula, then direct to the eastern end of Goose Island, then along the southern shore of Goose Island, then along the causeway between Lamar Peninsula and Live Oak Peninsula, then along the eastern shoreline of the Live Oak Peninsula past the town of Fulton, past Nine-Mile Point, past the town of Rockport to a point at the east end of Talley Island, including that part of Copano Bay within 1,000 feet of the causeway between Lamar Peninsula and Live Oak Peninsula.

(xiv) No person may use a trotline except sail lines within coastal waters during the period beginning Saturday of Memorial Day weekend and extending through Labor Day. This clause becomes effective May 25, 1991.

(xv) Sail lines.

(I) Line length shall not exceed 1,800 feet from the reel to the sail.

(II) The sail and most shoreward float must be a highly visible orange or red color.

(III) No float on the line may be more than 200 feet from the sail.

(IV) A weight of not less than one ounce shall be attached to the line not less than four feet or more than six feet shoreward of the last shoreward float.

(V) Reflectors of not less than two square inches shall be affixed to the sail and floats and be visible from all directions for sail lines operated from 30 minutes after sunset to 30 minutes before sunrise.

(VI) There is no hook spacing requirement for sail lines.

(VII) No more than one sail line may be used per fisherman.

(VIII) Sail lines may not be used by the holder of a commercial fishing license.

(IX) Sail lines must be attended at all times the line is fishing.

(X) Sail lines may not have more than 30 hooks and no hook may be placed more than 200 feet from the sail.

(D) Perch traps.

(i) Perch traps may be used for taking only bait.

(ii) Perch traps may not exceed 18 cubic feet.

(iii) Perch traps must be marked with a white floating visible buoy not less than six inches in height and six inches in width, or with a white plastic bottle of not less than one gallon in size. The buoy must have a gear tag attached.

(e) Prohibited acts in all public waters.

(1) In addition to any prohibition or provision of the sections in this subchapter it is unlawful for any person to take or attempt to take fish by:

(A) snagging or jerking;

(B) the use of a hand-operated device held under water, other than a spear gun and spear;

(C) the use of yo-yos and other spring loaded reeling devices;

(D) grabbling;

(E) the use of a noodling pole;

(F) the use of explosives, poisons, or other substances or things deleterious to fish as prohibited under the authority of the Texas Parks and Wildlife Code, §66.003;

(G) the use of any device that uses or produces electricity or sound to stun or kill fish;

(H) the use of airboats or jet driven devices to pursue and harass or harry fish.

(2) It is unlawful for any person to release into the public waters of this state a fish with a device or substance implanted or attached that is designed, constructed, or adapted to produce an audible, visual, or electronic signal used to monitor, track, follow, or in any manner aid in the location of the released fish. It is unlawful to have in possession while on or fishing in the public waters any device designed or adapted to receive a signal from a substance or device implanted or attached to a fish.

(3) It is unlawful for a person to catch or possess fish listed as exotic harmful or potentially harmful without a permit if the intestines of the fish are not removed.

§65.78 Crabs.

(a) Bag, possession, and size limits.

(1) It is unlawful for any person while fishing on public waters to have in his possession crabs in excess of the daily bag limit as established for those waters.

(2) There are no bag, possession, or size limits on crabs except as provided in the sections in this subchapter.

(3) It is unlawful for any person to:

(A) possess egg-bearing (sponge) crabs or stone crabs;

(B) possess blue crabs less than five inches in width (as measured following §65.3 of this title (relating to Definitions)), except that not more than 5.0%, by number, of undersized crabs may be possessed if placed in a separate container at the time of taking;

(C) Remove more than one claw from a stone crab (each retained claw must be at least 2 1/2 inches long);

(D) fail to return immediately a stone crab to the waters where caught; or

(E) buy or sell a female crab that has its abdominal apron detached as prescribed in the Parks and Wildlife Code, §78.102.

(b) Seasons. There are no closed seasons for the taking of crabs, except as listed within this section.

(c) Places. There are no places closed for the taking of crabs, except as listed within this section.

(d) Devices, manners, and methods.

(1) It is unlawful for any person to take, attempt to take, or possess crabs caught by devices, means, or methods other than as authorized in the sections in the subchapter.

(2) Only the following means and methods may be used for taking crabs:

(A) crab line;

(B) crab trap. It is unlawful for any person to:

(i) fish with more than 300 crab traps at one time;

(ii) fish a crab trap in the fresh waters of this state;

(iii) fish a crab trap that exceeds 18 cubic feet in volume;

(iv) fish a crab trap that is not marked with an orange floating buoy not less than six inches in height and six inches in width or with a plastic bottle of

not less than one gallon size attached to the crab trap;

(v) fish a crab trap without a valid gear tag attached to the orange buoy or plastic bottle marking the crab trap. Gear tags on crab traps are valid only for 30 days after the date the crab trap is set out;

(vi) possess, use or place more than three crab traps in waters north and west of Highway 146 where it crosses the Houston Ship Channel in Harris County; or

(vii) fish a crab trap within 200 feet of a marked navigable channel in Aransas County; and in the water area of Aransas Bay within 1/2 mile of a line from Hail Point on the Lamar Peninsula, then direct to the eastern end of Goose Island, then along the southern shore of Goose Island, then along the eastern shoreline of the Live Oak Peninsula past the town of Fulton, past Nine-Mile Point, past the town of Rockport to a point at the east end of Talley Island including that part of Copano Bay within 1,000 feet of the causeway between Lamar Peninsula and Live Oak Peninsula.

(C) Umbrella net. It is unlawful for any person to use an umbrella net with the area within the frame exceeding 16 square feet.

(D) Devices legally used for taking fresh or salt water fish or shrimp and operated in places and at times authorized by a proclamation of the Parks and Wildlife Commission or the Parks and Wildlife Code.

#### §65.82. Other Aquatic Life.

(a) It is unlawful for a person to knowingly take, kill, or disturb sea turtles or sea turtle eggs in or from the waters of the State of Texas.

(b) There is no open season on porpoises, dolphins (mammals), and whales.

(c) Any other aquatic life (except threatened and endangered species) not addressed in the sections in this subchapter may be taken only with the devices defined as lawful for taking fish, crabs, oysters, or shrimp in places and at times as provided by proclamations of the Texas Parks and Wildlife Commission and the Texas Parks and Wildlife Code.

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 June 6, 1990.

TRD-9005921

Boyd M. Johnson  
General Counsel  
Texas Parks and Wildlife  
Department

Effective date: September 1, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 389-4974

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part IX. Texas Commission on Jail Standards

#### Chapter 271. Classification and Separation of Inmates

##### • 37 TAC §271.2

The Texas Commission on Jail Standards adopts an amendment to §271.2, with changes to the proposed text as published in the May 4, 1990, issue of the *Texas Register* (15 TexReg 2590).

The amendment specifies that the commission may grant a variance allowing for the congregation of pre-trial first offenders and convicted inmates when properly supervised by jail staff.

The amendment will allow more efficient operation of jails with respect to staffing costs and space needs.

All comments received were favorable.

Commenting in favor of the amendment were Palo Pinto County Sheriff, Dallas County Sheriff, Archer County Sheriff, Freestone County Sheriff, Jail Committee, and the Sheriffs Association.

The amendment is adopted under the Government Code, Title 4, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to promulgate rules affecting county jails.

§271.2. *Classification Plan.* Each sheriff shall develop and implement a written classification plan approved by the commission, which shall contain provisions for the following:

(1)-(9) (No change.)

(10) the separation of first offenders waiting trial from those who have been convicted of crimes. The Texas Commission on Jail Standards may grant a variance to this requirement when individuals are congregated under constant and direct supervision; and

(11) (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 23, 1990.

TRD-9005969

Jack E. Crump  
Executive Director  
Texas Commission on Jail  
Standards

Effective date: June 28, 1990

Proposal publication date: May 4, 1990

For further information, please call: (512) 463-5505

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 4. Medicaid Programs—Children and Pregnant Women

##### Eligibility Requirements

##### • 40 TAC §§4.1004, 4.1006, 4.1010, 4.1012

The Texas Department of Human Services adopts amendments to §§4.1004, 4.1006, 4.1010, and 4.1012, concerning eligible groups, application requirements, determining income eligibility, and Medicaid eligibility.

The purpose of these amendments is to comply with the Omnibus Budget Reconciliation Act of 1989 (OBRA 1989). OBRA 1989 mandates Medicaid coverage for pregnant women and children under six at 133% of the Federal Poverty Income Limits (FPII) effective April 1, 1990.

The sections will function by expanding Medicaid coverage to assist more needy individuals.

The amendments 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. The amendments are adopted to be effective April 1, 1990, to comply with federal law.

§4.1004. *Eligible Groups.* The programs serve the following groups of people:

(1) pregnant women whose income is less than 133% of the federal poverty level and whose total resources are less than the food stamp resource limit for households with no members age 60 or over;

(2) children under six whose family income is less than 133% of the federal poverty level and whose total resources are less than the food stamp resource limit for households with no members age 60 or over.

(3) newborn children born on or after October 1, 1984, if their mothers are receiving Medicaid coverage at the time of birth. This coverage can continue through the month of the child's first birthday as long as he remains in the mother's household and the mother remains eligible for Medicaid;

(4) children six or over in two-parent families who meet all AFDC eligibility requirements except that they are not

deprived of parental support, or because they have been denied participation in the AFDC Program for failure to comply with employment services or child support requirements outlined in the AFDC program rules;

(5) children who meet all AFDC eligibility requirements except income. These deprived children live with their legal parent and stepparent of their legal minor parent and their minor parent's parents. They are ineligible for AFDC because of the applied income of their stepparent or grandparents.

**§4.1006. Requirements for Application.** To be eligible to apply for the CPW program, clients must meet the following requirements.

(1) (No change.)

(2) Resources. Resource limits and types of countable and exempt resources for CPW are the same as those outlined in the AFDC rules, with the following exceptions.

(A) (No change.)

(B) The food stamp resource policy for households with no members 60 or over is applied when determining eligibility for pregnant women and children under six.

(C) When determining eligibility for pregnant women and children under six, the family's primary vehicle is exempt. All other vehicles are considered in accordance with food stamp resource requirements.

(3)-(7) (No change.)

**§4.1010. Determining Income Eligibility.** Income eligibility is determined using the AFDC eligibility requirements outlined in the AFDC rules with the following exceptions.

(1) The income limits for pregnant women and children under six are 133% of the federal poverty level adjusted annually, according to federal requirements, or by DHS action in the absence of federal requirements.

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

(5) Ongoing eligibility for pregnant women is not denied because of increased income.

**§4.1012. Medicaid Eligibility.**

(a) CPW applicants must meet the requirement stipulated in the AFDC rules for three months prior coverage.

(b) Regular Medicaid eligibility for all applicants except pregnant women be-

gins the earliest day in the application month on which the client meets all eligibility criteria.

(c) Medicaid eligibility for pregnant women begins as early as the first day of the third month before the month of application, but no earlier than the month their pregnancies began.

(d) Medicaid eligibility for children certified under the newborn children provision must begin on the child's date of birth.

(e) CPW clients are not eligible for four months post Medicaid coverage.

(f) Medicaid eligibility for pregnant women ends the second month following the month the pregnancy terminates.

(g) Medicaid eligibility for children certified under the newborn children provision ends the earliest of the following:

(1) the month the mother's Medicaid ends;

(2) the month the child is no longer a member of his mother's household; or

(3) the month the child becomes one year old.

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 June 7, 1990.

TRD-9005970  
Cathy Rossberg  
Agency liaison, Policy  
Communication  
Services  
Texas Department of  
Human Services

Effective date: April 1, 1990

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

## Chapter 48. Community Care for Aged and Disabled

### Contracting for CCAD Services

#### • 40 TAC §48.5902

The Texas Department of Human Services (DHS) adopts an amendment to §48.5902, without changes to the proposed text as published in the May 4, 1990, issue of the *Texas Register* (15 Tex Reg 2590).

The justification for the amendment is to clarify the policy for negotiating unit rates for services.

The amendment will function by providing provider agencies with a clear understanding of the negotiation of unit rates for services that have an established unit rate ceiling.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and

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

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

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

TRD-9006018  
Cathy Rossberg  
Agency liaison, Policy  
Communication  
Services  
Texas Department of  
Human Services

Effective date: July 15, 1990

Proposal publication date: May 4, 1990

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

## TITLE 43. TRANSPORTATION Part IV. Texas High-speed Rail Authority

### Chapter 81. Administrative Procedures

#### Subchapter A. Board Practices

#### • 43 TAC §§81.1, 81.11, 81.21, 81.31, 81.41, 81.51, 81.61

The Texas High-speed Rail Authority adopts new §§81.1, 81.11, 81.21, 81.31, 81.41, 81.51, and 81.61. Section 81.61 is adopted with changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2273). Sections 81.1, 81.11, 81.21, 81.31, 81.41, and 81.51 are adopted without changes and will not be republished.

Section 81.61 is being changed to represent the current citation for Roberts Rules of Order.

The new sections are being adopted to establish clearly defined administrative procedures for the Texas High-speed Rail Authority board of directors.

Only one commenter, an individual, directed comment at these sections. This commenter noted the proposed sections incorrectly cited Roberts Rules of Order. This has been changed in the revised §81.61. No other comments were received regarding Chapter 81, Subchapter A.

The new sections are adopted under Texas Civil Statutes, Article 6674v.2, §17(a)(2), which provide for the promulgation of rules to govern the operation of the authority.

**§81.61. Conduct of Board Meetings.** The chairman of The Texas High-speed Rail Authority (the authority) shall preside at all meetings of the authority.

(1) During the absence or disability of the chairman, the vice-chairman shall perform the duties and exercise the powers of the chairman.

(2) The rules contained in the



current edition of *Roberts Rules of Order, Newly Revised* shall govern the board in all cases to which they are applicable and in which they are not inconsistent with this subchapter and any other special rules the board may adopt, with the authority counsel serving as parliamentarian.

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 June 7, 1990.

TRD-9005953

Allan Rutter  
Director of Administration  
Texas High-speed Rail  
Authority

Effective date: June 28, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 478-5484

## Subchapter B. Texas High-Speed Rail Authority Practices

### • 43 TAC §§81.100, 81.110, 81.120, 81.130, 81.140, 81.150, 81.160

The Texas High-Speed Rail Authority adopts new §§81.100, 81.110, 81.120, 81.130, 81.140, 81.150, and 81.160, without changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2273).

The new sections are being adopted to establish clearly defined administrative procedures for the Texas High-speed Rail Authority.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 6674v.2, §179a)(2), which provide for the promulgation of rules to govern the operation of the Texas High-speed Rail Authority.

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 June 7, 1990.

TRD-9005950

Allan Rutter  
Director of Administration  
Texas High-Speed Rail  
Authority

Effective date: June 28, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 478-5484

## Chapter 83. Franchise Application and Award Procedures

### Subchapter A. Application Procedures

#### • 43 TAC §§83.1, 83.11, 83.21, 83.31

The Texas High-speed Rail Authority (the authority) adopts new §§83.1, 83.11, 83.21, and 83.31, with changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2274).

The new sections are being adopted to outline the process by which the authority will meet its statutory responsibilities in the solicitation, application, and award of a franchise for a high-speed rail facility in Texas.

The first major change to the proposed sections is the elimination of any geographic location for the high-speed rail facility. This change is based on a further review of the agency's statutory authority, which does not outline any specific geographic locations for a high-speed rail facility.

In addition, the following changes have been made to the noted sections of this subchapter.

Section 83.1(3) is amended to delete mention of a specific location of the high-speed rail facility, as explained previously.

Section 83.11(3) is amended to allow alternate representation at Request for Proposal Advisory Committee (RFPAC) meetings for principal representatives who cannot attend RFPAC meetings. This change is being made to maximize the participation of RFPAC members.

Section 83.11(3) is also amended to provide for a period of public comment and testimony at each public meeting of the RFPAC. This will maximize public participation in the RFPAC process, and potentially allow additional information to be presented which may improve the overall effectiveness of the RFP.

Section 83.11(5) is amended to offer copies of the draft RFP to non-RFPAC members for the price of publication, and to allow an opportunity for comment on the draft RFP by non-RFPAC members. This change is also made to increase public participation in the RFP development process.

Section 83.21(a) is amended to change the date on which the RFP will be published. This should clarify any confusion caused by the deadlines as originally proposed.

Section 83.21(a) is amended by adding paragraphs (1) and (2), which specify that the criteria by which the applications will be judged will be published in the *Texas Register*, with provisions for public comment. This should improve the original benefits anticipated for this section, by offering additional input by the public and by applicants into developing the application weighting criteria. This change also adds to the period between the RFP publication date and the application deadline, so that applicants may have additional time to work on applications.

Section 83.21(b) is added to outline the procedures by which applicants may seek to shield certain information in their applications as proprietary in nature. This section is added to detail how this statutory provision will be administered.

Section 83.31 is amended to change the date on which applications are due and delete mention of geographic location of a high-speed rail facility.

The new sections are being adopted to outline the process by which the Texas High-speed Rail Authority will meet its statutory responsibilities in the solicitation, application, and award of a franchise for a high-speed rail facility in Texas.

Comments were received on a number of topics in writing and at an administrative hearing on the sections held Wednesday, May 30, 1990. Commenters found the dates outlined in the proposed sections to be confusing. One commenter stated that the proposed sections were inconsistent with the provisions of the Administrative Procedure and Texas Register Act (APTRA)—in the institutionalization of forbidden ex parte communications in the RFPAC process, and in the process by which the application weighting criteria were to be adopted. Another commenter agreed that the RFPAC process gave unfair advantage to applicants submitting letters of intent. Other comments on the RFPAC process were requested participation by alternate applicant representatives, more direct participation in the application weighting review process by RFPAC members, additional time in which to prepare the application itself, and opportunities to identify and secure proprietary information.

Written comments objecting to certain provisions of the proposed sections or proposing improvements to certain provisions were received from Southwest Airlines, Greyhound Bus Lines, and Morrison-Knudsen Associates. Southwest Airlines had representatives testify at an administrative hearing on the sections held on Wednesday, May 30, 1990. The authority would characterize comments from Southwest Airlines and from Greyhound Bus Lines as being against the adoption of the proposed sections, while those of Morrison-Knudsen were for the adoption of the sections.

The authority agrees with many of the comments and has made the previously mentioned changes to comply with these comments. The authority does not, however, agree that the RFPAC procedure outlined in the sections needs to be fundamentally altered. The RFPAC process is explicitly detailed in the authority's enabling statute, and these rules merely implement the process outlined by the 71st Legislature, which passed the legislation. The Texas High-speed Rail Act, §27, provides that the terms of the Act prevail in conflicts with other statutes, which the authority believes includes APTRA with regard to the RFPAC. Provisions have been added for public participation in the RFP development process, but the authority will not change the nature of the RFPAC itself. Such changes would circumvent the express intent of the legislature, and deny applicants the privileges due them under the Texas High-speed Rail Act.

Furthermore, the changes made to the adoption of the application weighting criteria are intended to provide additional public input into this process, and do not represent the application of APTRA to this procedure. It is the opinion of the authority that APTRA does not apply to this rulemaking, under the provisions of the Texas High-speed Rail Act, §17(c). Certain commenters contend that the exemption in §17(c) extends only to the award of the franchise itself. The authority disagrees that this interpretation of the statute is too narrow, contending that the entire rulemaking process regarding the eventual award of a franchise is exempt from the provisions of APTRA. However, the additional comment period has been added as noted, so that this interpretation of the non-application of APTRA to this particular rulemaking procedure should not prove harmful to the general public.

Finally, one commenter noted that the statement in the preamble that the proposed sections would have no effect on small businesses was inaccurate. The commenter stated that the award of a high-speed rail franchise would indeed affect small businesses by affecting passenger and freight services of other modes of transportation. The statement of economic impact, offered to comply with guidelines for publication of rules as outlined by the Office of the Secretary of State, addresses the effect of compliance with rules on small businesses, not the effects of a franchise on small businesses. These sections are being published to implement an application procedure directed by the 71st Legislature, and the sections would have no effect on any parties unless applications for a high-speed rail franchise were actually received. At the time applications are submitted, these concerns could be voiced more appropriately.

The new sections are adopted under Texas Civil Statutes, Article 6674v.2, §23(a), which provide for the issuance of rules governing the solicitation of applications or proposals for a franchise.

**§83.01. Letter of Intent.** The board will publish a solicitation of a letter of intent in the *Texas Register* within 10 days of the final adoption of the board's administrative rules.

(1) A letter of intent may be filed by potential franchise applicants.

(2) The letter of intent shall be hand-delivered to the Texas High-speed Rail Authority (the authority) within 20 days of its date of publication in the *Texas Register*.

(3) The letter of intent may be filed by an applicant who intends to apply for a franchise to design, construct, finance, and manage the operation of a high-speed rail facility in Texas. No letters will be accepted from contractors or subcontractors who do not intend to compete for the franchise as defined in the sections in this subchapter.

(4) The letter of intent shall be accompanied by a certified cashiers check payable to the Texas High-speed Rail

Authority in the amount of \$100,000, or by submission of certified copy of electronic funds transfer into the authority's fee account at the depository institution for the authority.

(5) The authority will provide a notice of receipt to the applicant at the time of delivery of the letter of intent, officially confirming the time of delivery and receipt of the application fee.

(6) The letter of intent will list the principal corporation or corporations participating in the franchise application. The letter will indicate the principal representative of the applicant as a point of contact for future correspondence with the authority. The letter will also indicate the person who will serve as the applicant's participant in the RFP Advisory Committee.

**§83.11. RFP Advisory Committee.** The board will create a Request for Proposal Advisory Committee, hereinafter referred to as the RFPAC, which shall be authorized to participate in the development of the request for proposal for the franchise.

(1) The RFPAC will be chaired by the executive director of the authority. Any other members of the staff of the authority or authority advisors may attend and participate in RFPAC meetings.

(2) The board may name up to three directors as ex-officio members of the RFPAC. Directors not so named are authorized to participate in meetings of the RFPAC.

(3) Only persons indicated in the letter of intent as RFPAC representatives are authorized to participate in RFPAC meetings. Representatives of applicants other than the designated representative may attend, but not directly participate in RFPAC meetings. If a principal representative of an applicant is unable to attend a RFPAC meeting, then an alternate representative may attend and participate in an RFPAC, provided the authority has been given 24 hours notice. A period for public testimony and comments will also be provided during each meeting of the RFPAC.

(4) The RFPAC will, no later than 10 days after the deadline for the delivery of the letters of intent, meet to discuss the general elements to be included in the RFP for the franchise.

(5) No later than 30 days after the first meeting of the RFPAC, the authority staff will submit a draft RFP to RFPAC members by certified mail. RFPAC members will have the opportunity to submit comments on the proposed RFP within 20 days of receipt of the proposed RFP, as signified by certified mail receipt. Other interested parties may request copies of the draft RFP for the price of publication, and may also submit comments on the proposed RFP.

### **§83.21. Request for Proposal.**

(a) The Texas High-speed Rail Authority staff will submit an RFP to the board for adoption and approval for publication within 30 days of the receipt of final comments on the RFP from RFPAC members, as provided in §83.11(5) of this title (relating to RFP Advisory Committee).

(1) Concurrently with the publication of the RFP, the board will also publish proposed rules which describe the criteria by which the proposals will be considered, including the weighting factors applied to the various criteria.

(a) These rules will be published in the *Texas Register*, and public comments on the rules will be accepted within 30 days from the date of publication.

(b) These rules may be adopted after the public comment period, and may not take effect until 20 days after the date of adoption.

(2) The complete RFP publication will be available to any interested parties for the price of publication. Applicants having submitted a letter of intent will receive up to 15 copies of the RFP free of charge.

(b) Prior to the submission of a franchise application, an applicant may propose to the authority that certain information in the application deemed to be proprietary in nature be excluded from public information provided on the application to other applicants and to the general public. The authority may enter into a contractual agreement with an applicant to identify certain information as proprietary in the application process. Information will be considered as proprietary only under the express conditions of a contractual agreement with the authority.

**§83.31. Franchise Applications.** Applications for the franchise for the Texas High-speed Rail facility between Houston, Dallas, and Fort Worth are to be hand-delivered to the authority offices no later than 60 days after the formal adoption of weighting criteria rules, as set forth in §83.21(a)(1) of this title (relating to Request for Proposal).

(1) An application for a franchise may be filed by an applicant who intends to design, construct, finance, and manage the operation of a high-speed rail facility. No applications will be accepted from any firm who does not intend to perform the full scope of efforts as defined in the RFP.

(2) An application may be filed by an applicant regardless of whether the applicant submitted a letter of intent according to the provisions of §83.1, of this title (relating to Letter of Intent).

(3) The application shall be accompanied by a certified cashiers check payable to the Texas High-speed Rail Authority (the authority) in the amount of \$500,000, or by submission of certified copy of electronic funds transfer into the authority's fee account at the depository institution for the authority. Applicants having submitted the \$100,000 fee accompanying a letter of intent shall only be required to submit a certified cashiers check in the amount of \$400,000.

(4) The authority will provide a notice of receipt to the applicant at the time of delivery of the application, officially confirming the time of delivery and receipt of the application fee.

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

Issued in Austin, Texas, on June 7, 1990.

TRD-9005954

Allan Rutter  
Director of Administration  
Texas High-speed Rail  
Authority

Effective date: June 28, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 478-5484

## Subchapter B. Application Review and Franchise Award

### • 43 TAC §§83.100, 83.110, 83.120

Texas High-speed Rail Authority (authority) adopts new §§83.100, 83.110, and 83.120, with changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2275).

The new sections are being adopted to outline the process by which the authority will meet its statutory responsibilities in the solicitation, application, and award of a franchise for a high-speed rail facility in Texas.

The following changes have been made to the noted sections of this subchapter.

Section 83.100(a) is amended to clarify the reporting role of the authority's advisors in the application review. This change clarifies that advisor reports will consist of comparisons of applications to the application weighting criteria, and of other advisor observations.

Section 83.100(a)(2) is amended to provide a formal notice period before applicants are found to have failed to provide timely information to advisors. This change should provide applicants with a consistent procedure for mediating advisor-applicant information problems should they arise.

Section 83.100(b) is added to provide for distribution of advisor reports and for a hearing procedure on those reports. This will allow applicants and the general public to comment on and respond to advisory report findings.

Section 83.110 is amended to eliminate limitations on the public hearings on

applications. No time limit is imposed on the applicant's presentation, public testimony, or on authority questioning. Public testimony on behalf of applications is separated from other testimony. The provisions for board questioning of applicants are altered to clarify the conduct of this particular phase of the public hearing on the applications.

Section 83.110(3) is inserted to provide for parties to the hearing to question applicant representatives and other persons submitting testimony. This paragraph is added to provide parties to the hearing with an opportunity to confront witnesses.

Section 83.110(5) is replaced with a new paragraph to provide applicants with the ability to respond in writing to adverse testimony. This change adds another element to protect the privileges of applicants.

Section 83.120 is amended to change the relative date by which the franchise decision will be made. This change should eliminate any confusion caused by the original date system which was tied to a single reference point.

Section 83.120(1) is amended to clarify the board's decision to be made on the public convenience and necessity of a given application. This change provides additional details on the process of making the public convenience and necessity decision.

Section 83.120(2) is amended to eliminate reference to award of a single franchise. The statutory framework provides for the application and award of a franchise if the board determines that the application would be for the public convenience and necessity. The board cannot make any prejudicial judgment about the location or number of potential franchises for high-speed rail facilities in Texas.

The new sections are being adopted to outline the process by which the authority will meet its statutory responsibilities in the solicitation, application, and award of a franchise for a high-speed rail facility in Texas.

Comments were received on a number of topics in writing and at a administrative hearing on the sections held Wednesday, May 30, 1990. One commenter contends that the contested case provisions of the Administrative Procedure and Texas Register Act (APTRA) should apply to the franchise hearing and award procedures. This comment includes the following elements: the timing of the scoring of the applications by advisors denies applicants and others an opportunity to respond to these reports; the final franchise award should be published in a format detailing the findings of fact in the award decision; the public hearings are unduly limiting and deny applicants and the public adequate time to present necessary information and to respond to testimony offered. One commenter stated that the sections failed to detail the standards on which the franchise award decision would be made. Another commenter offered detailed criteria on which to base that decision. One commenter stated that applicants should be given a chance to provide timely information to advisors before failure to do so would be reported to the board. Another commenter added that the effects of high-speed rail on other modes of transportation should be included in the franchise award decision.

Written comments objecting to certain provisions of the proposed sections or proposing improvements to certain provisions were received from Southwest Airlines, Greyhound Bus Lines, and Morrison-Knudsen Associates. Southwest Airlines had representatives testify at an administrative hearing on the sections held on Wednesday, May 30, 1990. The authority would characterize comments from Southwest Airlines and from Greyhound Bus Lines as being against the adoption of the proposed sections, while those of Morrison-Knudsen were for the adoption of the sections.

The authority agrees with many of the comments and has incorporated them into the changes described previously. Many changes have been made to enhance fairness among parties involved in the public hearings. The authority does not agree that the legislature intended that contested case provisions of APTRA should apply to the franchise application hearings or the award procedure. The Texas High-speed Rail Act, §23 and §24, describe processes which by their very nature contradict the provisions of APTRA. The timing of the elements in the application procedures indicates that the legislature intended for a relatively rapid decision to be made on applications submitted. Contested case provisions would extend the application process far beyond the guidelines expressed in the authority's enabling legislation. The authority contends that the Texas High-speed Rail Act, §27, provides that the provisions of the Act prevail over contradicting conditions of other statutes, including APTRA.

Furthermore, the contested case provisions would expose the authority to significant expenses beyond those envisioned by the legislature in the means established for the financial support of the authority's operations. The bulk of application revenues received by the authority will be expended on advisor services relating to the application review and RFP production. The authority notes that other agencies which administer formal proceedings on major contested cases must receive general revenue funding in addition to dedicated fee revenues. The authority will not take actions to prolong application procedures which might lead to exhaustion of projected revenues and to the potential for direct state funding. The high-speed rail franchise will be operated without state assistance and the authority also intends to also be fully self-sufficient, in accordance with the intent of the legislature.

The authority will also not directly address the issue of the effects of a high-speed rail facility on other modes of transportation in these sections. In the continuing rulemaking process culminating with the issuance of an RFP, the authority will be refining the information elements necessary to support a decision on the public convenience and necessity of a given franchise application. This may indeed address the existing services provided by other transportation modes. Additional information about the public convenience and necessity standard will be published as the authority refines exactly what that standard requires.

The new sections are adopted under Texas Civil Statutes, Article 6674v.2, §23(a), which provide for the issuance of rules governing

the solicitation of applications or proposals for a franchise.

**§83.100. Franchise Application Review.**

(a) Applicants will forward their applications for the high-speed rail franchise to the authority's advisors, in accordance with the provisions of the RFP. The advisors will report back to the Texas High-speed Rail Authority (the authority) within 60 days of the franchise application deadline. The advisors will compare the applications to the criteria published by the authority, as described in §83.21(1) of this title (relating to Request for Proposal), and make any other observations they deem appropriate.

(1) Franchise applicants are directed to fully comply with any request for information about an application from the authority's advisors.

(2) Any applicant's failure to respond with requested information on a timely basis shall be reported by the advisors to the chairman of the board, after the applicant has been notified and given 10 days to provide the requested information. If an applicant is found to have failed to provide timely information, copies of the notification shall be forwarded to members of the board.

(b) Copies of the advisors' reports will be sent to the applicant immediately upon receipt by the board. Copies of the reports will be made available upon request for the price of publication.

(1) An administrative hearing will be held upon written request by an applicant or other party to accept written or oral comments on the advisors, reports. Any written comments or requests for hearing

must be submitted and received by the authority within 20 days after the advisory reports are due to the authority.

(2) Copies of all comments and a record of the administrative hearing will be forwarded to the board as part of the application record.

**§83.110. Public Hearings.** The board will conduct public hearings on each franchise application, and all such meetings will be concluded by 60 days after the application deadline. Meetings will be conducted according to the rules of the board, although a quorum of the board need not be present at all times during the conduct of these meetings.

(1) The applicant will be allowed to present a summary of its application and public testimony in support of its application before the board in a public hearing.

(2) Public testimony will be received on the application following the applicant's presentation.

(3) Parties to the public hearing may question the applicants and persons offering testimony during the public hearing.

(4) Following the applicant's presentation and public testimony on the application, directors will be given an opportunity to ask questions of the applicants. Members of the Texas High-speed Rail Authority (the authority) staff and staff of the authority's advisors may also question applicants.

(5) Applicants will be allowed the opportunity to submit written rebuttals of adverse testimony to the board within 20

days of the date of the hearing at which the adverse testimony was presented. These rebuttals will be forwarded to the board as part of the application record.

**§83.120. Franchise Award.** Prior to the 120th day following the date for submission of applications, the board will meet to announce a decision on the applications received for a high-speed rail franchise.

(1) The board may award a franchise only if the board determines that the award of a franchise to a given applicant would be for the public convenience and necessity, based on the board's review of the substantial evidence presented in the applications, testimony, and advisory reports. A franchise cannot be awarded without such an affirmation by the board.

(2) Upon determining that a franchise award would be for the public convenience and necessity, the board may award a franchise to an applicant to design, construct, finance, and manage the operation of a high-speed rail facility in Texas.

(3) The board will publish notice of the award of a franchise in the *Texas Register*.

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 June 7, 1990.

TRD-9005951

Alan Rutter  
Director of Administration  
Texas High-speed Rail  
Authority

Effective date: June 28, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 478-5484



# Open Meetings

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

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

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

## Texas Department on Aging

**Monday, June 18, 1990, 10 a.m.** The Texas Board on Aging of the Texas Department of Aging will meet at the Howard Johnson Plaza-Hotel South, 3401 South IH 35, Columbia Meeting Room, Austin. According to the complete agenda, the department will discuss the status of Texas White House Conference on Aging Arrangements; executive session to interview executive director applicants; appoint an executive director of the department; discuss salary level and status of acting executive director.

**Contact:** Jebron Hopper, P.O. Box 12786, Capitol Station, Austin, Texas 78711, (512) 444-2727.

**Filed:** June 8, 1990, 4:23 p.m.

TRD-9006003

## Texas Department of Agriculture

**Wednesday, June 20, 1990, 5 p.m.** The Southern Rolling Plains Cotton Producers Board of the Texas Department of Agriculture will meet at Miles Co-operative Gin, Board Room, 1 1/2 miles northwest of Miles, on FM 1692. According to the agenda summary, the board will read and approve minutes; hear treasurer's report; report of activities; committee reports; and discuss old and new business.

**Contact:** Kenneth Gully, P.O. Box 30036, San Angelo, Texas 76903, (915) 469-3638.

**Filed:** June 12, 1990 9:55 a.m.

TRD-9006069

**Thursday, June 21, 1990, 9 a.m.** The Texas Corn Producers Board of the Texas Department of Agriculture will meet at the Harvey Hotel, 3100 I-40 West, Amarillo. According to the agenda summary, the board will discuss minutes; financial and director activity reports; budget; U. S. Feed Grain Council membership; grant proposals; staff and salary policies.

**Contact:** Carl King, 218 East Bedford, Dimmitt, Texas 79027, (806) 647-4224.

**Filed:** June 7, 1990, 2:16 p.m.

TRD-9005964

## Texas Alcoholic Beverage Commission

**Monday, June 25, 1990, 10:30 a.m.** The Texas Alcoholic Beverage Commission will meet at 1600 West 38th Street, Room 320, Jefferson Building, Austin. According to the complete agenda, the commission will approve minutes of May 21, 1990 meeting; hear administrators' and staffs' report of agency activity; approve affidavit of destruction of tested alcoholic beverages; consider final action on proposed rules 16 TAC sections 45.103, 45.105 and 33.12; consider agency proposals for: 1992-1993 biennial budget request; salary recommendations, and other personnel actions as may be necessary.

**Contact:** W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

**Filed:** June 12, 1990, 9:02 a.m.

TRD-9006066

## Bond Review Board

**Friday, June 15, 1990, 10 a.m.** The Staff Planning Meeting of The Bond Review Board will meet at the Sergeant's Committee Room, State Capitol, Austin. According to the complete agenda, the board will discuss approval of minutes; consideration of proposed issues; Lamar University, combined fee and revenue refunding and improvement bonds, series 1990-A and series 1990-B, Texas Higher Education Coordinating Board, college student loan bonds, series 1990; other business; consideration of legislative appropriation request for the Bond Review Board.

**Contact:** Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

**Filed:** June 7, 1990, 1:20 p.m.

TRD-9005962.

**Friday, June 15, 1990, 2 p.m.** The College Opportunity Act Committee of the Bond Review Board will meet at the State Capitol, Committee Room 1, Room 213, Austin. According to the complete agenda, the board will discuss approval of minutes; election of chairman; consideration of COA committee operating guidelines; presentation by the Texas Higher Education Coordinating Board on upcoming issue of college savings bonds; presentation by the Veterans Land Board on past issuance and proposed future issues of college savings bonds; other business.

**Contact:** Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1714.

**Filed:** June 7, 1990, 1:20 p.m.

TRD-9005963

**Thursday, June 21, 1990, 10 a.m.** The Bond Review Board will meet at the State Capitol, Sergeant's Committee Room, Austin. According to the complete agenda, the board will discuss approval of minutes; consideration of proposed issues, Lamar University System, combined fee and revenue refunding and improvement bonds, series 1990-A and B; Texas Higher Education Coordinating Board, college student loan bonds, series 1990; consideration of legislative appropriation request for the Bond Review Board.

**Contact:** Tom K. Pollard, 506 Sam Houston Building 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

## Credit Union Department

**Monday, June 25, 1990, 10 a.m.** The Credit Union Commission of the Credit Union Department will meet at the Credit Union Department Building, 914 East Anderson Lane, Austin. According to the complete agenda, the commission will meet to discuss minutes of April 19, 1990 meeting; communications reported by the commissioner; report by Legislative Advisory Committee and report by Commissioner Evaluation committee; proposed revisions of Rule 91.402

(permanent records), Rule 95.201 (Board of Directors-TSGCU); rule 95.303 (membership investment shares); Rule 95.308 (refunds-TSGCU); Rule 97.114 (examination fees), legislative appropriations request and revisions to commission policies manual; conduct executive session to discuss credit unions and problem cases, to confer with legal counsel regarding field of membership guidelines and contemplated litigation and receive and consider commissioner evaluation committee report; conduct annual planning session.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: June 11, 1990, 8:38 a.m.

TRD-9006008

### Interagency Council on Early Childhood Intervention

**Wednesday, June 20, 1990, 9 a.m.** The Interagency Council on Early Childhood Intervention will meet at the Texas Department of Health, 1100 West 49th Street, Room M-652, Austin. According to the agenda summary, the council will hear public comments; approve minutes of previous meeting; discuss and approve funding for fiscal year 1991 grants; proposed rules on medicaid enhancement project; discuss public comments and agency attorney review of proposed rules and approval of final rules and federal application for fourth year funding; review legislative appropriation request for fiscal year 1992-93; elect chairperson for fiscal year 1991; schedule meetings for remainder of fiscal year 1990.

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

Filed: June 11, 1990, 4:22 p.m.

TRD-9006064

### Fire Fighters' Pension Commission

**Thursday, June 28, 1990, 1 p.m.** The Administrative Division will meet at the Wyndham Hotel, I-35 and Ben White, Austin. According to the agenda summary, the commission will meet for the purpose of orientation for three new board members; no official business will be conducted and no action will be taken at this orientation.

Contact: Helen L. Campbell, 3910 South I-35, Suite 235, Austin, Texas 78704, (512) 462-0222.

Filed: June 11, 1990, 10:48 a.m.

TRD-9006043

**Friday, June 29, 1990, 9 a.m.** The Administrative Division of the Fire Fighters'

Pension Commission will meet at the Wyndham Hotel, I-35 and Ben White, Austin. According to the agenda summary, the board will meet for consultant presentations; reports from the Actuary; investment counselor; staff; review of 1992-93 budget; and clarification of various rules and regulations.

Contact: Helen L. Campbell, 3910 South I-35, Suite 235, Austin, Texas 78704, (512) 462-0222.

Filed: June 11, 1990, 10:48 a.m.

TRD-9006042

### Texas Department of Health

**Friday, July 6, 1990, 10 a.m.** The Sanitarian Advisory Committee of the Texas Department of Health will meet at 1100 West 49th Street, Room T-604, Austin. According to the agenda summary, the committee will approve minutes of previous meeting; consider update on environmental and consumer health programs; adding telephone numbers to roster; continuing education requirements; budget and activity report; pending applications; revision of registration examination; revision of examination study guide; other business not requiring committee action.

Contact: Charles McEntire, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7536.

Filed: June 11, 1990, 4:22 p.m.

TRD-9006063

**Sunday, July 1, 1990, 9 a.m.** The Texas Radiation Advisory Board of the Texas Department of Health will meet at 1212 East Anderson Lane, Conference Room, Austin. According to the agenda summary, the board will approve minutes of previous meeting; consider chair's report; update on Texas Low-Level Radioactive Waste Disposal Authority activities committee reports (executive; medical; fee); rules and regulatory guide update; program activities (general); Division of Compliance and Inspection; Division of Licensing, Registration and Standards); set next meeting date.

Contact: L. Don Thurman, 1100 West 49th Street, Austin, Texas 78756, (512) 835-7000.

Filed: June 11, 1990, 4:22 p.m.

TRD-9006062

### State Department of Highways and Public Transportation

**Wednesday, June 20, 1990, 10 a.m.** The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation will meet at 24th and Red River Streets, L.B.J.

Auditorium, Austin. According to the complete agenda, the commission will have a public hearing to receive public comment on the proposed selection of routes for the Texas Highway Trunk System, pursuant to criteria codified in Title 43, TAC §§15.40-15.42.

Contact: Diane L. Northam, 11th & Brazos Streets, Room 203, Austin, Texas 78711, (512) 463-8616.

Filed: June 8, 1990, 8:41 a.m.

TRD-9005983

### University of Houston

**Monday, June 18, 1990, 2 p.m.** The Animal Care Committee of the University of Houston will meet at S&R II, Room 201, University of Houston, 4800 Calhoun Boulevard, Houston. According to the agenda summary, the committee will discuss and/or act on the following: minutes, research protocols, search for new animal care director, expedited review process.

Contact: Julie T. Norris, 4800 Calhoun Boulevard, Houston, Texas 77204, (713) 749-3412.

Filed: June 12, 1990, 9:43 a.m.

TRD-9006067

### Texas Department of Human Services

**Friday, June 15, 1990, at 10 a.m.** The Texas Board of Human Services of the Texas Department of Human Services will meet at 701 West 51st, East Tower, 1st Floor, Public Hearing Room, Austin. According to the complete agenda, the board will approve minutes of May 16, 1990; commissioners report; announcements and comments; staff presentations and public comment on the proposed initiatives for the fiscal years 1992-1993 legislative appropriation request; board direction on the proposed fiscal years 1992-1993 legislative appropriation request.

Contact: Bill Woods, P.O. Box 149030, Austin, Texas 78714, (512) 450-3047.

Filed: June 7, 1990, 4:11 p.m.

TRD-9005974

**Friday, June 15, 1990, at 1 p.m.** The Council on Child Abuse and Neglect Prevention of the Texas Department of Human Services will meet at 8140 Mopac Boulevard, Building 4, Suite 200, Austin. According to the complete agenda, the council will hear the chairperson's report on independent agency legislation status report; other legislative issues; invitation from International Congress on child abuse and neglect; director's report on quarterly financial statements; proposed demonstration sites update; report on

renewal of second year program contracts; status report on pending contracts; approval of extension of lease of office space; summary and calendar.

**Contact:** Janie D. Fields, 8140 Mopac, Building 4, Suite 200, Austin, Texas 78759, (512) 345-9218.

**Filed:** June 7, 1990, 4:12 p.m.

TRD-9005975

## State Board of Insurance

**Monday, June 18, 1990, 1:30 p.m.** The State Board of Insurance will meet at the State Insurance Building, Room 460, 1110 San Jacinto, Austin. According to the complete agenda, a public hearing to consider an appeal by Steven Lewis Bergstrom from Commissioner's Order 90-0232.

**Contact:** Pat Wagner, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6328.

**Filed:** June 7, 1990, 2:55 p.m.

TRD-9005966

**Monday, June 18, 1990, 4:30 p.m.** The Commissioners Hearing Section of the State Board of Insurance will meet at the State Insurance Building, Room 353, 1110 San Jacinto, 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 78701-1998, (512) 463-6328.

**Filed:** June 7, 1990, 3:46 p.m.

TRD-9005982

**Tuesday, June 19, 1990, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, a public hearing on docket number 10838 to consider whether disciplinary action should be taken against Bertha Nenque, Laredo, who holds a Group I, Legal Reserve Life Insurance Agent's license.

**Contact:** J. C. Thomas, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** June 11, 1990, 3:45 p.m.

TRD-9006055

**Tuesday, June 19, 1990, 9:30 a.m.** The State Board of Insurance will meet at 1110 San Jacinto, Room 460, Austin. According to the agenda summary, the board will meet to discuss emergency and proposed action on amendment or new section to 28 TAC Chapter 9, Subchapter A, concerning amendment to Form T-11 allowing designation of the Texas National Research Laboratory Commission and the United States of America as insureds; proposed action on amendment or new section to 28 TAC Chapter 9, Subchapter A, concerning

home office issue.

**Contact:** Pat Wagner, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6328.

**Filed:** June 11, 1990, 3:23 p.m.

TRD-9006052

**Tuesday, June 19, 1990, 1:30 p.m.** The State Board of Insurance will meet at 1110 San Jacinto, Room 460, Austin. According to the agenda summary, the Board will discuss selection of servicing carriers for the Texas Workers' Compensation Assigned Risk Pool; consultant proposal requests for studies on workers' compensation matters; report from Managing General agents Advisory Committee; extension of emergency effectiveness of new 28 TAC 9.20 and amendment to 28 TAC 29.208; proposed action on new 28 TAC 5.301-5.303, 5.311, 5.1701-5.1703, 5.1711, 5.1721-5.1723 and 5.1731; emergency action on amendment to 28 TAC 27.417; board orders on several different matters as itemized on the complete agenda; proposals for decisions in appeals of Selma Elise Perricone and Educardo Bautista, Jr.; procedures for reproduction and dissemination of publications; survey and letter concerning long-term care guide; personnel matters; litigation; solvency matters.

**Contact:** Pat Wagner, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6328.

**Filed:** June 11, 1990, 3:23 p.m.

TRD-9006051

**Wednesday, June 20, 1990, 9 a.m.** The Commissioner's 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 10830 to consider whether disciplinary action should be taken against Brent Elliott Smith, Beaumont/Orange, Texas, who holds a local recording agent's license.

**Contact:** Lisa Lyons, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** June 11, 1990, 3:45 p.m.

TRD-9006054

**Wednesday, June 20, 1990, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 414, Austin. According to the complete agenda, a public hearing on docket number 10831 to consider whether disciplinary action should be taken against Louis Julian Benavides, San Antonio, who holds a Group I, Legal Reserve Life Insurance Agent's license and a local recording agent's license.

**Contact:** J. C. Thomas, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** June 11, 1990, 3:46 p.m.

TRD-9006053

## Texas Catastrophe Property Insurance Association

**Tuesday, June 19, 1990, 9 a.m.** The Board of Directors of the Texas Catastrophe Property Insurance Association will meet at Horseshoe Bay, between Highway 71 and 281 on RR2147, near Marble Falls. According to the complete agenda, the board will approve minutes of the March, 1990 meeting; report of the chairman; report of the secretary-treasurer; report of the manager; report of the underwriting director; report of counsel; report from insurance information institute; old business; agents recommended changes for TCPIA; reinsurance in place; close out of old years; public member to TCPIA Board; new business; probable maximum loss; any other business that may come before the board; location for next board meeting.

**Contact:** Frank R. Rogers, 2801 South I-35, Austin, Texas 78741, (512) 444-9611.

**Filed:** June 7, 1990, 12:37 p.m.

TRD-9005955

## Lamar University System

**Thursday, June 14, 1990, 10 a.m.** The Board of Regents of the Lamar University System met at John Gray Institute-Map Room, 855 Florida, Beaumont. According to the agenda summary, the board will hear reports from development/public relations committee; athletic committee; building and grounds committee; finance and audit committee; meet in executive session; and then hold the board of regents meeting.

**Contact:** George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

**Filed:** June 11, 1990, 2:06 p.m.

TRD-9006060

## Texas State Board of Medical Examiners

**Monday, June 11, 1990, 8 a.m.** The Examination Committee of the Texas State Board of Medical Examiners met at 1101 Camino LaCosta, Austin. According to the emergency revised agenda summary, the committee discussed visiting professor permit and review of applicants complete for licensure consideration in addition to previously posted agenda. The emergency status was necessary as information should come to attention of committee and board prior to next scheduled meeting.

**Contact:** Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

**Filed:** June 8, 1990, 1:46 p.m.

TRD-9005993

**Monday, June 11-12, 1990, 11 a.m. and**

8:30 a.m. respectively. The Texas State Board of Medical Examiners met at 1101 Camino LaCosta, Austin. According to the emergency revised agenda summary, the meeting was rescheduled from June 11, 1990, at 11:30; the board discussed deletion of HB 18 report. The emergency status was necessary as information not available to board at this time; committee meeting cancelled so board meeting rescheduled to begin earlier.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: June 8, 1990, 1:46 p.m.

TRD-9005992

### Texas Board of Licensure for Nursing Home Administrators

**Wednesday, June 20, 1990, 1:30 p.m.** The Texas Board of Licensure for Nursing Home Administrators will meet at 4800 North Lamar Boulevard, Suite 310, Austin. According to the complete agenda, a hearing officer approved by the Attorney General of Texas will conduct a formal hearing in the matter of Jimmie L. Moore, LNHA #4020 to receive testimony regarding a possible violation of the Nursing Home Administrator's Licensure Act, Article 4442d of Texas Civil Statutes, §11 (4), and a possible violation of Article 4442c, §11(1)(b).

Contact: Janet McNutt, 4800 North Lamar Boulevard #310, Austin, Texas 78756, (512) 458-1955.

Filed: June 8, 1990, 10:58 a.m.

TRD-9005988

**Wednesday, June 20, 1990, 2 p.m.** The Texas Board of Licensure for Nursing Home Administrators will meet at 4800 North Lamar Boulevard, Suite 310, Austin. According to the complete agenda, a hearing officer approved by the Attorney General of Texas will conduct a formal hearing in the matter of Charles R. Moore, LNHA #6119 to receive testimony regarding a possible violation of the Nursing Home Administrator's Licensure Act, Article 4442d of Texas Civil Statutes, §11 (1)(f).

Contact: Janet McNutt, 4800 North Lamar Boulevard #310, Austin, Texas 78756, (512) 458-1955.

Filed: June 8, 1990, 10:58 a.m.

TRD-9005987

### Texas Department of Criminal Justice Board of Pardons and Paroles

Monday-Friday, June 18-22, 1990, 10

a.m. The Texas Department of Criminal Justice Board of Pardons and Paroles will meet at 2503 Lake Road, Suite 2, Huntsville. According to the agenda summary, the panel 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: June 8, 1990, 11:06 a.m.

TRD-9005989

### Texas State Board of Public Accountancy

**Wednesday, June 20, 1990, 9 a.m.** The Public Hearing Division of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the division will hold a hearing before hearings officer on individuals failing to comply with the board's mandatory continuing education requirement.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: June 11, 1990, 3:58 p.m.

TRD-9006050

**Wednesday, June 20, 1990, 1 p.m.** The Public Hearing Division of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the division will hold a hearing on late-pay licensees. The board will conduct a hearing to consider those licensees who failed to pay the license fee in a timely manner.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: June 11, 1990, 3:58 p.m.

TRD-9006049

### Public Utility Commission of Texas

**Monday, June 25, 1990, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, a prehearing conference on docket number 9536-complaint of Brazos River Authority against Texas Utilities Electric Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 8, 1990, 3:19 p.m.

TRD-9006000

### Railroad Commission of Texas

**Wednesday, June 20, 1990, 10 a.m.** The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, Austin. According to the complete agenda, the commission will discuss oil and gas docket numbers 10-93,402, 10-93,877, 10-93,878, 10-93,879 and 10-93,880; enforcement action against Collingsworth Oil Company, Trostle and Jackson leases, well number 1 (gas ID# 070668), well number 2 (gas ID# 070669), well number 3 (gas ID# 074805), well number 3 (permit #337621), and well number 4 (gas ID# 074805), Gray and Wheeler Counties, Texas-order extending time for taking action motion for rehearing.

Contact: Barbara Epstein, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-6922.

Filed: June 12, 1990 9:53 a.m.

TRD-9006068

### Texas Rehabilitation Commission

**Thursday, June 21, 1990, 9:30 a.m.** The Board of the Texas Rehabilitation Commission will meet at the Wyndham Hotel, Ballroom A, 3rd Floor, 900 North Shoreline Boulevard, Corpus Christi. According to the complete agenda, the commission will have roll call; introduction of guests; invocation; hear commissioner's comments; board work session-legislative appropriations request strategies; and recess.

Contact: Charles W. Schiesser, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78751, (512) 483-4051.

Filed: June 11, 1990, 2:16 p.m.

TRD-9006048

**Friday, June 22, 1990, 9:30 a.m.** The Board of the Texas Rehabilitation Commission will meet at the Wyndham Hotel, Ballroom A, 3rd Floor, 900 North Shoreline Boulevard, Corpus Christi. According to the complete agenda, the commission will have roll call; introduction of guests; approval of minutes from board meeting of April 26, 1990, hear commissioner's comments; VR caseload management effectiveness report; disability determination services update; memorandum of understanding update; meet in executive session; and adjourn.

Contact: Charles W. Schiesser, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78751, (512) 483-4051.



Filed: June 11, 1990, 2:16 p.m.

TRD-9006047

## State Securities Board

Thursday, June 21, 1990, 9 a.m. The Securities Commissioner of the State Securities Board will meet to conduct a hearing for the purpose of determining whether a Cease and Desist order should be issued prohibiting the sale and offer for sale of securities issued by Austin-Young, Inc., First American Consulting, Inc., Terry Young; John Shaw; Doug Murrell; and Wesley F. Johnson or by entities under respondents' control and prohibiting respondents from acting as dealers.

Contact: John Morgan, 1800 San Jacinto, Austin, Texas 78701, (512) 474-2233.

Filed: June 8, 1990, 4:26 p.m.

TRD-9006004

## Senate of the State of Texas

Friday, June 22, 1990, 2 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 John Gray Institute Auditorium, Lamar University, Beaumont. According to the complete agenda, the committee will meet to conduct a hearing to take written and oral testimony on congressional, legislative, and State Board of Education redistricting, with special emphasis on redistricting in the Beaumont 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: June 8, 2:14 p.m.

TRD-9005995

Saturday, June 23, 1990, 10:30 a.m. The Select Committee on Legislative Redistricting of the Senate of the State of Texas will meet at the Jean Browne Theater of the Wise Cultural Arts, Tyler Junior College, Tyler. According to the complete agenda, the committee will meet to conduct a hearing to take written and oral testimony on congressional, legislative, and State Board of Education redistricting, with special emphasis on redistricting in the Tyler 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: June 8, 1990, 2:15 p.m.

TRD-9005994

## State Committee of Examiners for Speech-Language Pathology and Audiology

Friday, June 22, 1990, 9 a.m. The State Committee of Examiners for Speech-Language Pathology and Audiology will meet at 935 La Posada, Southwestern Room, Hawthorn Suites Hotel Central/Airport, Austin. According to the agenda summary, the committee will approve minutes of previous meeting; consider and possibly act on complaints; rules changes (§§741.1-741.20); fees and budget; public relations; continuing education; applications and renewals; agenda and meeting arrangements; correspondence; related standards/regulations; legislative review; exemptions to act (Texas Civil Statutes, Article 4512j); internship guidelines; role of supervisor; ethics; executive secretary's report and other matters not requiring committee action.

Contact: June Robertson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7502.

Filed: June 7, 1990, 4:09 p.m.

TRD-9005973

## The Texas A&M University System

Thursday, June 28, 1990, 9:30 a.m. The Board of Regents of the Texas A&M University System will meet at the Board Annex, Texas A&M University, College Station. According to the agenda summary, the board will confirmation of underwriter selection committee, bond counsel, senior managing underwriter and financial advisor; review of overall debt management program; recommendation of the selection of co-managers for managed underwritings and authorize refundings as required; approval of board debt policy and master resolution; consideration of bids to be awarded for McKenzie Terminal parking lot expansion, approval of holiday schedule, and appointment of dean.

Contact: Vickie Running, Texas A&M University System, College Station, Texas, (409) 845-9603.

Filed: June 8, 1990, 9:56 a.m.

TRD-9005986

## Texas Health Insurance Risk Pool

Tuesday, June 19, 1990, 10 a.m. The Texas Health Insurance Risk Pool will meet at Republic Plaza I, 333 Guadalupe, Room

216, Austin. According to the complete agenda, the agency will meet to discuss approval of minutes; review of plan of operation changes/approval; review of RFP for insurance consultant; introduction of pool attorney; ongoing of discussion of policy benefits, exclusions and limitations; any other new business that may be properly brought before the board.

Contact: Kay Simonton, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 322-3401.

Filed: June 8, 1990, 1:20 p.m.

TRD-9005991

## University of Texas System

Thursday, June 14, 1990, 10 a.m. The Board of Regents and Standing Committees of the University of Texas System met at 201 West 7th Street, Regents Meeting Room, Ninth Floor, Ashbel Smith Hall, Austin. According to the agenda summary, the board met to discuss amendments to RRR; legislative appropriations requests, 1992-93 biennium; Chancellor's docket (submitted by system administration); appointments to development boards; advisory councils and endowed academic positions; fees; degree programs; UT Dallas-Private Fund campaign; health and dental insurance rates for 1990-91; HMO contracts/rates; agreements; FY 1991 operating and Capital budgets; buildings and grounds matters including approval for projects, preliminary and final plans; award of contracts; land and investment matters; acceptance of gifts, bequests and estates; establishment of endowed positions and funds; litigation, land acquisition and negotiated contracts; and personnel matters.

Contact: Arthur H. Dilly, P.O. Box N, U. T. Station, Austin, Texas 78713-7328, (512) 499-4402.

Filed: June 8, 1990, 1:16 p.m.

TRD-9005990

## Texas Veterans Commission

Friday, July 13, 1990, 10 a.m. The Texas Veterans Commission will meet at the Hyatt Regency Hotel, Live Oak Room 123 Losoya Street, San Antonio. According to the complete agenda, the commission will hold a regular meeting to consider reports of the commission; and to make decisions regarding administrative matters pertaining to Texas' veterans' program.

Contact: Doug Brown, P.O. Box 12277, Austin, Texas 78711, (512) 463-5538.

Filed: June 11, 1990, 10:45 a.m.

TRD-9006045

## Texas Water Commission

**Wednesday, June 20, 1990, 3 p.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress, Room 118, Austin. According to the revised agenda summary, the commission will meet to discuss consideration of various matters within the regulatory jurisdiction of the Texas Water Commission of Texas: in addition the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date; with regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

**Contact:** Gloria Barrera, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** June 8, 1990, 3:32 p.m.

TRD-9006002

**Thursday, June 21, 1990, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress, Room 1149B, Austin. According to the agenda summary, the commission will discuss the hearing on an appeal by John Erwin, et al protesting the Hog Creek Water Supply Corporation's fee for charges for new connections. Docket number 8274-X.

**Contact:** Clay Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** June 11, 1990, 3:51 p.m.

TRD-9006057

**Thursday, June 21, 1990, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress, Room 1149B, 1700 North Congress, Austin. According to the agenda summary, the commission will discuss the hearing on an appeal by J. Kendall Ethridge, M. D., protesting the Hog Creek Water Supply Corporation's fee for charges for new connections. Docket number 8458-X.

**Contact:** Clay Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** June 11, 1990, 3:50 p.m.

TRD-9006058

**Friday, June 22, 1990, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress, Room 512, Austin. According to the agenda summary, the commission will conduct a hearing on application by Bammel Forest Utility Company to cease operation in Harris County and cancel a portion of CCN 11597. Docket Number 8390-Q.

**Contact:** Deborah Parker, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** June 11, 1990, 3:51 p.m.

TRD-9006056

**Wednesday, July 11, 1990, 3 p.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will meet to discuss the town of Woodloch application to the Texas Water Commission for renewal of Permit Number 11580-02, (previously issued to Consumers Water, Ins., Permit Number 11293-01) which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 60,000 gallons per day from the Hickory Ridge Subdivision Sewage Treatment Plant. The plant is on the west bank of the West Fork San Jacinto River at a point approximately 3 miles east of the intersection of Needham Road and IH 45 in Montgomery County, Texas. The effluent is discharged into the West Fork San Jacinto River in Segment Number 1004 of the San Jacinto River Basin.

**Contact:** Gloria A. Vasquez, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 463-7898.

**Filed:** June 8, 1990, 4:20 p.m.

TRD-9006007

## Texas Workers' Compensation Commission

**Thursday, June 14, 1990, 9:30 a.m.** The Texas Workers' Compensation Commission met at the Bevington A. Reed Building, 200 East Riverside Drive, 2nd floor, Room 255, Austin. According to the agenda summary, the commission discussed approval of minutes of public meeting held May 14-15, 1990; discussion and consideration of procedures: rulemaking, Commissioner's remuneration; proposed rules concerning: acceptance of gifts, grants and donations; computation of time periods for filings and notices; payment of benefits to minor injured employees; prohibition of ex parte communication; discussion and consideration of policy on Medical Advisory Committee; update on organizational change; discussion of next public meeting and agenda.

**Contact:** George E. Chapman, 200 East Riverside, Austin, Texas 78704, (512) 448-7962.

**Filed:** June 11, 1990, 8:20 a.m.

TRD-9006006

## Regional Meetings Meetings Filed June 7, 1990

The Tax Appraisal District of Bell County Board of Directors will meet at the Tax Appraisal District Building 411 East Central, Belton, June 20, 1990, at 7:00 p.m. Information may be obtained from Mike

Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841.

The Callahan County Appraisal District Board of Directors will meet at the Callahan County Appraisal District Office, 130 West 4th Street, Baird, June 18, 1990, at 7:30 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1165.

The Dallas Area Rapid Transit Mobility Impaired Committee met at the Board Room, 601 Pacific Avenue, Dallas, June 12, 1990, at 2:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit Operations Committee met at the Board Room, 601 Pacific Avenue, Dallas, June 12, 1990, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit Board of Director's met at the Board Room, 601 Pacific Avenue, Dallas. 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 Eastland High School, 900 West Plummer, Eastland, June 19-22, 1990, at 9 a.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597.

The El Oso Water Supply Corporation Board of Directors met in their office, Karnes City, June 12, 1990, at 8 p.m. Information may be obtained from Hilmer Wagener, P.O. Box 309, Karnes City, Texas 78118, ((512) 780-3539.

The Gillespie Central Appraisal District Board of Directors met at the City Hall Assembly Room, Fredericksburg, June 14, 1990, at 1:30 p.m. Information may be obtained from Mary Lou Smith, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-9807.

The Hockley County Appraisal District Board of Directors met at 1103-C Houston Street, Levelland, June 11, 1990, at 7 p.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

The Hunt County Appraisal District Board of Directors met at the Hunt County Appraisal District Board Room, 4801 King Street, Greenville, June 14, 1990, at 8:30 a.m. Information may be obtained from Joe P. Davis or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Lampasas County Appraisal District Board of Directors met at 109 East Fifth, Lampasas, June 13, 1990, at 8:30 a.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512)556-8058.

**The Limestone County Appraisal District** Board of Directors will meet at the Limestone County Courthouse, Meeting Room, Groesbeck, June 13, 1990, at 5 p.m. Information may be obtained from Clydene Iden, P.O. Drawer 831, Groesbeck, Texas 7542, (817) 729-3009.

**The Multimodal Transportation Planning Gulf Coast State Planning Region** Transportation Planning Committee will meet at 3555 Timmons, 4th Floor Conference Room, June 15, 1990, at 9:30 a.m. Information may be obtained from LaDawn Bush, P.O. Box 1386, Houston, Texas 77251, (713) 869-4571.

**The Tyler County Appraisal District** Appraisal Review Board met at 806 West Bluff, Woodville, June 12, 1990, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas, (409) 283-3736.

**The West Central Council of Governments** Private Industry Council met at 1025 East North 10th Street, Abilene, June 14, 1990, at 10 a.m. Information may be obtained from Tom K. Smith, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544.

TRD-9005948

◆ ◆ ◆  
**Meetings Filed June 8, 1990**

**The Concho Valley Council of Governments** Executive Committee will meet at 5014 Knickerbocker Road, June 20, 1990, at 7 p.m. Information may be obtained from Robert Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666.

**The Deep East Texas Private Industry Council Incorporated** Planning Committee and Educational Advisory Committee will meet at 118 South First Street, Lufkin, June 21, 1990, at 9:30 a.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-2247.

**The East Texas Council of Governments** East Texas Private Industry Council met at the ETCOG Offices, Kilgore, June 14, 1990, at 9:30. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas (214) 984-8641.

**The Education Service Center-Region XVII** Board of Directors will meet at the Board Room, ESC Region XVII, 1111 West Loop 289, Lubbock, June 26, 1990, at 9 a.m. Information may be obtained from Weldon E. Day, 1111 West Loop 289, Lubbock, Texas 79416, (806) 793-4802.

**The Edwards County Appraisal District** Board of Directors will meet at the New County Annex Building, Rocksprings, June 15, 1990, at 10 a.m. Information may be obtained from Natalie McNealy, P.O. Box 378, Rocksprings, Texas 78880, (512)

683-4189.

**The Edwards County Appraisal District** Appraisal Review Board will meet at the New County Annex Building, Rocksprings, July 12, 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 met at the Board Room, 1390 Harbin Drive, Stephenville, June 14, 1990, at 1 p.m. Information may be obtained from Trecia Perales, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

**The Gonzales County Appraisal District** Board of Directors met at 928 St. Paul Street, Gonzales, June 14, 1990, at 5 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

**The Grand Parkway Association** met at 5757 Woodway, 140 East Wing, Houston, June 13, 1990, at 8:15 a.m. Information may be obtained from Larry W. Nettles, 2823 First City Tower, 1001 Fannin, Houston, Texas 77002-6760, (713) 654-4586.

**The Grayson Appraisal District** Appraisal Review Board met at 205 North Travis, Sherman, June 12 and 14, 1990, at 10 a.m. and 9 a.m. respectively. Information may be obtained from Deborah Reneau, 205 North Travis, Sherman, Texas 75090, (214) 893-9673.

**The Grayson Appraisal District** Appraisal Review Board will meet at 205 North Travis, Sherman, June 20-21, 1990, at 9 a.m. Information may be obtained from Deborah Reneau, 205 North Travis, Sherman, Texas 75090, (214) 893-9673.

**The Grayson Appraisal District** Appraisal Review Board will meet at 205 North Travis, Sherman, June 25-28, 1990, at 9 a.m. Information may be obtained from Deborah Reneau, 205 North Travis, Sherman, Texas 75090, (214) 893-9673.

**The Gregg Appraisal District** Appraisal Review Board will meet at 2010 Gilmer Road, Longview, June 19, 1990, at 8:30 a.m. Information may be obtained from Priscilla Holloway, 2010 Gilmer Road, Longview, Texas 75604, (214) 759-0015.

**The Gregg Appraisal District** Appraisal Review Board will meet at 2010 Gilmer Road, Longview, June 20, 1990, at 9 a.m. Information may be obtained from Priscilla Holloway, 2010 Gilmer Road, Longview, Texas 75604, (214) 759-0015.

**The Gregg Appraisal District** Appraisal Review Board will meet at 2010 Gilmer Road, Longview, at 9 a.m. Information may be obtained from Priscilla Holloway, 2010 Gilmer Road, Longview, Texas 75604, (214) 759-0015.

**The Hale County Appraisal District** Board of Directors will meet at 2606 Olton

Road, Plainview, June 15, 1990, at 7:30 p.m. Information may be obtained from Linda Jaynes, P.O. Box 29, Plainview, Texas 79072, (806) 293-4226.

**The Kendall County Appraisal District** Appraisal Review Board met at the Chief Appraiser Office, 207 East San Antonio Street, Boerne, June 13, 1990, at 8:30 a.m. and will meet at Boerne I.S.D. Office, 123 W. Johns Road, Boerne, June 14-15, 25-26, 1990, at 9 a.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

**The Lamb County Appraisal District** Appraisal Review Board will meet at 330 Phelps Avenue, Board Meeting Room, Littlefield, June 21, 1990, at 9 a.m. Information may be obtained from Vaughn E. McKee, P.O. Box 552, Littlefield, Texas 79339, (806) 385-6474.

**The Region 14 Education Service Center** Board of Directors will meet at 1850 State Highway 351, Abilene, June 21, 1990, at 5:30 p.m. Information may be obtained from Taressa Huey, Rt. 1, Box 70-A, Abilene, Texas 79601, (915) 675-8608.

**The Rio Grande Council of Governments** Board of Directors' Meeting will meet at 1014 North Stanton, El Paso, June 15, 1990, at 9:30 a.m. (MST) Information may be obtained from Cecile C. Gamez, 1014 North Stanton, Suite 100, El Paso, Texas 79902, (915) 533-0998.

**The South Texas Private Industry Council, Inc.** met at Highway 83 and 10th Street, Zapata, June 14, at 4 p.m. Information may be obtained from Ruben M. Garcia, P.O. Box 1757, Laredo, Texas 78044-1757, (512) 722-3973.

**The Sulphur River Basin Authority** Board of Directors will meet at the Titus County Civic Center, North Jefferson Street, Mt. Pleasant, June 15, 1990, at 1 p.m. Information may be obtained from C. B. Wheeler, P.O. Box 1838, Texarkana, Texas 75504, (214) 792-2848.

**The Wood County Appraisal District** Appraisal Review Board will meet at 217 North Main, Conference Room, Quitman, June 12-14, 1990, at 9 a.m. Information may be obtained from W. Carson Wages, P.O. Box 951, Quitman, Texas 75783, (214) 763-4891.

TRD-9005981

◆ ◆ ◆  
**Meetings Filed June 11, 1990**

**The Bastrop County Appraisal District** Appraisal Review Board will meet at the Appraisal District Office, 1200 Cedar Street, Bastrop, June 20, 1990, at 7 p.m. Information may be obtained from Lorraine Perry, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925.

**The Bastrop County Appraisal District** Appraisal Review Board will meet at the Appraisal District Office, 1200 Cedar Street, Bastrop, June 23, 1990, at 8:30 a.m. Information may be obtained from Lorraine Perry, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925.

**The Bastrop County Appraisal District** will meet at the Appraisal District Office, 1200 Cedar Street, Bastrop, Texas 78602, (512) 321-3925.

**The Bexar Appraisal District** Board of Directors will meet at 535 South Main, San Antonio, June 18, 1990, at 5 p.m. Information may be obtained from Bexar Appraisal District, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

**The Blanco County Central Appraisal District** 1990 Appraisal Review Board will meet at the Blanco County Courthouse Annex, Ave G and 7th, Johnson City, June 14-15, 1990, at 10 a.m. Information may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas 78636.

**The Brazos Valley Development Council** Regional Overall Economic Development Program will meet at the Council Office, 3006 East 29th Street, #2, Bryan, June 19, 1990, at 9:30 a.m. Information may be obtained from Jill Hyde, P. O. Drawer 4128, Bryan, Texas 77805, (409) 776-2277.

**The Coryell County Appraisal District** Board of Director met at the Coryell County Appraisal District Office, 113 North 7th Street, Gatesville, June 14, 1990, at 7 p.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** Executive Committee will meet at the Diboll City Hall, 400 Kenley Street, Diboll, June 15, 1990, at 10 a.m. Information may be obtained from Walter Diggles, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704.

**The Deep East Texas Regional Mental Health Mental Retardation Services** Board of Trustees will meet at the Ward R. Burke Community Room-Administration Facility, 4101 South Medford Drive, Lufkin, June 18, 1990, at 8 a.m. Information may be obtained from Sandy Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141.

**The Dewitt County Appraisal District** Board of Directors will meet at the Dewitt County Appraisal Office, 103 Bailey Street, Cuero, June 19, 1990, at 7:30 p.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

**The Ellis County Tax Appraisal District** Appraisal Review Board will meet at 406 Sycamore Street, Waxahachie, June 15, 1990, at 9 a.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

**The Gray County Appraisal District** Board of Directors met at 815 North Sumner, Pampa, June 14, 1990, at 5 p.m. Information may be obtained from W. Pat Bagley, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791.

**The Henderson County Appraisal District** Board of Directors will meet at 1751 Enterprise, Athens, June 18, 1990, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas 75751, (214) 675-9296.

**The Jones County Appraisal District** Board of Directors will meet at the District's Office, 1137 East Court Plaza, Anson, June 21, 1990, at 8:30 a. m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422.

**The Jones County Appraisal District** Appraisal Review Board will meet at the District's Office, 1137 East Court Plaza, Anson, June 21, 1990, at 1 p.m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422.

**The Lavaca County Central Appraisal District** Board of Directors will meet at the Lavaca County Central Appraisal District, 113 North Main, Hallettsville, June 18, 1990, at 4 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

**The Lee County Appraisal District** Board of Directors met at 218 East Richmond Street, Giddings, June 14, 1990, at 9 a.m. Information may be obtained from Roy L. Homcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

**The Lower Neches Valley Authority** Board of Directors will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, June 19, 1990, at 10:30 a.m. Information may be obtained from A.T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011.

**The Mason County Appraisal District** will meet at 206 Ft. McKavitt Street, Mason, June 20, 1990, at 5 p.m. Information may be obtained from Neal Little, P.O. Box 1119, Mason, Texas 76856, (915) 347-5989.

**The Nolan County Central Appraisal District** Board of Review held an emergency meeting at the Nolan County Courthouse, Sweetwater, June 14, 1990, at 8 a.m. The emergency status was necessary because it was the only day for a quorum. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas (915) 235-8421.

**The Nortex Regional Planning Commission** General Membership Committee will meet at the Wichita Falls Activities Center, Room 214, 10th and Indiana, Wichita Falls, June 21, 1990, at noon.

Information may be obtained from Dennis Wilde, 2101 Kemp Boulevard, Wichita Falls, Texas 76307, (817) 322-5281.

**The Nortex Regional Planning Commission** North Texas State Planning Region Consortium will meet at the Wichita Falls Activity Center, Room 214, 607 10th Street, Wichita Falls, June 21, 1990, at 1 p.m. Information may be obtained from Dennis Wilde, 2101 Kemp Boulevard, Wichita Falls, 76309, (817) 322-5281.

**The Region 12 Education Service Center** Administrative Board of Directors will meet at 113 University Parks Drive, Waco, June 21, 1990, at 7:30 p.m. Information may be obtained from Weldon O. Mills, P.O. Box 1259, Waco, Texas 76703, (817) 756-7494.

**The Sabine Valley Center Personnel Committee** met

**Monday, June 11, 1990, 5 p.m.** The Personnel Committee of the Sabine Valley Center met in the Administration Building (conference room), 107 Woodbine Place, Longview. The emergency status was necessary because of the need to consider the response from attorney letter at this meeting, who is representing an employee. Information may be obtained from Jack Coston, P.O. Box 6800, Longview, Texas 75601, (214) 758-2471.

**The San Antonio River Authority** Board of Directors will meet at the SARA General Offices, 100 East Guenther Street, San Antonio, June 20, 1990, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (512) 227-1373.

**The San Antonio River Authority Salary Review and Personnel Committee** will meet at the SARA General Offices, 100 East Guenther Street, San Antonio, June 20, 1990, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas, (512) 227-1373.

**The Sulphur-Cypress Soil and Water Conservation District** Number 419 held an emergency meeting at 1603 North Jefferson, Mt. Pleasant, June 13, 1990, at 8:30 a.m. The emergency status was necessary because of the need to pay bills. Information may be obtained from Beverly Amerson, 1603 North Jefferson, Mt. Pleasant, Texas 75455, (214) 572-5411.

**The Tarrant Appraisal District** Review Board will meet at 2309 Gravel Road, Fort Worth, June 27, 1990, at 8:30 a.m. Information may be obtained from Supervisor of the ARB Support Services Section, 2309 Gravel Road, Fort Worth, Texas 76118, (817) 284-8884.

**The Trinity River Authority of Texas** Executive Committee will meet at 5300 South Collins, June 15, 1990, at 9 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343.

**The Upshur County Appraisal District Appraisal Review Board** will meet at the Upshur County Appraisal District Office, Warren and Trinity Street, Gilmer, June 21, 1990, at 8 a.m. Information may be obtained from Louise Stracener, P.O. Box 3, Gilmer, Texas 75644, (214) 843-3041.

**The West Central Texas Council of Governments Citizens Advisory Council** met at the Days Inn, U. S. 80 East, Abilene, June 14, 1990, at 9:30 a.m. Information may be obtained from Brad Helbert, 1025 East 10th Street, Abilene, Texas 79601, (915) 672-8544.

TRD-9006005

◆ ◆ ◆  
**Meetings Filed June 12, 1990**

**The Central Appraisal District of Taylor Appraisal Review Board** will meet at 1534 South Treadaway, Abilene, June 18, 1990, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

**The Central Appraisal District of Taylor County Appraisal Review Board** will meet at 1534 South Treadaway, Abilene, June 19, 1990, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

**The Central Appraisal District of Taylor County Appraisal Review Board** will meet at 1534 South Treadaway, Abilene, June 20, 1990, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

**The Central Appraisal District of Taylor County Appraisal Review Board** will meet at 1534 Treadaway, Abilene, June 22, 1990, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

**The Hamilton County Appraisal District** will meet at the Hamilton County Appraisal District Boardroom, 119 East Henry, Hamilton, June 18, 1990, at noon. Information may be obtained from Doyle Roberts, 119 East Henry, Hamilton, Texas 76531, (817) 386-8946.

**The Lee County Appraisal District Appraisal Review Board** will meet at the Lee County Courthouse, Second Floor, Giddings, June 21, 1990, at 10 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

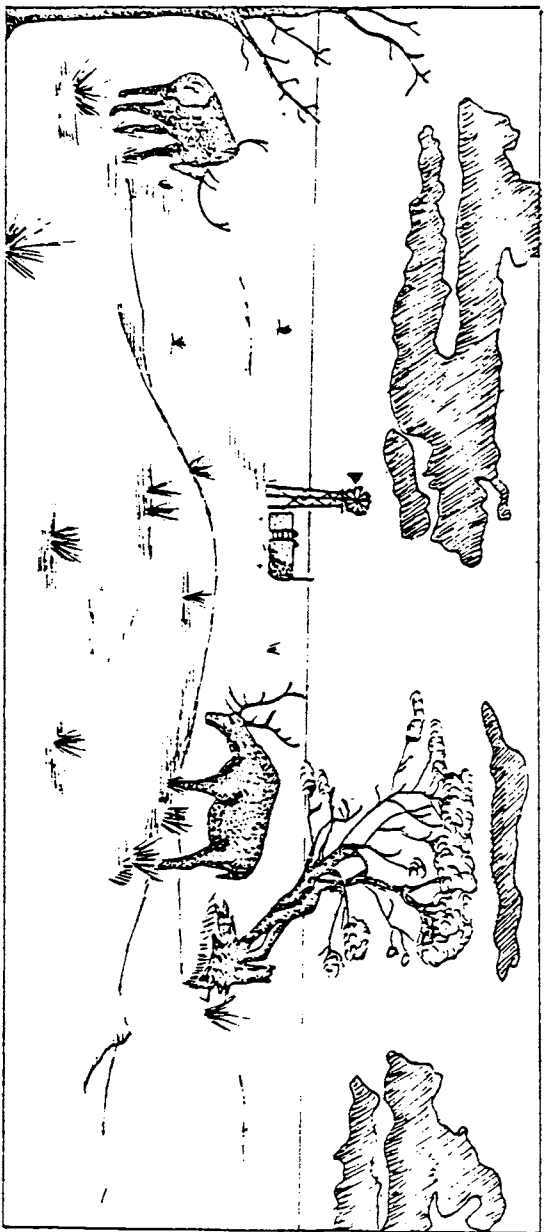
**The Texas Council Risk Management Fund Executive Committee** met at the Driskill Hotel, Sul Ross Room, Austin, June 14, 1990, at 7 p.m. Information may be obtained from Spencer McClure, Westpark Building 3, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 794-9268.

**The Texas Council Risk Management Fund Board of Trustees** met at the Driskill Hotel, Driskill Room, Austin, June 15, 1990, at 8 a.m. Information may be obtained from Spencer McClure, Westpark Building 3, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 794-9268.

**The Trinity River Authority of Texas Resources Development Committee** will meet at 5300 South Collins, Arlington, June 18, 1990, at 10:30 a. m. Information may be obtained from Jack C. Worsham, 5300 South Collins, Arlington, Texas 76004, (817) 467-4343.

TRD-9006061

◆ ◆ ◆



New Paris  
A.M.  
P. 4th

# 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 Commerce Notice of Consultant Contract Award

**Contractor.** The Texas Department of Commerce (commerce) announces that Texas Travel Industry Association has been awarded a contract under the provisions of Texas Civil Statutes, Article 6252-11c. The contract period will be divided into two phases: Phase 1—program development from June 1, 1990-August 31, 1990, and Phase 2—program delivery from September 1, 1990-August 31, 1991. Contractor will develop and implement statewide hospitality and community assessment/festival training programs to assist communities throughout Texas to initiate or enhance tourism activities and business environments. The consultant proposal request was published in the March 23, 1990, issue of the *Texas Register* (15 TexReg 1646).

**Description of Services.** Texas Travel Industry Association shall develop and implement the following training programs in conjunction with this contract: Hospitality Training Program—will provide training on hospitality services to front line employees and managers of Texas' visitor and tourism industry; Community Assessment/Festival Training Program—will assist small and rural communities/areas to identify strengths and weaknesses in developing tourism. Based upon findings, follow-up workshops on the development or upgrading of an annual festival or event will be conducted.

Contractor shall provide department with monthly progress reports throughout the contract period that identify the

number of programs conducted, number of participants completing training, and upcoming training.

Thirty days prior to close of the contract, contractor shall provide a report on the year's activity, including the number of workshops held, number of attendees, and the effectiveness of the training.

**Business Address.** The business address of Texas Travel Industry Association is 900 Congress Avenue, Suite 301, Austin, Texas 78701.

**Contract Amount.** The total cost of services to be performed under this contract shall not exceed \$44,000.

Issued in Austin, Texas, on June 6, 1990.

TRD-9005926 William D. Taylor  
Executive Director  
Texas Department of Commerce

Filed: June 6, 1990

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

◆ ◆ ◆

## 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 <sup>(3)</sup>/Agricultural/ Commercial <sup>(4)</sup> thru \$250,000</u>	<u>Commercial<sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	06/11/90-06/17/90	18.00%	18.00%
Monthly Rate - Art. 1.04 (c) <sup>(1)</sup>	06/01/90-06/30/90	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	07/01/90-09/30/90	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	07/01/90-09/30/90	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d) <sup>(3)</sup>	07/01/90-09/30/90	15.62%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	07/01/90-09/30/90	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	07/01/90-09/30/90	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail and Lender Credit Card Balances with Annual Implementation Dates from:	07/01/90-09/30/90	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	06/01/90-06/30/90	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 June 4, 1990.

TRD-9005960 Al Endsley  
Consumer Credit Commissioner

Filed: June 6, 1990

For further information, please call: (512) 479-1280

◆ ◆ ◆

**Interagency Council on Early  
Childhood Intervention**  
Pilot Projects for Transitional Services  
for High-Priority Infant

The Texas Early Childhood Intervention Program is extending the deadline to the announcement of the previous posting "Pilot Projects for Transitional Services for High-Priority Infants", published in the May 18, 1990 issue of the *Texas Register* (15 TexReg 2829). The extension of the deadline is until 5 p.m. on July 6, 1990.

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

TRD-9006021 Patti Patterson, M.D.

Chairperson  
Interagency Council on Early Childhood  
Intervention

Filed: June 11, 1990

For further information, please call: (512) 458-7673

◆ ◆ ◆

**Texas Higher Education Coordinating  
Board**  
Notice of Meeting

The Family Practice Residency Advisory Committee will meet on Friday, June 15, 1990, beginning at 10 a.m. and ending at 2 p.m. The meeting location is the Coordinating Board Room 255 at 200 East Riverside Drive in Austin. For further information, please call Claudia Siegel at (512) 462-6473.

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

TRD-9005996 Suzanne Ortiz  
Special Projects Director  
Texas Higher Education Coordinating Board



Filed: June 8, 1990

For further information, please call: (512) 463-6420

◆ ◆ ◆  
**Texas Department of Human Services**  
Notice of Correction

The Texas Department of Human Services (DHS) proposed an amendment to §29. 601, concerning payment for hospital services, in its Purchased Health Services chapter. The proposal appeared in the May 29, 1990, issue of the *Texas Register* (15 TexReg 2997). The fiscal implication statement was incorrect. It should have been as follows: "The effect on state government for the first five-year period the section will be in effect is an estimated reduction in cost of \$5,032,624 in fiscal year (FY) 1991; \$5,266,750 in FY 1992; \$5,378,460 in FY 1993; \$5,766,445 in FY 1994; and \$6,230,242 in FY 1995. The effect on local government for the first five-year period the section will be in effect is an estimated loss in revenue of \$3,311,875-\$4,967,767 in fiscal year (FY) 1991; \$3,534,731-\$5,302,097 in FY 1992; \$3,765,550-\$5,648,324 in FY 1993; \$4,011,440-\$6,017,160 in FY 1994; and \$4,273,387-\$6,410,081 in FY 1995."

Issued in Austin, Texas, on June 7, 1990.

TRD-9005971 Cathy Rossberg  
Agency liaison, Policy Communication  
Services  
Texas Department of Human Services

Filed: June 7, 1990

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

◆ ◆ ◆  
**Notice of Public Hearing**

The Texas Department of Human Services (DHS) will conduct a public hearing to receive comments on the department's proposed reimbursement rates for nursing facilities to comply with the requirements of the Omnibus Reconciliation Act of 1987 (OBRA); intermediate care facilities for the mentally retarded, six bed Level V and VI facilities; and the pediatric care nursing facility reimbursement class. The hearing is in compliance with the provisions of Senate Bill 487, which requires a public hearing on proposed reimbursement rates for medical assistance programs. The public hearing will be held on June 29, 1990, at 9 a.m. in the department's public hearing room, 701 West 51st Street, Austin. Interested parties may request to have mailed to them or to pick up a briefing package concerning the proposed reimbursement rates by contacting Rene McKinney, P.O. Box 149030, MC 182-E, Austin, Texas 78714-9030, (512) 450-4053.

Issued in Austin, Texas, on June 7, 1990.

TRD-9005972 Cathy Rossberg  
Agency liaison, Policy Communication  
Services  
Texas Department of Human Services

Filed: June 7, 1990

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

◆ ◆ ◆  
**Request for Proposals**

The Texas Department of Human Services (TDHS) is requesting proposals for the provision of employee assistance services for its employees, spouses, or depend-

ent children.

**Description:** Specific services to be provided are statewide employee assistance program (EAP) for TDHS employees, their spouses, and unmarried, dependent children under 25 years of age who have personal problems which may impact on the employee's job performance or work behaviors. The EAP should offer a broad scope of services to include short-term counseling, assessment, and/or referral; a 24-hour toll-free helpline; brochures, posters, and pamphlets to market the program; procedures and information on accessing the service; quarterly utilization reports; and annual program report.

**Written Inquiries:** All questions concerning the contents of the RFP must be in writing and received by 5 p.m. on June 29, 1990. Inquiries should be sent to Mary Helen Rodriguez, EAP Coordinator, Human Resource Services Division, Texas Department of Human Services P. O. Box 149030, Mail Code 440-W, Austin, Texas 78714-9030.

**Contact Person:** To obtain a complete copy of the request for proposals, prospective bidders may contact Mary Helen Rodriguez, EAP Coordinator, Human Resource Services Division, Texas Department of Human Services Mail Code 440-W, P.O. Box 149030 Austin, Texas 78714-9030, (512) 450-3610.

**Closing Date:** The closing date for receipt of offers is August 8, 1990.

**Effective Date:** The effective date for this contract is September 1, 1990.

**Evaluation:** The following criteria will be included as part of the evaluation process of proposals received: demonstrated effectiveness of the bidder and experience of key personnel, quality of proposed approach to deliver services statewide, extent to which proposed services match need, and cost.

**Selection:** A panel of TDHS program/administrative staff will rank and score each proposal. Final selection will be made by the commissioner of TDHS based upon submitted qualifications and staff recommendations. Award will not necessarily be made to the bidder offering the lowest price, but to the lowest and best bidder considering price and the results of the department's evaluation using the preceding criteria.

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

TRD-9006019 Cathy Rossberg  
Agency liaison, Policy Communication  
Services  
Texas Department of Human Services

Filed: June 11, 1990

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

◆ ◆ ◆  
**State Board of Insurance**  
Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

1. Application for admission to do business in Texas of Allied Insurance Company, a foreign casualty insurance company. The home office is in Los Angeles, California.
2. Application for admission to do business in Texas of Triad Guaranty Insurance Corporation, a foreign casualty insurance company. The home office is in Chicago, Illinois.
3. Application for admission to do business in Texas of

Baltica-Skandinavia Reinsurance Company of America, Inc., a foreign casualty insurance company. The home office is in New York, New York.

4. Application for admission to do business in Texas of Benefit Data Administrators, Inc., a foreign third party administrator. The home office is in Larkspur, California.

5. Application for admission to do business in Texas of Pacific A&M, L.P., a foreign third party administrator. The home office is in San Bruno, California.

6. Application for incorporation in Texas of N. Kris Kollinger-Kelly, a domestic third party administrator. The home office is in El Paso.

Issued in Austin, Texas, on June 7, 1989.

TRD-9005967 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Filed: June 7, 1990

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

## Railroad Commission of Texas Invitation to Bid

The Railroad Commission of Texas, Oil and Gas Division, is soliciting bids for the reclamation of approximately 10 acres at the Refugio Brine Disposal site. The site is located in Refugio County immediately east of Refugio. Sealed bids will be received until 2 p.m. on July 24, 1990, at which time the bids will be publicly opened and read.

Construction shall include: clearing and grubbing, topsoil removal, grading, application and incorporation of gypsum and sludge, topsoil replacement, seedbed preparation and fertilization, grass sprigging and mulching, and herbicide application.

Copies of the specifications, drawings and other documents are available upon request at the cost of \$10 from Rex King, Assistant Director, Field Operations, Oil and Gas Division, Railroad Commission of Texas, P.O. Drawer, 12967, Austin, Texas 78711-2967.

All interested parties are required to make an on-site inspection at the site located approximately one mile east of Refugio, on FM 774 between the hours of 1 p.m. and 5 p.m. on either July 5 or 6, 1990.

Issued in Austin, Texas, on June 7, 1990.

TRD-9005957 Cril Payne  
Assistant Director Legal Division, General  
Law  
Railroad Commission of Texas

Filed: June 7, 1990

For further information, please call: (512) 463-7187

## Texas State Technical Institute Consultant Proposal Request-Amendment

The following sentence, third paragraph of the consultant proposal request as published in the May 18, 1990, issue of the *Texas Register* (15 TexReg 2830), shall be amended to read: "It is anticipated that the contract for services will begin approximately July 1, 1990, and end September 30, 1990."

Issued in Waco, Texas, on June 6, 1990.

TRD-9005997 Dr. J. D. Pierson

Associate Dean, Economic Development  
and Industrial Training  
Texas State Technical Institute-Waco

Filed: June 8, 1990

For further information, please call: (817) 867-4844

## Texas Water Commission Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Formosa Plastics Corporation, Permit Number 02436, on May 30, 1990, assessing \$244,700 in administrative penalties. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Laura R. Culbertson, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on June 6, 1990.

TRD-9005956 Gloria A. Vasquez  
Notices Coordinator  
Texas Water Commission

Filed: June 6, 1990

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

## Meeting Notice

A meeting of the Management Committee of the Galveston Bay National Estuary Program (GBNEP) is scheduled for: Wednesday, June 20, 1990, 9 a.m., Bayou Building, Forest Room, University of Houston-Clear Lake, 2700 Bay Area Boulevard, Houston.

Following opening remarks and approval of minutes, the program staff will summarize Estuary Program Advisory Committee business. A report will be given by the program director summarizing task forces being initiated for non-point source pollution, an ecosystem conceptual model, socioeconomic studies, and regulatory review. A discussion concerning program strategy will be held to help determine how results of scientific/technical assessments and management assessments will be integrated into management recommendations for the comprehensive conservation and management plan. One of three proposed projects will be recommended for EPA action plan demonstration project funding of \$75,000. A work plan for the coastal preserves regulatory evaluation project will be reviewed and approved, with revisions as necessary. Draft work scopes will be considered and/or approved for ambient water/sediment quality, point source loading studies, living resource studies, bay segmentation, and acquisition of arial estuary photos taken in 1930. An appointment of a GBNEP representative to the Bay Day Steering Committee will be made.

Issued in Houston, Texas, on June 7, 1990.

TRD-9006022 Frank S. Shipley, Ph.D.  
Program Director  
Galveston Bay National Estuary Program

Filed: June 11, 1990

For further information, please call: (713) 283-3950

◆ ◆ ◆  
**Request for Proposals**

The Galveston Bay National Estuary Program (GBNEP) invites interested parties to submit proposals to the management conference to accomplish a variety of technical studies and evaluations for characterization of the Galveston Bay system.

Three contract scope of services have been developed for GBNEP by the Scientific/Technical Advisory Committee (STAC) which describe the studies to be performed during fiscal year 1991. They are: point source loading characterization for Galveston Bay; historical review of ambient water and sediment quality in Galveston Bay; segmentation development for Galveston Bay.

The STAC will review proposal work plans submitted by interested contractors during the July 5, 1990 meeting. All interested contractors should submit separate proposal work plans for each project to the GBNEP Program Office

by June 20, 1990. STAC will make recommendations to the Management Committee for award. Interested contractors will be notified should the Management Committee require a verbal presentation during the July 18, 1990 meeting.

Interested parties should submit requests for contract scope of services and guidelines for development of proposal work plans to: Galveston Bay National Estuary Program, Attn.: Carol Ward, University of Houston-Clear Lake, 2700 Bay Area Boulevard, Box 164, Houston, Texas 77058.

Issued in Houston, Texas, on June 8, 1990.

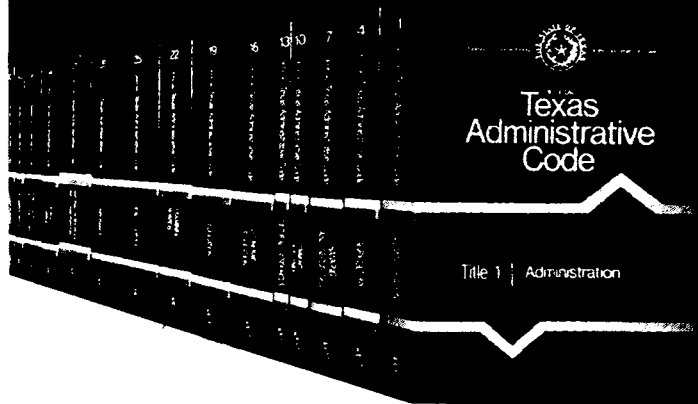
TRD-9006046 Frank S. Shipley, Ph.D.  
Program Manager  
Galveston Bay National Estuary Program

Filed: June 11, 1990

For further information, please call: (713) 283-3950

◆ ◆ ◆

The only COMPLETE, OFFICIAL and  
UP-TO-DATE  
source of administrative rules for Texas!



★ SAVE 40%

## WEST'S® TEXAS ADMINISTRATIVE CODE

West Publishing Company, official publisher of the *Texas Administrative Code* for 1989, is proud to announce that the complete TAC is now ready—and is being offered to you right now at a full set savings of 40%! Or, choose only those volumes essential to your daily practice.

### COMPLETE, FOR RESEARCH CONVENIENCE!

The TAC is your convenient access to the rules and regulations of Texas state agencies. Each title is divided into parts, and each part corresponds to a state agency. The chapters and sections within each part thus contain all permanent rules and regulations for that particular agency in one convenient publication.

### DEPENDABLE SUPPLEMENTATION TO KEEP YOU UP-TO-DATE!

West's TAC includes rules and regulations soon after their adoption into

Texas law. You'll find the exact currency dates of the provisions contained within the preface of each volume.

Timely Supplementation! Semi-annual supplements bring subscribers current within 120 days of the adoption of new rules and changes in existing rules. The supplementation will be softbound, cumulative, companion volumes to the 16-volume TAC set. This eliminates the time-consuming need for complicated collation and substitution of pages that was required by the looseleaf format of the previous publisher.

### OFFICIAL, FOR YOUR ASSURANCE OF CONFIDENCE!

Only with West's *Texas Administrative Code* do you get absolute assurance that all code provisions appear as finally reviewed and corrected by the Secretary of State's Office.

### TITLES INCLUDED IN THIS COMPLETE AND OFFICIAL SET:

1. Administration
  4. Agriculture
  7. Banking and Securities
  10. Community Development
  13. Cultural Resources
  16. Economic Regulation
  19. Education
  22. Examining Boards
  25. Health Services
  28. Insurance
  31. Natural Resources and Conservation
  34. Public Finance
  37. Public Safety and Corrections
  40. Social Services and Assistance
  43. Transportation
- All New General Index

### SAVE 40% ON YOUR FULL SET PURCHASE!

Get complete details from your West representative, or call toll free **1-800-328-9352**. (In MN call collect 0-612-688-3600.)



**WEST  
PUBLISHING  
COMPANY**

50 W. Kellogg Blvd.  
P.O. Box 64526  
St. Paul, MN 55164-0526

---

---

Second Class Postage

**PAID**

Austin, Texas  
and additional entry offices

---

---

To order a new subscription, or to indicate a change of address, please use this form. When notifying us of an address change, please attach the mailing label from the back of a current issue. Questions concerning existing subscriptions should also include the subscription number from the mailing label.

For information concerning the Texas Register, please call (512) 463-5561, or write to P.O. Box 13824, Austin, Texas 78711-3824.

You may also use this form to request back issues of the Texas Register. Please specify the exact dates and quantities of the issues requested. Each copy of a back issue is \$4.

Change of Address  
(Please attach mailing label)

Back Issues Requested  
(Please specify dates)

Please enter my subscription to the Texas Register as indicated below. (I will look for my first issue in about two weeks.)

1 year (100 issues) \$90

Payment enclosed

6 months (50 issues) \$70

Bill me

---

Name

---

Organization

---

Occupation

Telephone

---

Address

---

City

State

Zip Code

Please make checks payable to the Secretary of State. Subscription fees are not refundable.

---

For office use only